

**CODE OF ORDINANCES
HAMBURG TOWNSHIP,
MICHIGAN**

Published in 2021 by Order of the Township Board of Trustees



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TOWNSHIP OFFICIALS

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PREFACE

This Code constitutes a codification of the general and permanent ordinances of Hamburg Township, Michigan.

Source materials used in the preparation of the Code were the ordinances adopted by the Board of Trustees. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the comparative tables appearing in the back of this Code, the reader can locate any section of the Code, as supplemented, and any subsequent ordinance included herein.

The chapters of the Code have been conveniently arranged in alphabetical order, and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Chapter and Section Numbering System

The chapter and section numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two parts separated by a dash. The figure before the dash refers to the chapter number, and the figure after the dash refers to the position of the section within the chapter. Thus, the second section of chapter 1 is numbered 1-2, and the first section of chapter 6 is 6-1. Under this system, each section is identified with its chapter, and at the same time new sections can be inserted in their proper place by using the decimal system for amendments. For example, if new material consisting of one section that would logically come between sections 6-1 and 6-2 is desired to be added, such new section would be numbered 6-1.5. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject. The next successive number shall be assigned to the new article or division. New chapters may be included by using one of the reserved chapter numbers. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters.

Page Numbering System

The page numbering system used in this Code is a prefix system. The letters to the left of the colon are an abbreviation which represents a certain portion of the volume. The number to the right of the colon represents the number of the page in that portion. In the case of a chapter of the Code, the number to the left of the colon indicates the number of the chapter. In the case of an appendix to the Code, the letter immediately to the left of the colon indicates the letter of the appendix. The following are typical parts of codes of ordinances, which may or may not appear in this Code at this time, and their corresponding prefixes:

CHARTER	CHT:1
RELATED LAWS	RL:1
SPECIAL ACTS	SA:1
CHARTER COMPARATIVE TABLE	CHTCT:1
RELATED LAWS COMPARATIVE TABLE	RLCT:1
SPECIAL ACTS COMPARATIVE TABLE	SACT:1

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CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CHARTER INDEX	CHTi:1
RELATED LAWS INDEX	RLi:1
SPECIAL ACTS INDEX	SAi:1
CODE INDEX	CDi:1

Index

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of which are couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication is the looseleaf system of binding and supplemental servicing of the publication. With this system, the publication will be kept up to date. Subsequent amendatory legislation will be properly edited, and the affected page or pages will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Keeping this publication up to date at all times will depend largely upon the holder of the publication. As revised pages are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Mary Margaret Bielby, Code Attorney, and Amanda Heath, Editor, of Municode, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Beth Saarela, Township Attorney, Deby Henneman, Township Parks and Recreation/ADA Coordinator, and Mike Dolan, Township Clerk, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the Township readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the Township's affairs.

Copyright

All editorial enhancements of this Code are copyrighted by Municode and Hamburg Township, Michigan. Editorial enhancements include, but are not limited to: organization; table of contents; section catchlines; prechapter section analyses; editor's notes; cross references; state law references; numbering system; code comparative table; state law reference table; and index. Such material may not be used or reproduced for commercial purposes without the express written consent of Municode and Hamburg Township, Michigan.

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Chapter 1 GENERAL PROVISIONS

ARTICLE I. IN GENERAL

Sec. 1-1. How Code designated and cited.

The ordinances embraced in this and the following chapters shall constitute and be designated the "Code of Ordinances, Hamburg Township, Michigan" and may be so cited. Such ordinances may also be cited as the "Hamburg Township Code."

State law reference(s)—Authority to codify ordinances, MCL 41.186.

Sec. 1-2. Definitions and rules of construction.

The following definitions and rules of construction shall apply to this Code and to all ordinances and resolutions, unless the context requires otherwise:

Generally. When provisions conflict, the specific shall prevail over the general. All provisions shall be liberally construed so that the intent of the Township Board may be effectuated. Words and phrases shall be construed according to the common and approved usage of the language, but technical words, technical phrases, and words and phrases that have acquired peculiar and appropriate meanings in law shall be construed according to such meanings.

Agencies, officers. Any reference to any local, state or federal agency or officer shall include any successor agency or officer.

Business. The term "business" means any person, group of persons, partnership, corporation, limited liability company, limited partnership, or any other entity that engages in commercial activity as a means of livelihood or profit or any other activity involving the exchange of money for goods and/or services.

Code. The term "Code" means the Code of Ordinances, Hamburg Township, Michigan, as designated in section 1-1.

Computation of time. In computing a period of days, the first day is excluded and the last day is included. If the last day of any period or a fixed or final day is a Saturday, Sunday, or legal holiday, the period or day is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

Conjunctions. In a provision involving two or more items, conditions, provisions or events, which items, conditions, provisions or events are connected by the conjunction "and," "or" or "either ... or," the conjunction shall be interpreted as follows:

- (1) "And" indicates that all the connected terms, conditions, provisions or events apply.
- (2) "Or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) "Either ... or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means Livingston County, Michigan.

Delegation of authority. A provision that authorizes or requires a Township officer or Township employee to perform an act or make a decision or authorizes such officer or employee to act or make a decision through subordinates.

DPW. The term "DPW" means the Department of Public Works.

Federal. The term "federal" means the United States.

Gender. Terms of one gender include all other genders.

Includes, including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms "includes" and "including" do not create a presumption that components not expressed are excluded.

Joint authority. A grant of authority to three or more persons as a public body confers the authority on a majority of the number of members as fixed by statute or ordinance.

May. The term "may" is to be construed as being permissive and not mandatory.

May not. The term "may not" states a prohibition.

MCL. The abbreviation "MCL" means the Michigan Compiled Laws, as amended or revised, and any successor statute.

Month. The term "month" means a calendar month.

Number. The singular includes the plural, and the plural includes the singular.

Oath, affirmation, sworn, affirmed. The term "oath" includes an affirmation in all cases where an affirmation may be substituted for an oath. In similar cases, the term "sworn" includes the term "affirmed."

Officer, department, etc. Whenever any officer, department or other agency is referred to by title only, such reference shall be construed as if followed by the words "of Hamburg Township, Michigan." Whenever, by the provisions of this Code, any officer of the Township is assigned any duty or empowered to perform any act or duty, reference to such officer shall mean and include such officer or his deputy or authorized subordinate. Whenever, in accordance with the provisions of this Code or any ordinance of the Township, any specific act is required to be done by any designated officer or official of the Township, such act may be performed by any Township employee duly authorized to perform that act by such officer or official.

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or part of such property. With respect to special assessments, however, the owner shall be considered to be the person whose name appears on the assessment roll for the purpose of giving notice and billing.

Person. The term "person" includes firms, joint ventures, partnerships, corporations, clubs and all associations or organizations of natural persons, either incorporated or unincorporated, howsoever operating or named, and whether acting by themselves or by a servant, agent or fiduciary, and includes all legal representatives, heirs, successors and assignees thereof.

Personal property. The term "personal property" means any property other than real property.

Premises. The term "premises," as applied to real property, includes land and structures.

Property. The term "property" means real and personal property.

Public Acts (P.A.). References to Public Acts are references to the Public Acts of Michigan (e.g., a reference to Public Act No. 246 of 1945 is a reference to Act No. 246 of the Public Acts of Michigan of 1945). Any reference to a Public Act, whether by act number or by short title, is a reference to such act as amended.

Real property, real estate, land, lands. The term "real property," "real estate," "land" or "lands" includes lands, tenements and hereditaments.

Shall. The term "shall" is to be construed as being mandatory.

State. The term "state" means the State of Michigan.

Swear, affirm. The term "swear" includes the term "affirm."

Tenses. The present tense includes the past and future tenses. The future tense includes the present tense.

Township. The term "Township" means Hamburg Township, Michigan.

Township Board. The term "Township Board" means the Hamburg Township Board of Trustees.

Week. The term "week" means seven consecutive days.

Written. The term "written" includes any representation of words, letters, symbols or figures.

Year. The term "year" means 12 consecutive months.

State law reference(s)—Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

Sec. 1-3. Catchlines of sections; history notes; references.

- (a) The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the section and are not titles of such sections, or of any part of the section, nor unless expressly so provided shall they be so deemed when any such section, including the catchline, is amended or reenacted.
- (b) The history or source notes appearing in parenthesis after sections in this Code have no legal effect and only indicate legislative history. Editor's notes and state law references that appear in this Code after sections or subsections or that otherwise appear in footnote form are provided for the convenience of the user of the Code and have no legal effect.
- (c) Unless specified otherwise, all references to chapters or sections are to chapters or sections of this Code.

State law reference(s)—Catchlines in state statutes, MCL 8.4b.

Sec. 1-4. Effect of repeal of ordinances.

- (a) Unless specifically provided otherwise, the repeal of a repealing ordinance does not revive any repealed ordinance.
- (b) The repeal or amendment of an ordinance does not affect any punishment or penalty incurred before the repeal took effect, nor does such repeal or amendment affect any suit, prosecution or proceeding pending at the time of the amendment or repeal.

State law reference(s)—Effect of repeal of state statutes, MCL 8.4 et seq.

Sec. 1-5. Amendments to Code; effect of new ordinances; amendatory language.

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.

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- (b) Amendments to provisions of this Code may be made with the following language: "Section (chapter, article, division or subdivision, as appropriate) _____ of the Hamburg Township Code is hereby amended to read as follows:...."
 - (c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (chapter, article, division or subdivision, as appropriate) _____ of the Hamburg Township Code is hereby created to read as follows:...."
 - (d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State law reference(s)—Ordinance adoption procedures, MCL 41.185.

Sec. 1-6. Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the Township. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in this Code. The pages of the supplement shall be so numbered that they will fit properly into this Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, this Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of this Code that have been repealed shall be excluded from this Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in this Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in this Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to this Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____ (inserting section numbers to indicate the sections of this Code that embody the substantive sections of the ordinance incorporated in this Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in this Code.

Sec. 1-7. General penalty; continuing violations.

- (a) Unless a violation of this Code of Ordinances of the Township is specifically designated in the Code of Ordinances as a municipal civil infraction, the violation shall be deemed to be a misdemeanor.

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- (b) The penalty for a misdemeanor violation shall be a fine not exceeding \$500.00 (plus costs of prosecution), or imprisonment not exceeding 90 days, or both, unless a specific penalty is otherwise provided for the violation by this Code of Ordinances. However, unless otherwise provided by law, a person convicted of a violation of this Code which substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days shall be punished by a fine not to exceed \$500.00 and costs of prosecution or by imprisonment for a period of not more than 93 days or by both such fine and imprisonment.
 - (c) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount, as provided by this Code of Ordinances, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.), and other applicable laws.
 - (d) A violation includes any act which is prohibited or made or declared to be unlawful or an offense by this Code of Ordinances; and any omission or failure to act where the act is required by this Code of Ordinances.
 - (e) Each day on which any violation of this Code of Ordinances continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
 - (f) In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code of Ordinances.
 - (g) Surcharge; equitable remedies. The imposition of any penalty provided for in this section shall be in addition to any surcharge levied for a violation of or noncompliance with a provision of these Code of Ordinances, or a provision of a technical or other code adopted by reference in these Code of Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of state law, and shall be in addition to any equitable remedy provided by a provision of these Code of Ordinances, or a provision of a technical or other code adopted by reference in these Code of Ordinances, or a rule, regulation or order promulgated or made under authority of either, or of state law, or provided by state law, including the enforced removal of prohibited conditions.
 - (h) Complicity. Every person who commits or procures, counsels, aids or abets the commission of any act declared in these Code of Ordinances to be an offense, whether individually or in connection with another person, or as principal, agent or accessory, shall be guilty of or responsible for such offense. Every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of these Code of Ordinances shall likewise be guilty of or responsible for such offense.

State law reference(s)—Limitation on penalties, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 1-8. Severability.

If any provision of this Code or its application to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality does not affect other provisions or application of this Code that can be given effect without the invalid or unconstitutional provision or application, and, to this end, the provisions of this Code are severable.

State law reference(s)—Severability of state statutes, MCL 8.5.

Sec. 1-9. Provisions deemed continuation of existing ordinances.

The provisions of this Code, insofar as they are substantially the same as legislation previously adopted by the Township relating to the same subject matter, shall be construed as restatements and continuations thereof and not as new enactments.

State law reference(s)—Similar provisions as to state statutes, MCL 8.3u.

Sec. 1-10. Code does not affect prior offenses or rights.

- (a) Nothing in this Code or the ordinance adopting this Code affects any offense or act committed or done, any penalty or forfeiture incurred, or any contract or right established before the effective date of this Code.
- (b) The adoption of this Code does not authorize any use or the continuation of any use of a structure or premises in violation of any township ordinance on the effective date of this Code.

Sec. 1-11. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below. Such ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code.

- (1) Annexing property into the Township or describing the corporate limits.
- (2) Deannexing property or excluding property from the Township.
- (3) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (4) Authorizing or approving any contract, deed, or agreement.
- (5) Making or approving any appropriation or budget.
- (6) Providing for salaries or other employee benefits not codified in this Code.
- (7) Granting any right or franchise.
- (8) Adopting or amending the comprehensive plan.
- (9) Levying or imposing any special assessment.
- (10) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
- (11) Establishing the grade of any street or sidewalk.
- (12) Dedicating, accepting or vacating any plat or subdivision.
- (13) Levying, imposing or otherwise relating to taxes.
- (14) Rezoning property or amending the zoning map.
- (15) That is temporary, although general in effect.
- (16) That is special, although permanent in effect.
- (17) The purpose of which has been accomplished.

Sec. 1-12. Altering Code

It shall be unlawful for any person to change or amend by additions or deletions any part or portion of this code, or to insert or delete pages or portions thereof, or to alter or tamper with such code in any manner whatsoever, except by ordinance or resolution or other official act of the board of trustees.

Secs. 1-13—1-40. Reserved.

ARTICLE II. MUNICIPAL CIVIL INFRACTIONS

Sec. 1-41. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means Public Act No. 236 of 1961 (MCL 600.8701 et seq.), as amended.

Authorized Township Official means Township personnel authorized by this article and appointed to serve in the capacity of an ordinance enforcement officer to enforce Township ordinances, investigate violations of Township ordinances and issue municipal civil infraction citations.

Civil infraction means an act or omission that is prohibited by law and is not a crime under that law or that is prohibited by an ordinance and is not a crime under that ordinance, and for which civil sanctions may be ordered.

District court means the 53rd District Court, Livingston County, Michigan.

Municipal civil infraction means a civil infraction involving a violation of a Township ordinance.

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

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

Ordinance enforcement officer means person appointed by the Township Board of Trustees to enforce the provisions of Township ordinances.

Township means the Township of Hamburg, Livingston County, Michigan.

Trailway municipal civil infraction means a municipal civil infraction involving the operation of a vehicle on a recreational trailway at a time, in a place or in a manner prohibited by ordinance.

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

(Ord. No. 71-A, § 2.0, 8-15-2017)

Sec. 1-42. Municipal civil infraction action; commencement.

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

(Ord. No. 71-A, § 3.0, 8-15-2017)

Sec. 1-43. Municipal civil infraction citations; issuance and service.

Municipal civil infraction citations shall be issued and served by authorized Township officials as follows:

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- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
 - (2) The place for appearance specified in a citation shall be the 53rd District Court, 300 S. Highlander Way, Howell, MI 48843.
 - (3) Each citation shall be numbered consecutively and shall be in the form approved by the state court administrator. The original citation shall be filed with the court; the first copy shall be retained by the Township; the third copy shall be issued to the alleged violator.
 - (4) A citation for a municipal civil infraction signed by an authorized Township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature 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."
 - (5) An authorized Township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
 - (6) An authorized Township official may issue a citation to a person if:
 - a. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - b. Based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance or chapter, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the Township Attorney approves in writing the issuance of the citation.
 - (7) Municipal civil infraction citations shall be served by an authorized Township official as follows:
 - a. Except as provided by subsection (6)b of this section, an authorized Township official shall personally serve the third copy of the citation upon the alleged violator.
 - b. If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy of the citation on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. No. 71-A, § 4.0, 8-15-2017)

Sec. 1-44. Municipal civil infraction citations; contents.

- (a) A municipal civil infraction citation shall contain the name of the plaintiff, the name and the address of the defendant, the municipal civil infraction alleged, the date of the alleged violation, the location of the alleged violation, the place where the defendant shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) The municipal civil infraction citation shall inform the defendant that he 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.

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- (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 information hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the Township.
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
 - c. The citation shall also inform the defendant of all of the following:
 1. If the defendant desires to admit responsibility "with explanation" in person or by representation, the defendant 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. If the defendant desires to deny responsibility, the defendant 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. A hearing shall be an informal hearing unless a formal hearing is requested by the defendant or the Township.
 - (4) At an informal hearing, the defendant must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - (5) At a formal hearing that defendant must appear in person before a judge with the opportunity of being represented by an attorney.
- (c) The citation shall contain a notice in boldfaced type that the failure of the defendant 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 the entry of a default judgment against the defendant on the municipal civil infraction.

(Ord. No. 71-A, § 5.0, 8-15-2017)

Sec. 1-45. Sanctions for violations.

- (a) All ordinances having penalties adopted by the Township Board of Trustees, with the exception of those Ordinances listed in subsection (i) of this section, shall specifically declare in the ordinance if violation of said ordinance is to be a municipal civil infraction, make a determination as to the civil fine to be assessed for a violation of the ordinance using the class code described in subsection (b) of this section, and include reference to this article.
- (b) Any person or other entity who violates any provision of a Township ordinance where such violation has been specifically designated a municipal civil infraction, as defined by this article, and state law is subject to a civil fine in accordance with the following schedule:
 - (1) Class A municipal civil infraction \$1,000.00
 - (2) Class B municipal civil infraction 500.00
 - (3) Class C municipal civil infraction 250.00
 - (4) Class D municipal civil infraction 125.00

(5) Class E municipal civil infraction 75.00

- (c) Any person who shall be found responsible for a municipal civil infraction for violating the same ordinance two times within any one-year time period, as determined by the date of offenses, shall be deemed to be a repeat offender and shall be assessed a fine in the amount of twice the fine listed for the ordinance which was violated.
- (d) In addition to the civil fines prescribed in this article, the district court may assess any additional costs, damages, expenses or other sanctions as authorized by state law.
- (e) If the defendant in a municipal civil infraction action is determined responsible for a municipal civil infraction, the judge or district court magistrate, in addition to any fine costs, and assessment imposed under section 8727 of the Act, as amended, may assess additional costs incurred in compelling the appearance of the defendant, which costs shall be returned to the general fund of the Township.
- (f) All costs ordered by the court shall be in addition to the fines ordered under subsection (b) of this section and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction in accordance with section 8727 of the Act, provided that costs of no more than \$500.00 shall be ordered.
- (g) Each day on which any violation of this chapter or any ordinance or chapter continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (h) 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 this chapter or any Township ordinance.
- (i) The sanctions for violations enumerated in this section shall not apply to the Hamburg Township Vehicle Code Ordinance or Hamburg Township Motor Carrier Ordinance, said Ordinances having specifically adopted the penalties provided by the provisions of the state laws adopted by reference within the respective ordinances.

(Ord. No. 71-A, § 6.0, 8-15-2017)

Sec. 1-46. Ordinance enforcement officer.

- (a) *Establishment.* There is hereby established the office of ordinance enforcement officer within the Township.
- (b) *Appointment.* The Township Board is hereby authorized to appoint by motion/resolution any person to the office of ordinance enforcement officer for such term as may be designated in said motion/resolution and for such compensation as the Township Board may determine. The Township Board may further, by motion/resolution, remove any person from said office, in the discretion of the board.
- (c) *Authority.* Ordinance enforcement officers are hereby authorized to enforce all ordinances of the Township, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different enforcing official or do not designate any particular enforcing officer. Where a particular officer is so designated in any ordinance, that officer's authority shall continue in full force and effect and shall not be diminished or impaired by the terms of this chapter, and the authority of the ordinance enforcement officer shall be in addition and supplementary to the authority granted to such other specific officer. An ordinance enforcement officer shall in the performance of the officer's duties be subordinate and responsible to the Township Supervisor or such other Township Board members as the Township Board may from time to time designate.
- (d) *Duties.* The ordinance enforcement officer's duties shall include the following: Investigations of ordinance violations; issuing and serving ordinance violation notices; issuing and serving appearance tickets as

authorized under Public Act No. 147 of 1968, as amended (MCL 764.9c); issuing and serving municipal ordinance violation notice and municipal civil infraction citations as authorized under Public Act No. 12 of 1994 (MCL 600.8701 et seq.); appearance in court or other judicial or quasi-judicial proceedings to assist in the prosecution of ordinance violators; such other ordinance enforcing duties as may be delegated by the Township Board, Township Supervisor or assigned by the Township Attorney.

(Ord. No. 71-A, § 7.0, 8-15-2017)

Sec. 1-47. Authorized Township officials.

Upon appointment by the Township Board to their respective positions, the following personnel are hereby also appointed to serve the Township as ordinance enforcement officers to enforce all ordinances of the Township, whether heretofore or hereafter enacted, including, but not limited to, the issuance of citations and notices pursuant to this article:

- (1) Planning/zoning administrator.
- (2) Assistant zoning administrator.
- (3) Code enforcement officer.
- (4) Any duly appointed and sworn Township Police Officer.
- (5) Department of Public Works Administrator.

(Ord. No. 71-A, § 8.0, 8-15-2017)

Sec. 1-48. Availability of other enforcement options.

Nothing in this article shall be deemed to require the Township to initiate its municipal civil infraction ordinance enforcement activity through the issuance of an ordinance violation notice or warning. As to each ordinance violation determined as a municipal civil infraction, the Township may, at its sole discretion, proceed directly with the issuance of a municipal civil infraction citation or take such other enforcement action as is authorized by law.

(Ord. No. 71-A, § 9.0, 8-15-2017)

Chapter 2 ADMINISTRATION¹

ARTICLE I. IN GENERAL

Secs. 2-1—2-18. Reserved.

ARTICLE II. DEPARTMENTS

¹State law reference(s)—Townships generally, MCL 41.1 et seq.; standards of conduct and ethics, MCL 15.341 et seq.; Open Meetings Act, MCL 15.261 et seq.; Freedom of Information Act, MCL 15.231 et seq.

DIVISION 1. GENERALLY

Secs. 2-19—2-39. Reserved.

DIVISION 2. POLICE

Sec. 2-40. Purpose.

The purpose of this division is to promote the public health, safety and general welfare of the community by affirming the establishment of a police department with full power to enforce Township ordinances and state laws.

(Ord. No. 31-C, § 2.0, 8-15-2017)

Sec. 2-41. Establishment of police department.

The Township hereby affirms the creation of a police department, said police department previously being established by the Township Board by resolution at the regular Township Board meeting of October 22, 1979, and through adoption of Hamburg Township Ordinance No. 31A (adopted November 10, 1981), Ordinance No. 31B (adopted May 14, 1985) and Ordinance No. 31C (adopted August 15, 2017).

- (1) Pursuant to Public Act No. 246 of 1945, as amended (MCL 41.181), there shall be established in and for the Township of Hamburg a police department, known as the Hamburg Township Police Department, which shall have full power to enforce all ordinances of Hamburg Township and to enforce the laws of the state.
- (2) Pursuant to Public Act No. 33 of 1951, as amended (MCL 41.801), the Township Board may provide, through resolution, for the appropriation of general, contingent and police-dedicated millage funds for the purchase of police vehicles, equipment and housing as necessary for the maintenance and operation of the police department.

(Ord. No. 31-C, § 3.0, 8-15-2017)

Sec. 2-42. Chief of police.

The direction of the police department shall be under the control of the chief of police who shall be appointed by and serve at the pleasure of the Township Board. The chief of police shall be responsible to the Township Board for the efficient operation of the police department in accordance with the rules and regulations promulgated from the Township Board to the chief of police. The chief of police shall exercise and assume the following powers and responsibilities:

- (1) The general administration of the police department is vested in the chief of police and the chief shall be responsible for managing, directing and supervising all members of the police department;
- (2) The chief shall be responsible for the proper and efficient enforcement of all ordinances and laws which the police department has the authority to execute;

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- (3) The chief of police is charged with the supervision of all police work and the administration of discipline in accordance with Township policy, appropriate collective bargaining agreements and all applicable state and federal laws;
 - (4) The chief of police is empowered to issue such lawful orders or directives as is deemed necessary for the efficient day-to-day operations of the department provided such orders are not in conflict with the rules and regulations of the police department as established by the Township Board;
 - (5) The chief of police shall be responsible for the administration and oversight of the police department's annual budget as approved by the Township Board;
 - (6) The chief of police shall be responsible for the purchase of all materials, equipment and supplies which are necessary for the operation of the department as well as for all other expenditures of the department. All expenditures shall be made in accordance with the Township's purchasing policy;
 - (7) The chief of police shall have custody and control of all property, books, files, records and equipment belonging to or pertaining to the operation of the police department and shall be charged with the responsibility of properly acquiring, maintaining, disposing, and accounting of all buildings, equipment, property and supplies obtained by the department;
 - (8) The chief of police shall be responsible for department training and shall ensure that all police officers receive the necessary training required for them to properly carry out their duties.

(Ord. No. 31-C, § 4.0, 8-15-2017)

Sec. 2-43. Police officers.

- (a) The Township Board shall establish the qualifications and minimum entrance requirements for the classification of police officer within the Township Police Department which, at a minimum, shall meet the licensing standards as published by the Michigan Commission on Law Enforcement Standards (MCOLES) for the employment of law enforcement officers in accordance with Public Act 289 of 2016, as it may be amended from time to time.
- (b) The chief of police shall determine the manner and process by which police officer applicants are screened and selected for vacant positions subject to the approval of the Township Personnel Committee.
- (c) Final approval for all appointments to the position of police officer shall rest with the Township Board.
- (d) The Township Clerk shall require each sworn member of the police department to take an oath of office and shall provide for the registry of a certificate thereof in a book to be kept for that purpose.
- (e) The Township Board shall have final approval authority for all wages, benefits and terms and conditions of employment for all police officers.
- (f) A police officer's employment status may only be terminated upon the recommendation of the chief of police and the approval of the Township Board.

(Ord. No. 31-C, § 5.0, 8-15-2017)

Sec. 2-44. Reserve police officers.

The chief of police is authorized to utilize volunteer reserve police officers to supplement and assist sworn police officers in their assigned duties, provided the following:

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- (1) The Township Board shall establish the minimum qualifications for the position of reserve police officer and shall approve department guidelines for the training, arming, equipping and duties of reserve police officers;
 - (2) Selection of an applicant to the position of reserve police officer shall be at the sole discretion of the chief of police consistent with the needs and best interests of the police department;
 - (3) The chief of police shall determine the manner and process by which reserve police officer applicants are screened and selected for vacant positions;
 - (4) The chief of police shall have the authority to terminate any reserve officer, with or without cause, from the Township Police Department reserve officer program at any time;
 - (5) The chief of police shall have the authority to suspend or terminate the Township Police Department reserve officer program in its entirety at any time.

(Ord. No. 31-C, § 6.0, 8-15-2017)

Secs. 2-45—2-61. Reserved.

ARTICLE III. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

Secs. 2-62—2-80. Reserved.

DIVISION 2. PLANNING COMMISSION

Sec. 2-81. Confirmation of creation of planning commission powers and duties.

The Township hereby confirms the creation of the Township Planning Commission, previously established by the Township Board in December of 1968, with all the powers and duties provided in the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and the Michigan Planning Enabling Act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.), as amended. The planning commission shall consist of seven members who shall be selected in accordance with the Michigan Planning Enabling Act. One member of the Township Board shall be a member of the planning commission. One planning commission member shall be a member of the zoning board of appeals.

(Ord. No. 86-A, § 1.0, 2-19-2019)

Sec. 2-82. Membership, appointment and terms.

The membership of the planning commission shall be representative of important segments and geography of Hamburg Township to the extent practicable.

- (1) One member of the board of trustees or the Township Supervisor, or both, may be appointed to the planning commission, as ex-officio members. The term of the Township Supervisor shall correspond to his term as chief elected official. The term of a member of the board of trustees shall expire with his term on the board of trustees.

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- (2) The Township Supervisor shall appoint members of the planning commission, subject to approval by a majority vote of the members elected and serving on the Hamburg Township Board of Trustees.
 - (3) The term of each planning commission member shall be for three years, except for members serving because of their membership on the Township Board, whose term shall be limited to the time they are members of the Township Board and/or the period stated in the resolution appointing them. Each member shall serve until his term shall expire. Members of the planning commission shall be qualified electors, except for one member who may be an individual who is not a qualified elector of Hamburg Township. As nearly as possible the terms of one-third of the members of the planning commission, other than ex officio members, shall expire each year.
 - (4) If a vacancy occurs on a planning commission, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment. A member shall hold office until his successor is appointed.

(Ord. No. 86-A, § 2.0, 2-19-2019)

Sec. 2-83. Removal from office.

- (a) The Township Board of Trustees may remove a member of the planning commission for misfeasance, malfeasance or nonfeasance in office upon written charges and after a public hearing. Failure of a member to disclose a potential conflict of interest as required herein constitutes malfeasance in office.
- (b) Members of the planning commission who are absent from three consecutive planning commission meetings or four meetings held within the calendar year shall be subject to review and/or removal from the planning commission by action of the Township Board of Trustees.

(Ord. No. 86-A, § 3.0, 2-19-2019)

Sec. 2-84. Conflict of interest.

A member of the planning commission should only abstain from voting on a motion if he has a bona fide conflict of interest. A conflict of interest shall include the following:

- (1) Issuing, deliberating on, voting on, or reviewing a case concerning him.
- (2) Issuing, deliberating on, voting on, or reviewing a case concerning work on land owned by him or which is adjacent to land owned by him. For purposes of this section, the term "adjacent property" shall include any property falling within the notification radius for the application, as required by the zoning ordinance or the Michigan Zoning Enabling Act.
- (3) Issuing, deliberating on, voting on, or reviewing a case involving a corporation, company, partnership, or any other entity in which he or she is part owner, or any other relationship where he may stand to have a financial gain or loss.
- (4) Issuing, deliberating on, voting on, or reviewing a case involving a relative or other family member.
- (5) Issuing, deliberating on, voting on, or reviewing a case involving an action which results in pecuniary benefit to him.
- (6) Issuing, deliberating on, voting on, or reviewing a case where his employee or employer is:
 - a. An applicant or agent for an applicant; or
 - b. Has a direct interest in the outcome.

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- (7) There is a reasonable appearance of a conflict of interest. An example of this includes a situation where the planning commission member is on the board of directors of an applicant association.

The planning commission member disclosing the potential for a conflict of interest should state the nature of the potential conflict and whether he believes he could impartially consider the request before the commission. Should the member disclosing the potential conflict of interest choose not to remove him from the dais, the remaining members of the planning commission shall evaluate the nature of the potential conflict and determine, by way of a vote, whether or not the member in question should be removed from the dais while the commission discusses or deliberates on the request. In the event that planning commissioner is removed from the dais due to a conflict of interest, either of his own volition or by a vote of the planning commission, that individual shall not participate in the discussion or deliberation in a role as a planning commissioner and shall remove him from the dais. He shall not make any presentations to the planning commission as a representative of the proposal.

(Ord. No. 86-A, § 4.0, 2-19-2019)

Sec. 2-85. Annual written report of activities.

The planning commission, through the Township Board representative, shall make an annual written report of its activities to the Hamburg Township Board of Trustees. The fiscal year of the planning commission shall be the same as the fiscal year of the Township.

(Ord. No. 86-A, § 5.0, 2-19-2019)

Sec. 2-86. Preparation of capital improvements program.

The planning commission shall be exempted from the requirement of Public Act No. 33 of 2008 (MCL 125.3865), requiring annual preparation and submission to the board of trustees of a capital improvements program. The Township's Board of Trustees shall delegate the preparation of the capital improvements program, separate from or as a part of the annual budget, to the chief elected official or non-elected administrative official, subject to final approval and adoption by the board of trustees.

(Ord. No. 86-A, § 6.0, 2-19-2019)

Sec. 2-87. Compensation.

The planning commission member shall be compensated as provided by separate resolution of the Township Board of Trustees.

(Ord. No. 86-A, § 7.0, 2-19-2019)

Sec. 2-88. Bylaws.

The planning commission shall adopt bylaws for the transaction of business, and shall keep a public record of its resolutions, transactions, findings and determinations.

(Ord. No. 86-A, § 8.0, 2-19-2019)

Sec. 2-89. Assistance.

The planning commission may be assisted by other professional or Township Staff as needed, including the planning and zoning administrator, building official, ordinance officer, planning consultant, Township Engineer, Township Attorney or other person or agency.

(Ord. No. 86-A, § 9.0, 2-19-2019)

Secs. 2-90—2-106. Reserved.

ARTICLE IV. FUNDS

DIVISION 1. GENERALLY

Secs. 2-107—2-125. Reserved.

DIVISION 2. SEWER ENTERPRISE FUND

Sec. 2-126. Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized officer means the Township Supervisor, the Township Clerk, the Township Treasurer or the Township Manager.

Act 94 means Public Act No. 94 of 1933 (MCL 141.101 et seq.), as amended.

Bond means the sewage disposal system revenue bonds (Riverview/Fernlands subdivision system), series 1996, in the principal amount of not to exceed \$485,000.00 authorized by this division and any additional bonds of equal standing issued in the future.

Bond registrar means any bank or trust company permitted by law to offer the services required by this division for this authentication, payment registration, transfer and exchange of the bonds, appointed in writing by any authorized officer who, on behalf of the Township, shall be authorized to enter into a written agreement with the bond registrar for such services. Any authorized officer may appoint a similarly qualified successor bond registrar as required from time to time, and the term "bond registrar" shall include any successor so appointed.

Engineers means the Township's consulting engineers for the project.

Mandatory redemption requirements means the mandatory prior redemption requirements for bonds that are term bonds, if any, as specified in the successful bid for the bonds or in any subsequent ordinance or successful bid in connection with the issuance of additional bonds.

Project means the acquisition, construction and installation of pressure sewers with a grinder pump on each residential lot in a designated part of the Riverview/Fernlands subdivision area of the Township to provide sanitary sewage collection, transportation and treatment services to residents of that area, all as more fully described in the preliminary plans and specifications prepared by the engineers and approved by this division.

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 the term "revenues," the earnings derived from the investment and reinvestment of monies at any time in the various funds and accounts established by this division.

Sufficient government obligations means direct obligations of the United States of America or obligations the principal of 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 upon which, without reinvestment of the interest, come due at such times and in such amounts as to be fully sufficient to pay the principal of the interest and redemption premium, if any, on the bonds as they come due, whether at stated maturity or upon earlier redemption. Securities representing sufficient government obligations shall be placed in trust with a bank or trust company (which may be the bond registrar), 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 bond registrar, acting as the paying agent for the bonds.

System means the existing sewage disposal systems of the Township and the project, and all future additions, enlargements, extensions, repairs and improvements to the Township's sanitary sewer system.

(Ord. No. 64, § 1.0, 12-12-1995)

Sec. 2-127. Establishment of the Township Sewer Enterprise Fund.

The Township hereby establishes a sewer enterprise fund for the system to provide for the accounting, management, operation, maintenance and repair of the system, and any other purposes allowed by law ("the sewer fund"). The sewer fund shall combine and include the Ore Lake sewer system funds, the Winans Lake sewer system funds and the Strawberry Lake sewer system funds as well as the project, and all future additions, enlargements, extensions, repairs and improvements to the Township's sanitary sewer system.

(Ord. No. 64, § 2.0, 12-12-1995)

Sec. 2-128. Necessity, approval of preliminary plans, specifications and statement of purpose.

It is hereby determined to be a necessary public purpose of the Township to acquire and construct the project in accordance with the preliminary plans and specifications previously prepared by the engineers and on file with the Township. Such preliminary plans and specifications are approved, and the Township Clerk shall note the fact of such approval on the copy of the preliminary plans and specifications on file with the Township. The Township Board agrees to approve promptly, by appropriate resolution, the final plans and specifications for the project when submitted by the engineers.

(Ord. No. 64, § 3.0, 12-12-1995)

Sec. 2-129. Costs and useful life.

The total cost of the project is estimated to be \$810,000.00, including the incidental expenses referred to in section 2-130, and the estimated period of usefulness of the project is not less than 40 years. Both estimates are approved.

(Ord. No. 64, § 4.0, 12-12-1995)

Sec. 2-130. Payment of cost; bonds authorized.

The Township shall borrow not to exceed \$485,000.00 and issue the bonds therefor pursuant to Act 94, to pay part of the cost of acquiring and constructing the project (including all related legal, engineering, financial, financial advisory and other expenses incident to the project) and the costs of issuance and sale of the bonds. The remaining cost of the project shall be paid from the proceeds of a Rebuild Michigan Initiative grant, funded by the Michigan Community Development Block Grant Program, in the amount not greater than \$400,000.00 and other legally available funds.

(Ord. No. 64, § 5.0, 12-12-1995)

Sec. 2-131. Designation and bond details.

- (a) The bonds shall be designated "Township of Hamburg Sewage Disposal System Revenue Bonds (Riverview/Ferlands Subdivision System), Series 1996," and shall be payable out of the net revenues (as more fully provided in section 2-139). The date of the original issuance of the bonds shall be as of February 1, 1996, or such later date as shall be designated in writing by an authorized officer, and the bonds shall bear interest from their date of original issuance. The bonds shall be fully registered bonds, both as to principal and interest, in any denomination that is \$5,000.00 or any integral multiple thereof up to the amount of any single maturity, numbered from one upwards, and shall mature on April 1, 1998 to 2016, inclusive, in the principal amount each year as follows:

<i>Year</i>	<i>Amount</i>
1998	\$10,000.00
1999	\$10,000.00
2000	\$15,000.00
2001	\$15,000.00
2002	\$20,000.00
2003	\$20,000.00
2004	\$25,000.00
2005	\$25,000.00
2006	\$25,000.00
2007	\$25,000.00
2008	\$30,000.00
2009	\$30,000.00
2010	\$30,000.00
2011	\$30,000.00
2012	\$35,000.00
2013	\$35,000.00
2014	\$35,000.00
2015	\$35,000.00
2016	\$35,000.00

or in such other principal amount each year as any authorized officer shall designate in writing before the bonds are sold.

- (b) The bonds be substantially in the following form (the bond form) with such additions, deletions and other changes are not inconsistent with this article and are approved by an authorized officer after conferring with bond counsel:

United States of America
 State of Michigan
 County of Livingston
 Township of Hamburg
 Sewage disposal system revenue bond
 (Riverview/Fernlands subdivision system)
 Series 1996

Interest rate:	Maturity date:	Date of original issue CUSIP:
April 1, _____	February 1, 1996	

Registered owner:

Principal amount:

The Township of Hamburg, Livingston County, Michigan (the Township), acknowledges itself indebted to and for the value received promises to pay on the maturity date specified above, unless paid prior thereto as hereinafter provided, to the registered owner specified above, or registered assigns, the principal amount shown above on presentation and surrendered of this bond at the principal trust office of _____, _____, Michigan, the authenticating agent, bond registrar and paying agent (the bond registrar), together with interest thereon to the registered owner of this bond as shown on the bond registration books on the applicable date of record at the interest rate per annum specified above, payable on April 1, 1996 and semiannually thereafter. The date of record for each interest payment shall be the 15th day of the month before such payment is due. Interest is payable by check or draft drawn upon and mailed by the bond registrar mailed on the date payment is due by first class United States mail to such registered owner at the address on such registration books on the applicable date of record. Principal and interest are payable in lawful money of the United States of America.

This bond is one of a series of bonds of like date and tenor except as to denomination, date of maturity and interest rate, numbered from 1 upwards, aggregating the principal sum of \$___ issued by Township under and pursuant to and in full conformity with the constitution and statutes of the state, including pursuant to Public Act No. 94 of 1933 (Act 94), as amended, and an ordinance duly adopted by the Township Board on _____, 1995, pursuant to Act 94 (the ordinance). The bonds are being issued to defray part of the cost of a sanitary sewer system serving the Riverview/Fernlands subdivision area of the Township.

For the prompt payment of the principal of and interest on this bond and the series of bonds of which this is one, the Township has irrevocably pledged the revenues of the Township's sewer system (the system), after provision is made for reasonable and necessary expenses of operation, maintenance and administration of the system (the net revenues), and a statutory first lien on the net revenues of the system is hereby recognized and created. As additional security, the Township has irrevocably pledged its limited tax full faith and credit for the prompt payment when due of the principal of and interest on this bond and the series of bonds of which this is one. If the net revenues of the system at any time shall be insufficient for such payment, the principal of and interest on such bonds are payable as a first budget obligation of the Township from its general funds. However, the Township does not have the power to levy any tax for the making of such payments in excess of constitutional, statutory or charter limitations.

Reference is made to the ordinance for a complete statement of the revenues from which and the conditions under which this bond and the series of bonds of which this is one are payable, a statement of the conditions under which additional bonds of equal standing as to the net revenues of the system may be issued and the covenants and conditions pursuant to which this bond and the series of the bonds of which this is one were issued.

The Township has covenanted in this article, and hereby covenants, to fix and maintain at all times while any bonds payable from the net revenues of the system are outstanding, such rates for services furnished by the system as shall be sufficient to provide for the payment of the principal of and the interest on the bonds of this issue and any additional bonds of equal standing as and when they become due and payable, and to create and maintain a bond redemption fund (including a bond reserve account) therefor to provide for the payment of expenses and administration an operation and such expenses for maintenance as are necessary to preserve the system in good repair and working order and to provide for such other expenditures and funds for the system as are required by the ordinance.

Bonds maturing before April 1, 2004, are not subject to redemption prior to maturity. Bonds maturing on or after April 1, 2004, are subject to optional redemption, in whole or in part as the Township shall determine, in integral multiples of \$5,000.00 on any interest payment date on or after April 1, 2003 at the following redemption prices (expressed as a percentage of the par amount of the bonds being redeemed), plus accrued interest to the redemption date:

<i>Period During Which Redeemed</i>	<i>Redemption Price</i>
On or after April 1, 2003, but prior to April 1, 2006	101.5 percent
On or after April 1, 2006, but prior to April 1, 2009	101 percent
On or after April 1, 2009, but prior to April 1, 2012	100.5 percent
On or after April 1, 2012	100 percent

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed, provided such portion and the amount not being redeemed each constitutes an authorized denomination. If less than the entire principal amount of a bond is called for redemption, upon surrender of the bond to the bond registrar, the bond registrar shall authenticate and deliver to the registered owner of the bond a new bond in the principal amount of the principal portion not being redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class United States mail at least 30 days before the date fixed for redemption, which notice shall fix the date of record with respect to the redemption. Any defect in any notice of redemption shall not affect the validity of the redemption proceedings. Bonds so called for redemption shall not bear interest after the date fixed for redemption provided funds or sufficient government obligations (as defined in the ordinance) then are on deposit in accordance with the ordinance to redeem such bonds.

This bond is transferrable only on the bond registration books of the bond registrar upon surrender of this bond together with an assignment executed by the registered owner or his duly authorized attorney-in-fact in form satisfactory to the bond registrar. Upon such transfer, one or more fully registered bonds with denominations of \$5,000.00 or an integral multiple of \$5,000.00, in the same aggregate principal amount and the same maturity and interest rate, will be issued to the designated transferee. The bond registrar shall not be required to honor any transfer of bonds during the period from the applicable date of record preceding an interest payment date to and including such interest payment date.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in connection with the issuance of this bond and the other bonds of this series, existed, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the state, and that the total indebtedness of the Township, including the indebtedness represented by the bonds of this series, does not exceed any constitutional, statutory or charter limitation.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit until the certificate of authentication hereon has been duly executed by the bond registrar, as authenticating agent.

Township of Hamburg

By: Supervisor

By: Clerk

(SEAL) CERTIFICATE OF AUTHENTICATION

This bond is one of the series of bonds designated "Township of Hamburg Sewage Disposal System Revenue Bonds (Riverview/Fernlands Subdivision System), Series 1996."

_____ as, bond registrar and authenticating agent.

By: _____

Authorized signer

Assignment. For value received, the undersigned sells, assigns and transfers unto _____ this bond and all rights hereunder and hereby irrevocably appoints _____.

Attorney to transfer this bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____.

Signature: _____.

Notice: The signature to this assignment must correspond with the name as it appears on the face of this bond in every particular.

(Ord. No. 64, § 6.0, 12-12-1995)

Sec. 2-132. Payment of principal and interest; record dates.

The principal of and interest on the bonds shall be paid in lawful money of the United States. The principal shall be paid upon presentation and surrender of the bonds to the bond registrar as they severally mature. interest on the bonds shall be paid on each April 1 and October 1, commencing on April 1, 1996, until maturity, by check or draft mailed by first class United States mail to the registered owner of each bond as of the applicable record date. The record date for each interest payment shall be the 15th day of the month before such payment is due.

(Ord. No. 64, § 7.0, 12-12-1995)

Sec. 2-133. Redemption.

The bonds shall be subject to redemption prior to maturity only to the extent (if any), at the times and prices, in the manner and with the notice described in the bond form.

(Ord. No. 64, § 8.0, 12-12-1995)

Sec. 2-134. Sale of bonds.

The Township shall conduct a public sale of the bonds not less than 14 days after publication of the official notice of sale (hereinafter approved) in the manner provided by law. The bonds may be offered for sale at par or at a discount of not more than 1½ percent as shall be designated in the official notice of sale. The other conditions of the sale shall be specified in the official notice of sale. Each authorized officer is designated to act for the Township to receive bids for the purchase of the bonds and to take all other actions necessary in connection with the sale and delivery of the bonds. At or at any time after the sale, the Township Board shall either award the bonds to the lowest bidder or reject all bids.

(Ord. No. 64, § 9.0, 12-12-1995)

Sec. 2-135. Department of treasury approval and official notice of sale.

- (a) The Township Board previously authorized the Township Clerk to apply to the Michigan Department of Treasury for an order approving the sale of the bonds or an order granting an exception to such prior approval requirement. At any time after issuance of such order (provided such order at the time remains in effect), each authorized officer is authorized to fix the date of sale of the bonds and to publish the official notice of sale in accordance with law, once in at least one of the Detroit Legal News or Bond Buyer at least 14 days before the date fixed for receipt of bids for the purchase of bonds.
- (b) Wherever in this article an authorized officer is required or permitted to designate information in writing, it shall be sufficient if such information is set forth in the official notice of sale that is published as provided in this article.
- (c) The official notice of sale shall be in substantially the following form with such additions, deletions and other changes as are not inconsistent with this article and are approved by an authorized officer after conferring with bond counsel:

Official Notice of Sale

\$ _____

Township of Hamburg

County of Livingston, State of Michigan

Sewage disposal system revenue bonds (Riverview/Fernlands subdivision system),
Series 1996 (general obligation limited tax)

Sealed bids: Sealed bids for the purchase of the above designated bonds (the bonds) to be issued by the Township of Hamburg, Livingston County, Michigan (the Township), will be received by the undersigned at the Township Hall, 10405 Merrill Road, Hamburg, MI 48139, until ___ o'clock ___.m., Eastern ___ Time, on ___, 1996, at which time and place the bids will be opened and read publicly.

Sealed bids also will be received until the same date and time by an agent of the undersigned at the offices of the Bendzinski & Co., municipal finance advisors, One Kennedy Square, Suite 230, Detroit, Michigan 48226, where they will be opened and read publicly. Bids opened at Detroit will be opened and read first. Bidders may choose either location to present bids, but not both locations.

The award of the bonds will be made (or all bids will be rejected) at a meeting of the Township Board beginning no later than 7:30 p.m., Eastern Time, on the day of the sale.

Bond details. The bonds will be fully registered bonds in any denomination of \$5,000.00 or an integral multiple of \$5,000.00 up to the amount of any single maturity, dated February 1, 1996, numbered from one upwards, and will bear interest from the date of original issuance, payable April 1, 1996 and semi-annually thereafter. The bonds will mature on April 1 of each year, as follows:

<i>Year</i>	<i>Amount</i>
1998	\$10,000.00
1999	\$10,000.00
2000	\$15,000.00
2001	\$15,000.00
2002	\$20,000.00
2003	\$20,000.00
2004	\$25,000.00
2005	\$25,000.00
2006	\$25,000.00
2007	\$25,000.00
2008	\$30,000.00
2009	\$30,000.00
2010	\$30,000.00
2011	\$30,000.00
2012	\$35,000.00
2013	\$35,000.00
2014	\$35,000.00
2015	\$35,000.00
2016	\$35,000.00

Prior redemption. Bonds maturing before April 1, 2004, are not subject to redemption prior to maturity. Bonds maturing on or after April 1, 2004, are subject to optional redemption, in whole or in part as the Township shall determine, in integral multiples of \$5,000.00 on any interest payment date on or after April 1, 2003 at the following redemption prices (expressed as a percentage of the par amount of the bonds being redeemed), plus accrued interest to the redemption date:

<i>Period During Which Redeemed</i>	<i>Redemption Price</i>
On or after April 1, 2003, but prior to April 1, 2006	101.5%
On or after April 1, 2006, but prior to April 1, 2009	101%
On or after April 1, 2006, but prior to April 1, 2012	100.5%
On or after April 1, 2012	100%

With respect to partial redemptions, any portion of a bond outstanding in a denomination larger than the minimum authorized denomination may be redeemed provided such portion and the amount not being redeemed each constitutes an authorized denomination. If less than the entire principal amount of a bond is called for redemption, upon surrender of the bond to the bond registrar, the bond

registrar shall authenticate and deliver to the registered owner a new bond in the principal amount of the principal portion not being redeemed.

Notice of redemption shall be sent to the registered holder of each bond being redeemed by first class United States mail at least 30 days before the date fixed for redemption, which notice shall fix the date of record with respect to the redemption. Any defect in any notice of redemption shall not affect the validity of the redemption proceedings. Bonds so called for redemption shall not bear interest after the date fixed for redemption provided funds or sufficient government obligations then are on deposit with the bond registrar to redeem such bonds.

Interest rate and bidding details. The bonds shall bear interest at a rate or rates not exceeding 8.00 percent per annum, to be fixed by the bids for the bonds, expressed in multiples of one-eighth or 1/20 of one percent, or both. The interest on any one bond shall be at one rate only, and all bonds maturing in any one year must bear the same interest rate. No bond may bear interest at a rate that is more than four percentage points above the rate borne by any other bond. No proposal for the purchase of less than all of the bonds, or at a price that is less than 98.5 percent of par, will be considered.

Bond registrar and date of record. _____, _____, Michigan, has been selected as bond registrar. The bond registrar will keep records of the registered holders of the bonds, serve as transfer agent, authenticate the original and any re-issued bonds and pay interest by check or draft to the registered holders of the bonds as shown on the records of the bond registrar on the applicable date of record. The date of record for each interest payment will be the 15th day of the month before such payment is due. Principal of the bonds will be paid at maturity upon presentation and surrender thereof to the bond registrar.

Purpose and security. The bonds are being issued payment to Act No. 94, Public Acts of Michigan, 1993, as amended (the Act), to defray part of the cost of expanding the Township's sanitary sewer system (the system) to serve the Riverview/Fernlands Subdivision area of the Township. The bonds are payable from the revenues of the system, after provision is made for reasonable and necessary expenses of operation, maintenance and administration of the system (the net revenues). The Township has created a first lien (made a statutory lien by Act 94) upon the net revenues of the system to secure payment of the principal of and interest on the bonds.

Reference is made to the ordinance for a complete statement of the revenues from which and the conditions under which the bonds are payable, a statement of the conditions under which additional bonds of equal standing as to the net revenues of the system may be issued and the covenants and conditions pursuant to which the bonds are issued.

As additional security, the Township has irrevocably pledged its limited tax full faith and credit for the prompt payment when due of the principal of and interest on the bonds. If the net revenues of the system at any time shall be insufficient for such payment, the Township shall advance sufficient funds from its general fund to make up the deficiency as a first budget obligation of the Township. However, the Township does not have the power to levy any tax for the making of such payments in excess of constitutional or statutory limitations.

Good faith. A certified or cashier's check drawn upon an incorporated bank or trust company or a financial surety bond in the amount of \$_____ and payable to the order of the treasurer of the Township must accompany each bid as a guarantee of good faith on the part of the bidder, to be forfeited as liquidated damages if such bid is accepted and the bidder fails to take up and pay for the bonds. If a check is used, it must accompany the bid. If a financial surety bond is used, it must be from an insurance company licensed to issue such a bond in Michigan, and such bond must be submitted to the Township or its financial advisor, Bendzinski & Co., municipal finance advisors, prior to the opening of bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such bond. If the bonds are awarded to a bidder using a financial surety bond, then that purchaser is required to submit its good faith deposit to the Township or its financial advisor in the form of a cashier's check or by wire transfer (in accordance with

instructions from the Township or its financial advisor) no later than 12:00 noon, Eastern Time, on the next business day following the award. If such good faith deposit is not received by that time, the financial surety bond may be drawn upon by the Township to satisfy the good faith deposit requirement. If the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the Township. No interest will be allowed on good faith checks. Checks of unsuccessful bidders will be returned to the bidder's representative or by overnight delivery service. The good faith check of the successful bidder will be cashed, and the proceeds will be applied to the purchase price of the bonds. Payment of the balance of the purchase price shall be made at closing.

Award of the bonds. The bonds will be awarded to the bidder whose bid produces the lowest interest cost computed by determining, at the rate or rates specified in the bid, the total dollar value of all interest on the bonds from ____ 1, 1996, to their maturity and deducting any premium and adding any discount.

Legal opinion. Bids shall be conditioned upon the approving opinion of bond counsel, Dykema Gossett PLLC, Lansing, Michigan, a copy of which will be printed on the back of each bond and the original of which will be furnished without expense to the purchaser of the bonds at the delivery thereof. The fees of bond counsel for services in connection with its opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its opinion, bond counsel has not been requested to examine or review, and has not examined or reviewed, any financial documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the bonds and, accordingly, will not express any opinion with respect to the accuracy or completeness of any such financial documents, statements or materials.

Tax matters. In the opinion of bond counsel, assuming compliance with certain covenants by the Township, interest on the bonds is excluded from gross income for federal income tax purposes, as described in bond counsel's opinion, and the bonds and interest thereon are exempt from all taxation in the state except inheritance taxes and taxes on gains realized from the same, payment or other disposition thereof. The successful bidder will be required to furnish, prior to the delivery of the bonds, a certificate in a form acceptable to bond counsel as to the issue price of the bonds within the meaning of section 1273 of the Internal Revenue Code of 1986, as amended.

Qualified tax-exempt obligations. The Township has designated the bonds as "qualified tax-exempt obligations" for purposes of deduction of interest by financial institutions.

CUSIP numbers. It is anticipated that CUSIP numbers will be printed on the bonds, but neither the failure to print such numbers nor any improperly printed number shall be cause for the purchaser to refuse to accept delivery. All expenses for printing CUSIP numbers on the bonds will be paid by the Township, except that the CUSIP service bureau charge for assignment of such numbers shall be the responsibility of and paid for by the purchaser of the bonds.

Delivery of bonds. The Township will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser at Detroit, Michigan or other mutually agreed location. The usual closing documents, including a certificate that no litigation is pending affecting the bonds, will be delivered at the time of delivery of the bonds. If the bonds are not tendered for delivery by 12:00 noon, Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if the 45th day is not a business day, the successful bidder on that day, or at any time thereafter until delivery of the bonds, may withdraw its proposal by serving a written notice of cancellation on the undersigned, in which event the Township shall return promptly the good faith deposit.

Payment for the bonds shall be made in immediately available funds. Accrued interest to the date of delivery of the bonds shall be paid by the purchaser at the time of delivery. Unless the purchaser of the bonds furnishes the bond registrar with a list of names and denominations in which it wants to have the bonds issued at least ten business days before delivery of the bonds, the bonds will be delivered in the form of one bond for each maturity, registered in the name of the purchaser.

Official statement and disclosure undertaking. The Township will not be preparing an official statement for the bonds and will not be entering into a continuing disclosure undertaking with respect to the bonds.

Additional information. Additional information may be obtained from the Township's financial consultant, Bendzinski & Co., municipal finance advisors, One Kennedy Square, Suite 2130, Detroit, Michigan 48226 (telephone (313) 961-8222).

The Township reserves the right to reject any or all bids.

Envelopes. Envelopes containing bids should be plainly marked "Township of Hamburg—Proposal for Sewage Disposal System Revenue Bonds."

(Ord. No. 64, § 10.0, 12-12-1995)

Sec. 2-136. Execution and delivery of bonds.

- (a) The Township Supervisor and the Township Clerk are authorized and directed to execute the bonds on behalf of the Township by their manual signatures or by causing their facsimile signatures to be affixed. If facsimile signatures are used, the bonds thereafter shall be authenticated by the bond registrar, as authenticating agent. The bonds shall bear the seal of the Township or a facsimile. When so executed and (if facsimile signatures are used) authenticated, the bonds shall be delivered to an authorized officer who thereafter shall deliver them to the original purchaser upon receipt of the purchase price therefor.
- (b) Upon delivery of the bonds to the initial purchaser and from time to time thereafter as necessary, blank bonds ready for authentication, registration and issuance upon transfer, exchange or partial redemption of bonds shall be delivered to the bond registrar for safekeeping.

(Ord. No. 64, § 11.0, 12-12-1995)

Sec. 2-137. Transfer or exchange of bonds.

- (a) Any bond may be transferred on the bond registration books maintained by the bond registrar at any time before the record date preceding an interest payment date upon surrender of the bond together with an assignment executed by the registered owner of the bond (or such owner's duly authorized attorney-in-fact) in a form reasonably satisfactory to the bond registrar. Upon receipt of a properly assigned bond, the bond registrar shall authenticate and deliver a new bond in equal aggregate principal amount and like interest rate and maturity to the designated transferee and cancel the bond presented for transfer.
- (b) Any bond likewise may be exchanged before the record date preceding an interest payment date for one or more bonds with the same interest rate and maturity in authorized denominations aggregating the same principal amount as the bond being exchanged. Such exchange shall be affected by surrender of the bond to be exchanged to the bond registrar with written instructions signed by the registered owner of the bond (or such owner's duly authorized attorney-in-fact) in form reasonably satisfactory to the bond registrar. Upon receipt of a bond with proper instructions, the bond registrar shall authenticate and deliver a new bond to the registered owner of the bond or such owner's properly designated transferee and cancel the bond presented for exchange.
- (c) The bond registrar shall not be required to honor any transfer or exchange of bonds during the period from the record date for an interest payment to the date of such payment. Any service charge made by the bond registrar for any such registration, transfer or exchange shall be paid by the Township. However, the bond registrar may require payment by a bondholder of an amount sufficient to cover any tax or similar governmental charge payable in connection with such registration, transfer or exchange.

(Ord. No. 64, § 12.0, 12-12-1995)

Sec. 2-138. Security for payment of bonds.

- (a) The bonds and the interest thereon shall be payable in the first instance from the net revenues, and to secure such payment, there is hereby created in favor of the holders of the bonds a lien (made a statutory lien by Act 94) upon the whole of the net revenues. Such lien shall be a first lien and shall continue until payment in full of the principal of and interest on the bonds payable from net revenues or until sufficient cash or sufficient government obligations (or a combination of cash and sufficient government obligations) have been deposited in trust for payment in full of all bonds of a series then outstanding, the principal of and interest on such bonds to maturity or, if called redemption, to the date fixed for redemption together with the amount of any applicable redemption premium. Upon deposit of such cash or sufficient obligations, or both, the statutory lien shall be terminated with respect to that series of bonds, the holders of the bonds of that series shall have no further rights under this article (except for the right to receive payment from the cash and/or sufficient government obligations so deposited), and the bonds of that series shall no longer be considered outstanding under this article.
- (b) As additional security for such payment, the Township hereby pledges its limited tax full faith and credit for the payment of the principal of and interest on the bonds. In the event the net revenues hereby pledged for any reason are insufficient to pay the principal of and interest on the bonds when due, the Township shall advance sufficient funds out of its general fund to make up the deficiency. The Township does not have the power to levy (and nothing in this article can or does obligate the Township to levy) any tax for the payment of the bonds in excess of its constitutional and statutory limits.

(Ord. No. 64, § 13.0, 12-12-1995)

Sec. 2-139. Bondholder's rights.

- (a) The holder of bonds representing in the aggregate not less than 20 percent of the entire principal amount of the bonds then outstanding, by suit, action, mandamus or other proceedings, may protect and enforce the statutory lien on the net revenues of the system and enforce and compel performance of all duties of the Township, including the duty to fix sufficient rates and to collect and properly segregate and apply the revenues of the system, provided that such statutory lien shall not be construed to compel the sale of the system or any part thereof.
- (b) If there is a default in the payment of the principal of or interest on the bonds, any court having jurisdiction in any proper proceeding may appoint a receiver to administer and operate the system on behalf of the Township and under the direction of the court and, with the approval of the court, to perform all of the duties of the officers of the Township more particularly set forth in Act 94.
- (c) The holder 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.

(Ord. No. 64, § 14.0, 12-12-1995)

Sec. 2-140. Management and fiscal year.

The acquisition, construction and installation of the project and the operation, repair and maintenance of the system shall be under the supervision and control of the Township Board, and the fiscal year of the system shall commence on July 1 of each year and end on June 30 of the following year. The Township, through the authorized officers, may employ such person in such capacities as the Township Board deems advisable to carry out the efficient management and operation of the system. The Township Board may make, and revise from time to time,

such rules and regulations as it deems necessary or advisable to ensure the efficient management and operation of the system.

(Ord. No. 64, § 15.0, 12-12-1995)

Sec. 2-141. No free service or use.

No free service or use of the system, or service or use of the system at less than the reasonable cost and value thereof, shall be furnished to any person, firm or corporation (public or private) or to any public agency or instrumentality including the Township.

(Ord. No. 64, § 16.0, 12-12-1995)

Sec. 2-142. Rates and charges.

The rates and charges for service furnished by, and for the use of, the system and the methods of collection and enforcement of the collection of such rates and charges shall be those established by resolution of the Township Board, which shall be adjusted from time to time by resolution of the Township Board.

(Ord. No. 64, § 17.0, 12-12-1995)

Sec. 2-143. Fixing and revising rates and charges.

The rates and charges in effect for the respective districts on the date of adoption of this article (which rates and charges are set forth in Schedule I) are estimated to be sufficient to provide for the payment of the expenses of administration and operation and such expenses of maintenance of the system as are necessary to preserve the system in good repair and working order, to provide for the payment of the principal of and interest on the bonds as they become due and the maintenance of the reserve therefor and to provide for all other obligations, expenditures and funds for the system required by law and this article. The rates and charges shall be reviewed not less than once each year and shall be fixed and revised from time to time as may be necessary to produce amounts sufficient for the foregoing purposes, and the Township hereby covenants and agrees to fix and maintain rates and charges for services furnished by the system at all times sufficient to provide for the foregoing.

(Ord. No. 64, § 18.0, 12-12-1995)

Sec. 2-144. Penalty for late payment.

The Township shall charge late payment fees and penalties if a user of the system does not timely pay the rates and charges that have been billed for the use of the system. The amount of the late payment fees and penalties, and the times when they shall be imposed, are set forth in Schedule I and may be adjusted from time to time by resolution of the Township Board.

(Ord. No. 64, § 19.0, 12-12-1995)

Sec. 2-145. Delinquent rates and charges.

In the event that a user of the system does not timely pay the rates and charges that have been billed to such user, an authorized officer shall take the necessary action, in accordance with applicable state statutes, to add such delinquent rates and charges to the user's ad valorem property tax bills.

(Ord. No. 64, § 20.0, 12-12-1995)

Sec. 2-146. Hardship deferrals.

The Township Board shall have the right, by resolution, to defer the payment of a user's rates and charges, under such conditions as the Township Board may establish from time to time.

(Ord. No. 64, § 21.0, 12-12-1995)

Sec. 2-147. Continuing rate covenant.

The Township hereby covenants to establish rates and charges each year so as to produce net revenues based on the Township's reasonable expectations and historical operating trends at least equal to 110 percent of the debt service requirements on the bonds, and on any other bonds that may be equal standing with the bonds, for the next fiscal year.

(Ord. No. 64, § 22.0, 12-12-1995)

Sec. 2-148. Funds and accounts and flow of funds.

- (a) *Fund transfer and revenue collections.* Commencing on January 1, 1996, all funds belonging to the system shall be transferred, as provided in this article, and all revenues shall be set aside as collected and credited to a fund designated sewage disposal receiving fund (the receiving fund). In addition, on such date all revenues in any accounts of the system shall be transferred to the receiving fund and credited to the funds and accounts as provided in this section. Notwithstanding the above, any funds currently in any debt retirement accounts for the bonds issued for the Winans Lake sewer project, the Ore Lake Sewer Project and the Strawberry Lake Sewer Project, and any special assessments collected from those respective sewer projects, shall remain in their respective accounts and shall not be transferred to the receiving fund.
- (b) *Receiving fund; pledge of revenues.* The revenues in the receiving fund are pledged for the purposes of the following funds and shall be transferred or debited from the receiving fund periodically and in the order of priority specified in this section:
 - (1) *Operation and maintenance fund.*
 - a. Out of the revenue credited to the receiving fund, there first shall set aside in or credited to a fund designated operation and maintenance fund (the operation and maintenance fund) 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.
 - b. A budget, showing in detail the estimated costs of administration, operation and maintenance of the system for the next operating year, shall be prepared by the Township Board at least 30 days before the commencement of the operating year to which it applies. No payments shall be made to the Township from monies credited to the operation and maintenance fund except for services directly rendered to the system by the Township or its personnel.
 - (2) *Bond payment fund.*
 - a. There shall be established and maintained a separate depository fund designated as the bond and interest redemption fund (the redemption fund). The monies on deposit in the redemption fund from time to time shall be used solely to pay the principal of the redemption premium (if any) and interest on the bonds. The monies in the redemption fund (including the bond reserve account) shall be kept on deposit with the bank or trust company where the principal of and interest on the bonds, or any series thereof, are payable.

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- b. 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 February 1, 1996, in the redemption fund an amount equal to 1/14 of the interest on the bonds coming due on April 1, 1997, less any amount then in the redemption fund representing accrued interest received from the original purchaser of the bonds, and less any capitalized interest included in the bond proceeds, and less any investment income on amounts on deposit in the redemption fund. Commencing April 1, 1997, the amount set aside each month for interest on the bonds shall be one-sixth of the total amount of interest next coming due. The amount set aside each month for principal, commencing April 1, 1997, shall be 1/12 of the amount of principal next coming due at maturity.
- c. If there is any deficiency in the amount previously set aside, the full amount of that deficiency shall be added to the next 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 fund (including investment income), is necessary to pay the principal of and interest on the bonds due on the next succeeding principal payment date.
- d. There is established a separate account in the redemption fund to be known as the bond reserve account (the bond reserve account). Upon delivery of the bonds, there first shall be deposited in the bond reserve account from the proceeds of the bonds an amount equal to the lesser of ten percent of the principal amount of the bonds or an amount equal to the maximum annual principal and interest requirements on the bonds in any fiscal year.
- e. Except as otherwise provided in this section, monies credited to the bond reserve account shall be used solely for payment of the principal of and redemption premiums (if any) and interest on the bonds which otherwise would be in default. If at any time it is necessary to use any monies credited to the bond reserve account for such payment, the monies so used shall be replaced from the net revenues first received thereafter that are not required for current principal and interest requirements until the amount on deposit equals the reserve amount. If additional bonds of equal standing with the bonds are issued, each ordinance authorizing additional bonds shall provide for additional deposits to the bond reserve account to be made from the proceeds of the additional bonds or from Township funds legally available for such use, or both, in an amount that will result in the bond reserve account being funded to the maximum annual principal and interest requirements on the bonds outstanding and all such additional bonds or if the foregoing amount is not permitted by applicable federal law, an amount equal to ten percent of the principal amount of the bonds, which funding may be over a period of not to exceed three years. If on any April 1, the amount of the bond reserve account exceeds the amount required by this article to be in the bond reserve account on that date, the excess may be transferred to the redemption fund and used for payment of principal of and interest on the bonds next coming on that date.
- (3) *Replacement and improvement fund.* There shall be established and maintained a separate depository account designated as the replacement and improvement fund (the replacement fund). The monies credited to the replacement fund shall be used solely to make repairs, replacements, improvements, enlargements or extensions of the system, including any buildings or other structures related to the system. Out of the revenues and other monies (if any) remaining in the receiving fund at the end of each month after providing for the required deposits to the operation and maintenance fund and the redemption fund (including the bond reserve account), there may be deposited in the replacement fund such additional funds (if any) as the Township Board deems advisable. If at any time it is necessary to use any monies in the replacement fund for the purpose for which the replacement fund was established, the monies so used shall be replaced from monies in the receiving fund that are not required by this article to be used for the operation and maintenance fund or the redemption fund (including the bond reserve account).

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- (4) *Surplus monies.* All monies remaining in the receiving fund after satisfying all of the foregoing requirements of this section at the option of the Township Board may be transferred:
- a. To the replacement fund; or
 - b. To the redemption fund and used to purchase bonds on the open market at not more than their fair market value or to redeem bonds prior to maturity.

(Ord. No. 64, § 23.0, 12-12-1995)

Sec. 2-149. Priority of funds.

If the monies in the receiving fund are insufficient to provide for the current requirements of the operation and maintenance fund or the redemption fund, any monies or securities in other funds of the system (other than proceeds from the sale of the bonds and special assessments pledged to other bond issues) shall be credited or transferred, first, to the operation and maintenance fund and, second, to the redemption fund.

(Ord. No. 64, § 24.0, 12-12-1995)

Sec. 2-150. Depository and funds on hand.

Moneys in the several funds and accounts established by or pursuant to this article (other than monies in the redemption fund (including the bond reserve account) and monies derived from the proceeds of the sale of the bonds) may be kept in one or more bank accounts at a bank or banks designated by resolution of the Township Board, and if kept in one bank account, such monies shall be allocated on the Township's books in the manner and at the times required by this article.

(Ord. No. 64, § 25.0, 12-12-1995)

Sec. 2-151. Investments.

- (a) Monies in the funds and account established by or pursuant to this article and monies derived from the proceeds of the sale of the bonds may be invested by the Township in:
 - (1) Obligations of the United States of America;
 - (2) Obligations the principal of and interest on which are fully guaranteed by the United States of America;
 - (3) Certificates of deposit of any bank in which deposits are insured by the federal Deposit Insurance Corporation and which:
 - a. Has unsecured, uninsured and unguaranteed outstanding obligations that are rated "A2" or better by Moody's Investor Service or "A" or better by Standard & Poor's Corporation; or
 - b. Is the lead bank of a bank holding company that has outstanding obligations so rated.
- (b) Investments of monies in the redemption fund being accumulated for payment of the next maturing principal of or interest on the bonds shall be limited to obligations otherwise permitted by this section that mature before the date of such payment.
- (c) Investments of monies in the bond reserve account shall be limited to obligations otherwise permitted by this section that mature or are subject to redemption at the option of the holder, not more than five years from the date of the investment.

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- (d) Any securities representing any investment permitted by this section shall be kept on deposit at the bank of trust company having on deposit the fund or account from which the investments were purchased. Profits realized on interest earned on investments of monies in the receiving fund, the operation and maintenance fund, the replacement fund or the redemption fund (including the bond reserve account) shall be deposited in or credited to the receiving fund at the end of each fiscal year.

(Ord. No. 64, § 26.0, 12-12-1995)

Sec. 2-152. Bond proceeds.

- (a) From the proceeds of the sale of the bonds, there immediately shall be deposited in the redemption fund an amount equal to the accrued interest and premium (if any) received from the original purchaser of the bonds on delivery and an amount equal to 12 months of capitalized interest on the bonds. In addition, there shall be deposited in the bond reserve account from such proceeds the amount required to be so deposited by this article. The remainder of such proceeds shall be deposited in a bank designated by the Township Board, qualified to act as depository of the proceeds of sale under section 15 of Act 94, in an account designated as the construction fund (the construction fund).
- (b) Moneys in the construction fund shall be applied solely for the payment of the cost of acquiring, constructing and installing the project, including any engineering, legal, financial advisory or other expenses incidental thereto and to the financing thereof. No payment for construction, either on account or otherwise, shall be made until the engineers shall file with the Township Board a signed statement to the effect that the work has been completed in accordance with the applicable plans and specifications, that such work was performed pursuant to and in accordance with the applicable contract (including any properly authorized change orders), that such work is satisfactory and that such work has not been paid for previously. Any unexpended balance remaining in the construction fund after completion of the project shall be transferred to the replacement fund and used for improvements, enlargements and extensions of the system.

(Ord. No. 64, § 27.0, 12-12-1995)

Sec. 2-153. Special covenants of the Township.

The Township covenants and agrees with the holders of the bonds that so long as any of the bonds remain outstanding and unpaid as to either principal or interest:

- (1) The Township will remain the system in good repair and working order, will operate the system efficiently, faithfully and punctually will perform all duties respecting the system, as required by the constitution and laws of the state (including in particular Act 94), and this article.
- (2) The Township will keep proper books of record and account separate from all other records and accounts of the Township, in which shall be made full and correct entries of all transaction relating to the system. The Township shall have an annual audit of the books of record and account of the system for the preceding operating year by an independent certified public accounting firm, and a copy of the audit shall be mailed to the manager of the syndicate or account originally purchasing any issue of bonds. The auditor shall comment on the manner in which the Township is complying with the requirements of this article respecting the setting aside and investing of monies and obtaining and maintaining insurance. The audit shall be completed and so made available not more than six months after the close of the operating year that it covers.
- (3) The Township will obtain insurance on all physical properties of the system, and liability insurance, against such risks and in such amounts as normally are carried by municipalities engaged in the ownership and operation of sewage disposal system comparable to the system. All monies received for

losses under any policy of such insurance shall be applied solely to the repair, replacement or restoration of property of the system that is damaged or destroyed, and to the extent not so used, shall be used to redeem or purchase bonds.

- (4) The Township will not sell, lease or otherwise dispose of the system, in whole or substantial part, until principal of or interest on all of the bonds have been paid in full or provision for such payment has been made in accordance with this article. The Township will operate the system as economically as possible, will make all repairs and replacements necessary to keep the system in good repair and working order and will not do or permit to be done any act within its control that would affect the system in a way that has a material adverse effect on the security for the bonds.
- (5) The Township will not operate or grant any franchise or other rights to any person, firm or corporation to operate a system that will compete with the system.
- (6) The Township will cause the project to be completed promptly and in accordance with the plans and specifications therefor.

(Ord. No. 64, § 28.0, 12-12-1995)

Sec. 2-154. Additional bonds.

Except as hereinafter provided, the Township will not issue any bonds of equal or prior standing with the bonds. The Township reserves the right, in accordance with Act 94, to issue additional bonds payable from the revenues of the system which shall be of equal standing and priority of lien on the net revenues of the system with the bonds, but only for the following purposes and on the following conditions:

- (1) For repairs, extensions, enlargements and improvements to the system or for the purpose of refunding part of the bonds then outstanding and paying the costs of issuing such additional bonds and making the required deposits to the bond reserve account. Bonds issued for such purposes shall not be issued pursuant to this subsection unless the average actual augmented net revenues of the system for the then last two preceding 12-month operating years, or (if lower than such average) the actual or augmented net revenues for the last preceding 12-month operating year shall be equal to at least 120 percent of the average annual amount of principal and interest thereafter coming due in future operating years on the then outstanding bonds and the additional bonds then being issued. If the additional bonds are to be issued, in whole or in part, to refund outstanding bonds, the average annual principal and interest requirements shall be determined by deducting from the principal and interest requirements for each operating year the annual principal and interest requirements of the bonds to be refunded from the proceeds of such additional bonds. For purposes of this subsection, the Township may elect to use:
 - a. As the last preceding operating year, any operating year ended not more than 16 months from the date of delivery of the additional bonds; and
 - b. As the next to the last preceding operating year, any operating year ended not more than 28 months from such date of delivery. If the system's rates and charges shall be increased at or before the time the additional bonds are authorized, the net revenues for each of the two preceding operating years shall be augmented by an amount reflecting the effect of such increase had the system's billings during such operating years been at the increased rates. In addition, the actual net revenues for each of the two preceding operating years may be augmented by the estimated increase in net revenues to accrue as a result of the repairs, extensions, enlargements and improvements to the paid in whole or in part from the proceeds of the additional bonds, and the actual net revenues may be augmented by an amount equal to the investment income representing interest on investments estimated to be received each

operating year from the addition to the bond reserve account to be funded from proceeds of the additional bonds. The determination of the Township Board as to the existence of the conditions that permit the issuance of additional bonds shall be conclusive. No additional bonds of equal standing as to the net revenues of the system shall be issued pursuant to the authorization contained in this subsection if this Township then shall be in default in making any required payments to the operation and maintenance fund or the redemption fund.

- (2) For refunding all or a part of the bonds then outstanding and paying the costs of issuing the additional bonds and making the required deposits to the bond reserve account. No additional bonds shall be issued pursuant to this subsection unless the maximum amount of principal and interest coming due in any operating year, after giving effect to the refunding, shall be less than the maximum amount of principal and interest coming due in any future operating year before giving effect to the refunding.

(Ord. No. 64, § 29.0, 12-12-1995)

Sec. 2-155. Tax matters.

Notwithstanding any other provision of this article, the bond form or the bonds, the Township covenants that it will not at any time:

- (1) Permit any proceeds of the bonds, or any other funds of the Township or under its control, to be used directly or indirectly:
 - a. To acquire any securities or obligations, the acquisition of which would cause any bond to be an arbitrage bond as defined in 26 USC 148; or
 - b. In a manner that would result in the exclusion of any bond from the treatment afforded by 26 USC 103(a) by reason of the classification of such bond as a private activity bond within the meaning of 26 USC 141(a) or as an obligation guaranteed by the United States of America within the meaning of 26 USC 149(b); or
- (2) Take any action, or fail to take any action (including failure to file any required information or other returns with the United States Internal Revenue Service or to rebate amounts to the United States, if required, at or before the time or times required), within its control if such action or failure to act would:
 - a. Cause the interest on the bonds to be includible in gross income for federal income tax purposes, cause the interest on the bonds to be includible in computing any alternative minimum tax (other than the alternative minimum tax applicable to tax-exempt obligations generally) or cause the proceeds of the bonds to be used directly or indirectly by an organization described in section 501(c)(3) of the Internal Revenue Code; or
 - b. Adversely affect the exemption of the bonds and the interest thereon from state income taxation. The bonds are hereby designated as qualified tax-exempt obligations for purposes of deduction of interest expense by financial institutions under the provisions of USC 265; provided, however, that such designation shall have no effect if, at the time of the bonds are delivered, the bonds have been determined to be ineligible to be so designated on the basis of the Township's reasonable expectations at the time of such delivery.

(Ord. No. 64, § 30.0, 12-12-1995)

Sec. 2-156. Current rates and charges for the sewer districts.

Sewer connection tap fees and sewer usage rates are adopted annually by the Township Board by resolution.

Chapter 4 ANIMALS²

ARTICLE I. IN GENERAL

Secs. 4-1—4-18. Reserved.

ARTICLE II. DOMESTIC ANIMAL CONTROL

Sec. 4-19. Purpose.

The purpose of this article is to promote the public health, safety, comfort, and general welfare of the community through the proper control and care of dogs and other domestic animals by their owners and/or handlers.

(Ord. No. 87-A, § 2.0, 8-15-2017)

Sec. 4-20. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Domestic animal means vertebrates other than humans, including, but not limited to, livestock, exotic animals and agriculture animals that live under the husbandry of humans, all as defined in MCL 287.703(x).

Handler means a person, whether the owner or not, who exercises dominion or control over a dog or other domestic animal or who has been given the responsibility of maintaining control of a dog or other domestic animal by its owner.

Owner means any person who has a right of property in a dog or other domestic animal, any person who keeps or harbors a dog or other domestic animal, and any person who permits a dog or other domestic animal to remain or reside on any premises occupied by the owner.

Plainly audible means any sound that can be clearly detected by a person using his unaided hearing faculties.

Properly restrained means controlling or confining the movement of a dog or other domestic animal by use of a leash, tangible barrier, or device such as an invisible fence designed to prevent the dog and/or domestic animal from running at large, as applicable.

- (1) Leashes longer than six feet are prohibited;
- (2) Leashes and chains used to restrain a dog or other domestic animal to a stationary object on the private property of the owner or handler must be of sufficient length to permit free movement of the

²State law reference(s)—Authority to adopt animal control ordinance, MCL 287.290; crimes related to animals and birds, MCL 750.49 et seq.; wildlife conservation, MCL 324.40101 et seq.

dog or other domestic animal and may be of any length, provided that the length maintains the dog or other domestic animal completely on the owner's or handler's property;

- (3) Persons utilizing invisible fencing must display prominently on their property, immediately adjacent to the public right-of-way, a sign that indicates the presence of the invisible fence. Invisible fencing must be set back from the public right-of-way a minimum of three feet.

Property line means either the boundary line that separates one parcel of real property from another; the boundary line that separates one parcel of real property from a body of water; or the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building.

Residential dwelling means any building or structure or part of a structure used by one or more persons for habitation and includes, but is not limited to, houses, condominiums, apartments, boarding rooms, and mobile homes.

Run at large means and includes any dog or other domestic animal, while not properly restrained, that has walked, run, or otherwise moved about onto property other than the owner's or handler's property.

Service dog means a dog used as a guide or leader dog for a blind person, a hearing dog for the deaf or audibly impaired person, or a service dog for a physically limited person, as these physical conditions are defined in MCL 752.61, 125.1351 and 393.351.

Stray animal means any dog or other domestic animal running at large, not in the presence of its owner or handler.

(Ord. No. 87-A, § 3.0, 8-15-2017)

Sec. 4-21. Running at large.

- (a) No owner or handler of a dog or other domestic animal is permitted to intentionally, or by failure to exercise due care, allow any dog or other domestic animal to run at large without the permission of the public and/or private property owner.
- (b) Owners and handlers of dogs and other domestic animals must ensure that all dogs and other domestic animals are properly restrained while on the property of the owner or handler and to otherwise prevent the dog or other domestic animal from running at large.
- (c) This article does not apply to service dogs, dogs under the control of the Township, dogs in the employ of any law enforcement or fire agency, or dogs or domestic animals being used during the course of lawful hunting activities, including training.
- (d) Any stray dog or other domestic animal found running at large within the Township may be caught and taken into custody by any police officer of the Township. The police officer taking charge of a stray dog or other domestic animal must make a reasonable attempt to contact the owner of such dog or other domestic animal listed on its tags. Any dog or other domestic animal running at large that is taken into custody that has no tags, or where the owner cannot be identified or located, will be turned over to a county animal control officer or turned over directly to the Livingston County Animal Control Shelter to be thereafter disposed of in accordance with the rules and regulations of the county.

(Ord. No. 87-A, § 4.0, 8-15-2017)

Sec. 4-22. Public property.

- (a) Except as otherwise provided in this article, all dogs and other domestic animals on public property within the Township must at all times be on a leash, as defined herein, or otherwise controlled by the owner or handler.
- (b) Owners and handlers of dogs and other domestic animals must prevent their dogs and other domestic animals from running at large and will otherwise be subject to the terms and conditions of this article, including the penalty provisions provided herein for any such dog or other domestic animal running at large.
- (c) The use of any dogs in conjunction with any park use permit approved by the Township Board must be properly restrained and under the complete control of the applicant and/or the applicant's agents or as may be otherwise approved by the Township Board in the park permit approval process.
- (d) Except as provided herein, all dogs or other domestic animals, except those used in conjunction with a park use permit, are prohibited from entering onto any public property or section of public property where a public event is being hosted pursuant to a park use permit unless otherwise approved by the Township Board in the park use approval process. The applicant for the park use permit, or its agent or assigns, is responsible for ensuring compliance with the terms of this article and must exercise due diligence to notify the public officials and enforcement agencies of the Township of any violation of the provisions of this section. Failure to do so will result in the applicant, its agent or contractor, being cited for an article violation.

(Ord. No. 87-A, § 5.0, 8-15-2017)

Sec. 4-23. Barking dogs.

All persons are prohibited from harboring or keeping any dog or other domestic animal, which by loud, frequent, or repetitive barking, yelping, howling, crying or other noise causes an annoyance or disturbance of the peace of any person or neighborhood. It shall be deemed prima facie evidence that the peace of a person or neighborhood is disturbed and a violation of this article if the loud, frequent, or repetitive barking, yelping, howling, crying or other noise created by any dog or other domestic animal is:

- (1) Plainly audible between the hours of 10:00 p.m. and 7:00 a.m. beyond the property line of the location where the dog or other domestic animal is being harbored or kept; or
- (2) Plainly audible between the hours of 7:00 a.m. and 10:00 p.m. at 100 feet beyond the property line of the location where the dog or other domestic animal is being harbored or kept or is plainly audible within a residential dwelling.

(Ord. No. 87-A, § 6.0, 8-15-2017)

Sec. 4-24. Dog licenses.

All dogs that are four or more months old must be licensed with the county in accordance with the applicable rules, regulations, standards, and statutory provisions. Failure to license a dog in accordance with this provision is a violation of the terms of this article and any owner or handler of such a dog will be responsible for a municipal civil infraction subject to the penalty provisions of this article.

(Ord. No. 87-A, § 7.0, 8-15-2017)

State law reference(s)—Dog licenses, MCL 287.266 et seq.

Sec. 4-25. Sanitation.

- (a) Any owner or handler who, while walking or escorting a dog or other domestic animal on a leash or otherwise, allows the dog or other domestic animal to deposit excrement on any public or private property, other than the property of the owner or handler, must immediately remove such excrement and dispose of it in a sanitary manner.
- (b) All persons owning, keeping, or harboring a dog or other domestic animal must maintain the premises on which the dog or other domestic animal has access in a sanitary condition that will not create a health hazard or cause odors that will offend or interfere with the use or enjoyment of the private property of neighbors or use of public property by the general public.

(Ord. No. 87-A, § 8.0, 8-15-2017)

Sec. 4-26. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction as set forth in section 1-45.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 87-A, § 10.0, 8-15-2017)

Chapter 6 BUILDINGS AND BUILDING REGULATIONS³

ARTICLE I. IN GENERAL

Secs. 6-1—6-18. Reserved.

ARTICLE II. COAL TAR

Sec. 6-19. Purpose.

- (a) The purpose of this article is to promote the public health, safety, comfort, and general welfare of the community through prohibiting the use and sale of sealant products or substances containing >0.1 percent Polycyclic Aromatic Hydrocarbons (PAHs) by weight, including coal tar-based sealer in the Township in order to protect, restore, and preserve the quality of its waters and protect the health of its residents.
- (b) The Township understands that lakes, rivers, streams and other bodies of water are natural assets which enhance the environmental, recreational, cultural and economic resources and contribute to the general health and welfare of the community.
- (c) The use of sealers on asphalt driveways is a common practice. However, scientific studies on the use of driveway sealers have demonstrated a relationship between the use of coal tar-based sealers and certain

³State law reference(s)—State Construction Code Act, MCL 125.1501 et seq.

health and environmental concerns, including increased cancer risk to humans and impaired water quality in streams.

(Ord. No. 91-A, § 2.0, 8-15-2017)

Sec. 6-20. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Asphalt-based sealer means a petroleum-based sealer material that is commonly used on driveways, parking lots, and other surfaces.

Coal tar means a byproduct of the process used to manufacture coke from coal.

Coal tar sealant product means a surface applied sealing product containing coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, refined tar or any variation thereof, including those substances assigned the chemical abstracts service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances containing more than 0.1 percent PAHs, by weight.

High PAH content sealant product means a surface-applied product containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances including those substances assigned the chemical abstracts service numbers 64742-90-1, 69013-21-4 or related substances containing more than 0.1 percent PAHs, by weight.

Polycyclic aromatic hydrocarbons (PAHs) means a group of organic chemicals formed during the incomplete burning of coal, oil, gas, or other organic substances. PAHs are present in coal tar and known to be harmful to humans, fish, and other aquatic life.

(Ord. No. 91-A, § 3.0, 8-15-2017)

Sec. 6-21. Prohibitions.

- (a) No person or entity shall apply a coal tar or other high PAH content sealant product or substance on any surfaces within the Township.
- (b) No person or entity shall sell a coal tar or other high PAH content sealant product that is formulated or marketed for application on surfaces within the Township.
- (c) No person or entity shall allow a coal tar or other high PAH content sealant product to be applied upon property that is under that person's ownership or control.
- (d) No person or entity shall contract with any commercial sealer product applicator, residential or commercial developer, or any other person for the application of any coal tar or other high PAH content sealant product to any driveway, parking lot, or other surface within the Township.
- (e) No commercial sealer product applicator, residential or commercial developer, or other similar individual or organization or entity shall direct any employee, independent contractor, volunteer, entity or other person to apply any coal tar or other high PAH content sealant product to any driveway, parking lot, or any other surface within the Township.

(Ord. No. 91-A, § 4.0, 8-15-2017)

Sec. 6-22. Asphalt-based sealcoat products.

The provisions of this article shall only apply to coal tar or other high PAH content sealant products in the Township and shall not otherwise affect the use of asphalt-based sealer products within the Township.

(Ord. No. 91-A, § 5.0, 8-15-2017)

Sec. 6-23. Penalty provision.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45, as it may be amended from time to time, are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class A municipal civil infraction.

(Ord. No. 91-A, § 7.0, 8-15-2017)

Chapter 8 BUSINESSES AND BUSINESS REGULATIONS

ARTICLE I. IN GENERAL

Secs. 8-1—8-18. Reserved.

ARTICLE II. MARIHUANA ESTABLISHMENTS

Sec. 8-19. Purpose.

The purpose of this article is to prohibit marihuana establishments within the boundaries of the Township pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et seq.); and to provide penalties for violation of this article.

(Ord. No. 96, § 2.0, 1-22-2019)

Sec. 8-20. Marihuana establishments prohibited.

- (a) *Intent; purpose.* The Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et seq.), and more specifically section 6(1) thereof (MCL 333.27956(1)), authorizes municipalities to prohibit marihuana establishments within their boundaries by adoption of an ordinance. Adoption of such an ordinance does not preclude a municipality from further studying and revisiting the issue at a future date.
- (b) *Prohibition of marihuana establishments.*
 - (1) *Definitions.* Words used in this section shall have the definitions as provided for in the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et seq.), as may be amended.

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- (2) *Prohibition.* Pursuant to the Michigan Regulation and Taxation of Marihuana Act, Initiated Law 1 of 2018 (MCL 333.27951 et seq.), all marihuana establishments are prohibited within the boundaries of the Township.
 - (3) *Penalty.* A person who violates this section shall be responsible for a Class A municipal civil infraction punishable as set forth in article II of chapter 1. Such sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies, including, but not limited to, the right to seek injunctive relief against persons alleged to be in violation of this article, and such other relief as may be provided by law. Additionally, the violator shall pay all costs, including all direct and indirect expenses that the Township incurs in connection with the municipal civil infraction. Each day during which any violation continues shall be deemed a separate offense.

(Ord. No. 96, § 3.0, 1-22-2019)

Sec. 8-21. Savings.

All proceedings pending, and all rights and liabilities existing, acquired or incurred at the time this article takes effect, are saved and may be consummated according to the law in force when they were commenced.

(Ord. No. 96, § 6.0, 1-22-2019)

Secs. 8-22—8-45. Reserved.

ARTICLE III. PEDDLERS AND SOLICITORS

Sec. 8-46. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Hawker shall be synonymous with the term "peddler."

Moral character or good moral character means the propensity of the person to serve the public in the licensed area in a fair, honest, and open manner.

- (1) A judgment of guilt in a criminal prosecution or a judgment in a civil action shall not be used in and of itself as proof of a person's lack of good moral character. It may be used as evidence in the determination and, when so used, the person shall be notified and shall be permitted to rebut the evidence by showing that:
 - a. At the current time the person has the ability to, and is likely to, serve the public in a fair, honest and open manner; and
 - b. Such person is rehabilitated, or that the substance of the former offense is not reasonably related to the occupation or profession for which such person seeks a business license or business permit.
- (2) The following criminal records shall not be used, examined, or requested by the Township in a determination of good moral character when used as a requirement to obtain a business license or business permit:
 - a. Records of an arrest not followed by a conviction.

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- b. Records of a conviction which has been reversed or vacated, including the arrest records relevant to that conviction.
 - c. Records of an arrest or conviction for a misdemeanor or a felony unrelated to the person's likelihood to serve the public in a fair, honest, and open manner.
 - d. Records of an arrest or conviction for a misdemeanor for the conviction of which a person may not be incarcerated in a jail or prison.

State law reference(s)—Moral character, MCL 338.41 et seq.

Peddler means any natural person traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying or transporting goods, wares, merchandise, magazines, meats, fish, vegetables, fruit, farm produce, or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automobile vehicle, railroad car, or other vehicle or conveyance.

Solicitor means any natural person traveling either by foot, wagon, automobile, motor truck or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carried or exposes for sale a sample of the subject of each sale or whether such person is collecting advance payments on such sales or not.

(Ord. No. 37-B, § 2.0, 8-15-2017)

Sec. 8-47. License required.

It shall be a violation of this article for any person, firm or corporation to engage in the business of hawker, peddler or solicitor as defined herein within the geographic limits of Hamburg Township, Livingston County, Michigan, without first obtaining a license therefor, unless otherwise exempt by the provisions of this article.

(Ord. No. 37-B, § 3.0, 8-15-2017)

Sec. 8-48. Exemptions.

The following persons shall be exempt from the provisions of this article, to wit: newsboys, persons traveling on an established route at the request, express or implied, of their customers, salesmen calling on regularly licensed business establishments or business establishments that are on the personal property tax rolls of the Township, and persons that are solicitors or peddlers for charitable, religious, or philanthropic organizations licensed as such by the United States Government or the state.

(Ord. No. 37-B, § 4.0, 8-15-2017)

Sec. 8-49. Applications.

Applicants for a license under this article must file with the chief of police, or his designated agent, a sworn application in writing on a form provided by the chief of police, or his designated agent, stating the following information:

- (1) Name and description of the applicant.
- (2) Address (legal and local).

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- (3) A brief description of the nature of the business and the goods to be sold.
 - (4) If employed, the name and address of the employer, together with the credentials establishing the exact relationship.
 - (5) The length of time for which the right to do business is desired.
 - (6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification.
 - (7) The applicant's date of birth.
 - (8) The applicant's Social Security number.
 - (9) Where applicable, the applicant shall show a current sales tax license number issued by the state.

(Ord. No. 37-B, § 5.0, 8-15-2017)

Sec. 8-50. Investigation and issuance.

- (a) Upon receipt of such application, the chief of police, or the chief of police's designated agent, shall cause such investigation of the applicant's business and moral character to be made as the chief or designated agent deems necessary for the protection of the public good.
- (b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the chief of police, or the chief of police's designated agent, shall endorse on such application disapproval and reasons for the same, and shall notify the applicant that such applicant's application is disapproved, the reason for the disapproval, and that no license shall be issued.
- (c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the chief of police, or the chief of police's designated agent, shall endorse on the application approval, execute a license addressed to the applicant for the carrying on of the activity applied for and, upon payment of the prescribed license fee, deliver to the applicant such applicant's license. The chief of police, or the chief of police's designated agent, shall keep a permanent record of all licenses issued.

(Ord. No. 37-B, § 6.0, 8-15-2017)

Sec. 8-51. License fees.

The chief of police, or designated agent, is authorized to charge a fee for the issuance of a license pursuant to this section in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.

(Ord. No. 37-B, § 7.0, 8-15-2017)

Sec. 8-52. Term of license.

All licenses issued hereunder shall expire at the end of the time period for which the fees have been paid as set forth in section 8-51.

(Ord. No. 37-B, § 8.0, 8-15-2017)

Sec. 8-53. Identification.

The chief of police, or the chief of police's designated agent, shall issue to each licensee at the time of delivery of such licensee's license a badge or other identification in a form to be determined from time to time by the Township Board for each individual licensed under this article. Such badge or identification shall be worn constantly by the licensee on the front of such licensee's hat or outer garment in such a way as to be conspicuous during such time as said license is engaged in peddling or soliciting.

(Ord. No. 37-B, § 9.0, 8-15-2017)

Sec. 8-54. Transfer.

No license, badge or other identifications issued under the provisions of this article shall be used or worn at any time by any other person than the one to whom it was issued.

(Ord. No. 37-B, § 10.0, 8-15-2017)

Sec. 8-55. Loud noises and speaking devices.

No peddler or solicitor shall use any sound device except in accordance with Township ordinances, nor any person on such peddler or solicitor's behalf, shall shout, make any cry out, blow a horn, ring a bell, or use any sound device, including any loud speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of said Township or upon any private premises in the Township where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(Ord. No. 37-B, § 11.0, 8-15-2017)

Sec. 8-56. Use of streets.

No peddler or solicitor shall have any exclusive right to any location in the public streets, nor shall they be permitted to operate in any area where their operations might endanger public safety or impeded the flow of pedestrian or vehicular travel on any street, roadway, or trail.

(Ord. No. 37-B, § 12.0, 8-15-2017)

Sec. 8-57. Exhibition of license.

Peddlers and solicitors are required to exhibit their licenses at the request of any citizen.

(Ord. No. 37-B, § 13.0, 8-15-2017)

Sec. 8-58. Hours.

Peddlers or solicitors shall only conduct their business during daylight hours between sunrise and sunset.

(Ord. No. 37-B, § 14.0, 8-15-2017)

Sec. 8-59. Penalty provision.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction according to section 1-45.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 37-B, § 16.0, 8-15-2017)

Chapter 10 CEMETERIES⁴

Sec. 10-1. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Burial space means a small piece of ground designated for burial of bodily remains or cremains. The space shall consist of land area of four feet wide and nine feet in length. Burial space may also be a crypt or niche designated for the burial of bodily remains or cremains.

Cemetery sexton (administrator) means a person appointed by the Township Board to oversee the sale of burial spaces, record maintenance and interments in Township cemeteries, placement of monuments or markers and ground maintenance.

Columbarium means a structure lined with shelves or recesses for the permanent placement of cremation urns.

Cremains means the ashy remains of a human body after cremation.

Crypt means a chamber or vault within a mausoleum used for burial of bodily remains.

Mausoleum crypts/niches means above ground entombment units for human remains.

Niche means a space in a columbarium, mausoleum or niche wall to hold an urn.

Township Clerk means the duly elected clerk or the clerk's designee.

Township resident means a person who owns property in Hamburg Township or has lived in Hamburg Township for a minimum of one year and provides corresponding documentation. The term "Township resident" is also defined as a former resident who lived in Hamburg Township for a period of five or more years and provides corresponding documentation.

Urn means a durable container to hold cremated remains.

Vault means a prefabricated container usually of metal or concrete into which a casket is placed at burial.

(Ord. No. 32-D, § 3.0, 3-20-2018)

⁴State law reference(s)—Authority to acquire and maintain cemeteries, MCL 128.1 et seq.; Cemetery Regulation Act, MCL 456.521 et seq.; permit for disposition of body, MCL 333.2848.

Sec. 10-2. Sale or transfer of spaces.

- (a) All such sales shall be made on a form approved by the Township Board which grants a right of burial and/or the disposition of cremains and does not convey any other title or right to the burial space. Such form shall be signed by the Township Clerk and shall constitute a permit. No sale shall be made to funeral directors or others except for those acting as an agent for an eligible purchaser.
- (b) Hereafter, burial spaces shall be sold for the purpose of the burial of such purchaser or his designated heir at law or next of kin, or transferee or assignee.
- (c) Burial rights may only be transferred by the original purchaser of burial spaces within the Township, or their duly authorized representative. Transfers shall be effective only upon the written approval of such an assignment or transfer by the original purchaser or their authorized representative of a cemetery lot certificate approved by the Township Clerk and entered upon the official records of the Township. At such time, a new certificate shall be issued to the assignee by the Township Clerk and the original certificate shall be cancelled and terminated.
- (d) The lawful owner of any burial space within the Township shall promptly provide the Township Clerk with any change in that owner's mailing address.

(Ord. No. 32-D, § 4.0, 3-20-2018)

Sec. 10-3. Purchase price and transfer fee.

The cost for any burial space or charges associated therewith shall be in accordance with the rate schedule established and adopted by the Township Board and available through the clerk's office. At its discretion, the Township Board may periodically adjust the terms of the rate schedule to reflect changes to the costs related to the operation, maintenance, expansion and development of any Township cemetery.

(Ord. No. 32-D, § 5.0, 3-20-2018)

Sec. 10-4. Grave opening and closing charges.

- (a) In addition to the provisions in section 10-3, the Township may charge fees for the opening and closing of any burial space prior to and following a burial therein, including the interment of ashes. Such fees shall be set from time to time by resolution of the Township Board.
- (b) No burial space shall be opened or closed except under the direction and control of the cemetery sexton. Except for the fees charged by the Township, this provision shall not apply to proceedings for the removal and re-interment of bodies and cremains, where such matters, including the charges for the services, are under the supervision and at the direction of the local health department or a court of competent jurisdiction.

(Ord. No. 32-D, § 6.0, 3-20-2018)

Sec. 10-5. Markers and memorials.

The Township Board shall adopt rules and regulations to establish standards, conditions, regulations and restrictions governing the use of markers and monuments which will be in keeping with the dignity and solemnity appropriate to a cemetery.

(Ord. No. 32-D, § 7.0, 3-20-2018)

Sec. 10-6. Grounds maintenance.

- (a) The Township Board shall adopt rules and regulations to establish standards, conditions, regulations and restrictions governing the maintenance, expansion or improvements to Township cemeteries.
- (b) The Township accepts no responsibility for the damage, loss or disappearance of any monument, statue, plaque, marker, decoration or other item placed upon or left at burial spaces.

(Ord. No. 32-D, § 8.0, 3-20-2018)

Sec. 10-7. Uses and activities.

The Township Board shall adopt rules and regulations to establish standards, conditions, regulations and restrictions governing the uses and activities within Township cemeteries.

(Ord. No. 32-D, § 9.0, 3-20-2018)

Sec. 10-8. Forfeiture of vacant burial spaces.

Burial spaces sold after the effective date of the ordinance from which this chapter is derived, and remaining vacant for a period of 40 years or more from the date of their sale shall automatically and unequivocally revert to the Township upon the occurrence of the following events:

- (1) Notice shall be sent by the Township Clerk by first class mail to the last known address of the last owner of record informing them of the expiration of the 40-year period and that all rights with respect to said space will be fully forfeited to the Township if the owner of the rights does not affirmatively indicate in writing to the Township Clerk of their desire to retain said burial rights within 60 days from the date of mailing of notice.
- (2) Should the Township Clerk not receive a written response to said notice from the last owner of record of the said spaces or from an appropriate heir or legal representative within the 60-day period including a desire to retain the burial space in question, all rights shall be considered forfeited to the Township.

(Ord. No. 32-D, § 10.0, 3-20-2018)

Sec. 10-9. Repurchase of vacant spaces.

The Township may repurchase any vacant or non-forfeited burial space from the owner for the original price paid to the Township upon the notarized written request of said owner or his legal heirs or legal representative.

(Ord. No. 32-D, § 11.0, 3-20-2018)

Sec. 10-10. Records.

The Township Clerk shall maintain records concerning the purchase or transfer of all burial spaces, burials, issuance of burial permits, and the costs relating to the operation and maintenance of any Township cemetery according to the terms of this chapter, separate and apart from the other records of the Township and the same shall be available for public inspection during normal business hours.

(Ord. No. 32-D, § 12.0, 3-20-2018)

Sec. 10-11. Cemetery access.

- (a) Cemetery facilities shall be open to the general public from sunrise to one-half hour after sunset.
- (b) No person shall be permitted in the Township cemeteries at any time other than the foregoing hours, except upon permission of the cemetery sexton.
- (c) Any person entering upon or loitering within a Township cemetery at any time other than the stated open hours, except with permission of the cemetery sexton, shall be deemed guilty of trespassing on restricted property and shall be subject to penalties as stated in this Code.

(Ord. No. 32-D, § 13.0, 3-20-2018)

Sec. 10-12. Penalties.

- (a) Any person who violates, disobeys, omits, neglects or refuses to comply with any provisions of this chapter, or any permit or approval issued hereunder, or any amendment thereof, or any person who knowingly or intentionally aids or abets another person in violation of this chapter, shall be in violation of this chapter and shall be responsible for a municipal civil infraction as set forth in section 1-45.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
- (c) In addition to the foregoing, the Township may seek injunctive/equitable relief involving trespasses against those found guilty of a trespass. In such an event, the Township is entitled to recover all attorney fees and court costs including damages and costs by the Township.

(Ord. No. 32-D, § 14.0, 3-20-2018)

Chapter 12 EMERGENCY MANAGEMENT⁵

ARTICLE I. IN GENERAL

Sec. 12-1. Purpose.

The purpose of this chapter is to establish an emergency preparedness policy that will ensure the complete and efficient utilization of all Township resources during periods of natural and humanmade disasters within the Township in order to effectively mitigate, respond and recover from these disasters.

(Ord. No. 3-C, § 2.0, 11-9-2017)

Sec. 12-2. Adoption by reference.

The Township has elected to be incorporated into the county emergency management program. By becoming part of the county emergency management program, the Township and county have certain

⁵State law reference(s)—Authority to collect fee for fire services, MCL 41.806a; expenses for reimbursement for emergency response, MCL 769.1f; environmental remediation, MCL 324.20101 et seq.

responsibilities to each other. In furtherance of meeting these mutual responsibilities, Hamburg Township hereby adopts by reference the Hamburg Township Emergency Preparedness Policy, as adopted from time to time and on file with the clerk, as it may be amended and re-adopted from time to time, which contains Hamburg Township's Emergency Management Resolution, Support Emergency Operations Plan, General Emergency Management Guidelines, Emergency Management Response Procedures and Emergency Action Guidelines.

(Ord. No. 3-C, § 3.0, 11-9-2017)

Secs. 12-3—12-22. Reserved.

ARTICLE II. COST RECOVERY

Sec. 12-23. Purpose and intent.

Costs for emergency services are a normal and budgeted public expenditure by the Township in order to serve its residents, taxpayers, and the public at large. However, the Township Board finds that certain kinds of emergency responses primarily benefit identifiable persons or property owners or are necessitated by certain kinds of unlawful or improper conduct. The Township Board further finds that such costs should be borne by the party responsible for those costs, as provided for in this article, in order to avoid imposition of an economic hardship on the Township.

(Ord. No. 98, § 2.0, 3-19-2019)

Sec. 12-24. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Fire and/or police department response means coming to the scene of an emergency situation, as set forth in section 12-25, including, but not limited to, a fire or hazardous materials incident, traffic or vehicular accident, or hazardous condition, or any investigation in connection with a fire, hazardous materials incident, accident or hazardous condition.

Hazardous condition means any condition creating a concern for the physical welfare of persons, property or environment in the immediate area of the situation (including downed utility lines or gas leaks not in an occupied structure), requiring a fire or police department response.

Investigation means gathering of evidence or data in connection with arson investigations, or special investigations required to determine the responsibility of persons for fires, spills, accidents or hazardous conditions. Investigations do not include the normal investigation made to determine cause and origin of a fire as required by the state.

Release means any leaking, spilling, pumping, pouring, emitting, emptying, discharging, injecting, leaching, dumping, or disposing into the environment.

(Ord. No. 98, § 3.0, 3-19-2019)

Sec. 12-25. Emergency situation defined.

The term "emergency situation" means a situation requiring emergency assistance, rendered in response to:

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- (1) Any fire department or police department response started or caused by a property owner or person, such as, but not limited to, a controlled brush fire or other open burning, which becomes uncontrolled, any fires purposely or knowingly started in any building, dwelling, apartment structure, or any other structure, or any motor vehicles, when said fire has been started for the specific purpose of and with the intent of causing damage to or destruction of any such building, dwelling, apartment structure or vehicle.
 - (2) Any fire or police department response to an incident caused by a criminal act (i.e., operating while intoxicated (OWI), intentional false alarm, arson, bomb threat, etc.).
 - (3) Any fire or police department response to a fire in a structure causing a loss, ignited by accidental means, shall be subject to cost recovery for damage or destruction to fire or police department equipment beyond normal wear and tear, and for all expenses incurred and paid to a third party.
 - (4) Any fire or police department response for hazardous conditions or for a hazardous material incident or emergency or release. Charges in such case shall be made to the person responsible for the release, whether or not the release occurs on the property of the responsible party. The responsibility for the release includes releases caused by the person as well as any release from any vehicle, building, or other instrumentality, owned, occupied or utilized by the person, regardless of fault.
 - (5) Any fire or police department response to a traffic or vehicular accident, including, but not limited to, the control of fires or spills, assistance to injured persons or ambulance crews, or extraction of persons from vehicles.
 - (6) Any fire or police department response for hazardous conditions.
 - (7) Any township response to a false alarm due to a system malfunction or maintenance issue at a property in excess of three such alarms in any consecutive one-year period, commencing anew on January 1 of each calendar year.
 - (8) The provision of fire and police department equipment or personnel for the purpose of providing standby fire, rescue, or emergency medical services necessary to support a non-emergency event/situation or special event hosted by a for-profit organization. When such services are requested by a nonprofit organization, the Township Board will act upon a recommendation by the fire or police chief to charge for services.
 - (9) Failure to comply with requests made by the fire or police departments to abate hazards as specified in the fire safety code as adopted by the state. If compliance is not made within three inspection visits over a 30-day period, the fire chief or police chief will notify the Township, who will then charge the person responsible for the property the appropriate fees as provided by resolution of the Township Board.
 - (10) Any fire or police department response to a threat of harm to oneself or others.
 - (11) Any fire or police department response to a structure demolition.
 - (12) Any fire or police department response to a utility line failure.

(Ord. No. 98, § 4.0, 3-19-2019)

Sec. 12-26. Persons responsible defined.

- (a) The Township may recover all assessable costs in connection with emergency situations from any or all responsible parties, jointly or separately. Persons responsible for charges may include:
 - (1) Persons who caused the condition.

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- (2) Property owners or occupants of property upon which the conditions exist.
 - (3) Owners of vehicles from which occupants are extricated, owners or renters of premises from which a person is rescued, and owners of vehicles receiving fire extinguishment or spill abatement shall be deemed as benefiting from the services provided.
 - (4) Owners or lessees of instrumentalities involved in the condition, such as vehicle owners, utility, electric or gas companies.
 - (5) Insurers or guarantors for persons responsible or benefited.
- (b) Exemption. A person who is a taxpayer of the Township at the time of an incident shall not be responsible for any charges imposed under this article unless those acts are considered deliberate, criminal or deemed negligent. Hamburg Township property owners pay a tax to support their fire and police departments, therefore the Township will accept payment from their insurance company for any services provided, other than deliberate, criminal or negligent acts. These insurance company payments, whatever their policy provides, shall be considered payment in full.
- (c) Any and all costs associated with false alarms shall be assessed in the manner provided in section 12-25. For all other emergency situations, the total assessable costs, in consultation with other township personnel involved in responding to the emergency situation, determine whether to assess all or part of such costs against any of the responsible parties. In making such a determination, the following will be considered:
- (1) The total assessable cost;
 - (2) The risk that the emergency situation imposed on the Township residents and their property;
 - (3) Whether there was any injury or damage to a person or property;
 - (4) Whether the emergency situation required evacuation;
 - (5) The extent the emergency situation required unusual or extraordinary use of Township Personnel and equipment;
 - (6) Whether there was any damage to the environment.

(Ord. No. 98, § 5.0, 3-19-2019)

Sec. 12-27. Costs and fees guidelines.

The Township Board, upon the recommendation of the director of public safety, shall establish a general fee schedule or fee guidelines, which may be associated with the Township's costs in providing fire and/or police department response to an emergency situation. Such schedule or guidelines may include, among other things, the actual labor and material costs of the Township, such as employee wages, fringe benefits, administrative overhead, costs of equipment utilized or damaged during the emergency response, costs of transportation and costs of material disposal, whether or not the services are provided by the Township or a third party to the Township; service charges and interest; attorney fees; witness fees; litigation costs; court costs; engineering costs; any charges, fines or penalties to the Township imposed by any court or other municipal, state or federal governmental entities; costs for cleaning up, boarding-up, inspecting, testing, abating, mitigating, restoring at the site of an emergency situation; and, any other costs incurred by the Township, and by any other governmental or intergovernmental entity providing services at the request or direction of the Township's Fire or Police Department, in connection with a response to an emergency situation. The cost recovery committee, appointed by the Township Board, shall use the fee schedule or fee guidelines in consultation with Township personnel in making the cost assessment determination. All funds collected as a result of this article shall be used for the normal operations and maintenance of the fire and police departments and their equipment. However, the Township will first be reimbursed for any expenses incurred directly by the Township.

(Ord. No. 98, § 6.0, 3-19-2019)

Sec. 12-28. False alarm fees.

The Township Board, upon the recommendation of the Director of Public Safety, shall establish fees for false alarms that occur more frequently than three times in a calendar month, commencing anew on the first of every month, or four times in a calendar year, commencing anew on January 1 of each calendar year. Five chargeable false alarms in a 12-month period will result in no waiver of the fees until a period of 12 months passes without a false alarm.

(Ord. No. 98, § 7.0, 3-19-2019)

Sec. 12-29. Remedies.

- (a) The recovery of charges and expenses imposed under this article shall not relieve or limit the liability of any person under any other local ordinance, or state or federal law, rule or regulation.
- (b) Incarcerated persons are responsible for health care costs.

(Ord. No. 98, § 8.0, 3-19-2019)

Sec. 12-30. Incarcerated persons responsible for health care costs.

Findings and purpose. The Township has determined that it is in the best interests of the Township to protect its financial resources through requiring incarcerated individuals to pay all health care costs incurred while the individual is in custody of the Township Police Department. The Township finds that this chapter is necessary to protect the Township from excessive expense resulting from the utilization of Township resources and funds in response to health care costs of an individual in custody.

(Ord. No. 98, § 9.0, 3-19-2019)

Sec. 12-31. Definitions for section 12-30 and sections 12-32 to 12-36.

The following words, terms and phrases, when used in section 12-30 and sections 12-32 to 12-36, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Custody means the same as that term is defined in 72 FR 47405 and in accordance with how the term "custody" is defined by federal courts for the purposes of the habeas corpus protections of the constitution. For example, the term "custody" is not limited solely to physical confinement. Individuals on parole, probation, bail, or supervised release may be in custody. The term "custody" includes but is not limited to individuals who are:

- (1) Under arrest;
- (2) Incarcerated;
- (3) Imprisoned;
- (4) Escaped from confinement;
- (5) Under supervised release;
- (6) On medical furlough;
- (7) Residing in a mental health facility or halfway house;

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- (8) Living under home detention; or
 - (9) Confined completely or partially in any way under a state or local penal statute, ordinance or rule.

An individual in custody is referred to herein as an "incarcerated person."

Health care costs means and includes any and all costs of medical services, including, but not limited to, costs related to transportation to and from a medical facility, doctor's charges, hospital charges, charges for medical testing and exams, charges for medication, and charges for any treatment deemed necessary by an incarcerated person's treating physician.

Police department means the Hamburg Township Police Department.

(Ord. No. 98, § 9-01, 3-19-2019)

Sec. 12-32. Incarcerated persons responsible for health care costs incurred while in custody.

Any person in the custody of the police department shall be solely responsible for the payment of any and all health care costs rendered to or received by that person during his confinement or while they are in custody with the police department. The incarcerated person shall be required to reimburse the Township in full for any fees or charges incurred for such health care costs, if not paid directly to the medical facility, ambulance provider, or medical provider by the incarcerated person or his insurance carrier. Under no circumstances will the Township be responsible for the cost of any health care provided to an incarcerated person.

(Ord. No. 98, § 9-02, 3-19-2019)

Sec. 12-33. Remedies.

The Township shall be entitled to pursue any remedy or may institute any appropriate court action or proceeding in a court of competent jurisdiction, as permitted by law, to collect health care costs from the individual responsible for the health care costs under this chapter.

(Ord. No. 98, § 9-03, 3-19-2019)

Sec. 12-34. No limitation of liability.

The recovery of health care costs pursuant hereto does not limit the liability of the individual responsible for the same under applicable local, state or federal law.

(Ord. No. 98, § 9-04, 3-19-2019)

Sec. 12-35. Billing.

- (a) Upon a determination to assess cost made pursuant to this article, the Township shall submit an itemized invoice by first class mail or personal service to each responsible party. Invoices for assessable cost will be due and payable within 30 days of the date of mailing. Thereafter, a late payment fee equal to one percent per month of the unpaid balance shall be assessed, added to the total unpaid balance and collected in the same manner as assessable cost.
- (b) If a responsible party appeals an assessment of cost to the Township Board, and that assessment is upheld in whole or part, the cost upheld shall be due and payable within 30 days from the date of determination of the appeal and late payment fees shall thereafter apply as provided in this section.

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- (c) The Township may proceed by action in any court of competent jurisdiction to collect any assessable cost due and owing under the provisions of this article and it shall have all remedies provided by law in connection with the collection of the same.

(Ord. No. 98, § 10.0, 3-19-2019)

Sec. 12-36. Appeals of assessable cost.

- (a) Any responsible party may appeal a determination and invoice of assessable cost. Within 14 calendar days of the date of the invoice, the responsible party shall deliver or cause to be delivered a written request of the Township Clerk to meet with the Township Board. This request must include the current address and telephone number of the responsible party and specify all objections to the assessment determination. Any reason, basis or argument challenging that determination which is not set forth in the request shall be deemed waived by the responsible party.
- (b) The Township Clerk shall place the appeal request on the agenda of a regularly scheduled board meeting and will notify the responsible party of the time, date and place of the meeting at which that party's objections will be considered. The responsible party's failure to attend this meeting will constitute a waiver of that party's objections to the assessment determination.
- (c) The Township Board may reduce, increase, set aside or leave unchanged the determination of assessable cost. Written notification of the decision made by the board will be mailed to the responsible party at the address provided by the responsible party.

(Ord. No. 98, § 11.0, 3-19-2019)

Chapter 14 ENVIRONMENT

ARTICLE I. IN GENERAL

Secs. 14-1—14-18. Reserved.

ARTICLE II. FLOODPLAIN MANAGEMENT

Sec. 14-19. Agency designated.

Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Public Act No. 230 of 1972, as amended, the building official of the county is hereby designated as the enforcing agency to discharge the responsibility of the Township under Public Act No. 230 of 1972, as amended, State of Michigan.

(Ord. No. 81, § 1.0, 8-12-2008)

Sec. 14-20. Code appendix enforced.

Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Public Act No. 230 of 1972, as amended, appendix G of the state building code shall be enforced by the enforcing agency within the geographical jurisdiction of the Township.

(Ord. No. 81, § 2.0, 8-12-2008)

Sec. 14-21. Designation of regulated flood-prone hazard areas.

The Federal Emergency Management Agency (FEMA) flood insurance study (FIS) entitled, "Livingston County, Michigan" and dated September 17, 2008, and the flood insurance rate map (FIRMS) panel number of 26093C, 0320D, 0340D, 0345D, 0431D, 0432D, 0433D, 0434D, 0445D, 0451D, 0452D, 0453D, 0454D, 0456D, 0458D, 0465D, and 0470D and dated September 17, 2008, are adopted by reference for the purposes of administration of the state construction code, and acknowledged and declared to be a part of section 1612.3 of the state building code, and together with the content of the flood hazards section of table R301.2(1) of the state residential code.

(Ord. No. 81, § 3.0, 8-12-2008)

Secs. 14-22—14-45. Reserved.

ARTICLE III. WASTEWATER TREATMENT AND ADMINISTRATION

Sec. 14-46. Purpose and objections; applicability.

- (a) This article sets forth uniform requirements for direct and indirect contributors to the wastewater collection and treatment systems and direct dischargers to waters located in and flowing through the Township and enables the Township to comply with all applicable federal, state, and local laws and regulations relating thereto and to protect the health/welfare and environment of Township residents.
- (b) The objectives of this article are:
 - (1) To prevent the introduction of pollutants into waters located in and flowing through the Township, which would degrade the water quality, surrounding environment and/or use and enjoyment of the natural resources located in the Township, and to promote the stewardship of their resources.
 - (2) To prevent the introduction of pollutants into the wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge.
 - (3) To prevent the introduction of pollutants into the wastewater system which will not receive adequate treatment in the POTW and which will pass through the wastewater system into receiving waters or the atmosphere or otherwise be incompatible with the wastewater system.
 - (4) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.

(Ord. No. 69-H, § 2.0, 12-3-2019)

Sec. 14-47. Definitions and abbreviations.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended.

ASTM means American Society for Testing Materials.

Authorized officer means the Township Supervisor, the Township Clerk, the Township Treasurer, or the Township Manager.

Authorized representative of industrial user means any of the following:

- (1) If the industrial user is a corporation, a principal executive officer of at least the level of vice-president.
- (2) If the industrial user is a partnership or proprietorship, a general partner or proprietor.
- (3) A duly authorized representative of the individual designated in subsection (1) or (2) of this definition if such representative is responsible for the overall operation of the facilities from which the direct discharge originates, or for environmental matters of the company. Authorization for this representative must be submitted in writing to the Township by the individual designating the representative.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees Celsius, expressed in milligrams per liter.

Building drain means that part of the lowest horizontal piping of a drainage system of a building that receives the sewage discharge inside the walls of a building and conveys it to the building sewer. The building drain shall be deemed to end five feet outside the face of the building wall.

Building sewer means a sewer conveying wastewater from the premises of a user to the public sewer.

Bypass means the intentional diversion of waste streams from any portion of an industrial user's treatment facility needed for compliance with pretreatment standards.

Categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Clean Water Act, which apply to a specific category of nondomestic users.

Cesspool means an underground pit into which household sewage or other untreated wastewater is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

Chemical oxygen demand (COD) means a measure of oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as oxygen consumed (OCR) and dichromate oxygen consumed (DO), respectively.

Chlorine demand means the difference between the amounts of chlorine available at the end of the contact time, expressed in milligrams per liter.

Combined sewer means a sewer receiving both surface runoff (stormwater) and sewage or wastewater.

Commercial user means any user of the public sewer other than a residential user or a person lawfully using a building or structure as a residence.

Compatible pollutant means a substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus additional pollutants identified in the applicable NPDES permit if the POTW was designed to treat such pollutants to a substantial degree.

Composite sample means a collection of individual samples which are obtained at regular intervals, collected on a time-proportional or flow-proportional basis, over a specific time period and which provides a representative sample of the average stream during the sampling period.

Connection fee means the charge imposed by the Township to grant permission to connect a building sewer, either directly or indirectly, to the public sewer. This fee represents the proportional cost attributable to each premise for making the public sewer available with sufficient capacity to service said premises.

Control manhole means the structure installed on the building sewer or service connection pipeline to allow access for measurement and sampling of sewage discharging from industrial and commercial establishments.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

County means the County of Livingston, Michigan, acting by and through its drain commissioner, and the designated county agency under Public Act No. 342 of 1939, as amended.

EGLE or MDEGLE means the Michigan Department of Environment, Great Lakes and Energy or successor agency

Direct connection means the connection of the building sewer directly to the public sewer.

Direct discharge means the discharge of the treated or untreated wastewater directly to waters located in and/or flowing through the Township.

Discharge means any direct or indirect discharge of any waste, waste effluent, wastewater, pollutant, or any combination into any of the waters located in and/or flowing through the Township or upon the ground.

Domestic sewage means the liquid wastes from all habitable buildings and residences and shall include human excrement and wastes from sinks, lavatories, bathtubs, showers, laundries and all other water-carried wastes of organic nature either singly or in combination thereof.

EPA or USEPA means the United States Environmental Protection Agency.

Food service establishment (FSE) means any place where food or beverage is prepared and served or consumed whether fixed or mobile, with or without charge, on or off the premises. FSEs will include, but not be limited to restaurants, hotels, taverns, bars, rest homes, schools, factories, institutions, camps, grocery stores with on-site food preparation, and ice cream parlors. Unless otherwise designated by the Township, the following will not be considered FSEs:

- (1) Private homes where food is prepared specifically for personal consumption;
- (2) Location of vending machines; or
- (3) Temporary food service establishments, which are defined as operating at a fixed location for not more than 14 consecutive days in conjunction with a single event or celebration.

Garbage means the solid waste from the preparation, cooking and dispensing of food and the handling, storage and sale of produce, and, in addition, shall include all paper, plastic, and other household items, including containers, whether or not disposable or biodegradable in nature.

Grab sample means a sample that is taken from a wastewater stream on a one-time basis with no regard to the flow in the wastewater stream and without consideration of time.

Greasetrap means a tank of suitable size and materials located in a sewer line and so designed to remove grease and oily wastes from the sewage.

Grinder pump system means the device to which the building sewer connects and which grinds and pumps the sewage to the public sewer for transportation to the POTW, the publicly owned grinder pump, controls and pressure discharge pipe, including all control boards, controls, floats, pumps, storage tanks and appurtenances thereto which provides the connection between the privately-owned building sewer and the public sewer system.

Health department means the Livingston County Health Department (LCHD).

Holding tank wastewater means any wastewater from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

HTSSS means Hamburg Township sanitary sewer system.

Incompatible pollutants means any pollutant that is not a compatible pollutant.

Indirect connection means the connection of a building sewer to an extension of the public sewer which is installed and paid for by special assessment or private funds, which extension is, after construction, turned over to the Township and becomes part of the public sewer (i.e., if a developer constructs sanitary sewers in a plat and connects the sewer line to the public sewer, the connection of each lot in the plat would be an indirect connection).

Indirect discharge means the discharge or the introduction of the nondomestic pollutants in the POTW regulated under section 307(b) or (c) of the Act (33 USC 1317(b) or (c)) (including holding tank wastewater discharged into the system).

Industrial waste means any liquid, solid or gaseous waste or form of energy or combination thereof resulting from any process of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

Infiltration means any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. The term "infiltration" does not include and is distinguished from inflow.

Infiltration/inflow means the total quantity of water from both infiltration and inflow.

Inflow means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

Inspection fee means the amount charged to each applicant by the Township at the time an application is made to the Township for connection to the public sewer, to cover the routine cost of inspecting and approving the physical connection of a building sewer and service connection to the public sewer, and the issuance of a connection permit.

Inspector means the person responsible for inspecting connections of building sewers and servicing connections to the public sewer as designated by the Township.

Interference means the inhibition or a disruption of the POTW treatment processes or operations that contribute to a violation of any requirement of the applicable NPDES permit or reduces the efficiency of the POTW. The term "interference" also includes prevention of sewage sludge use or disposal by the POTW.

Laboratory determination means the measurements, tests and analysis of the characteristics of waters and wastewaters in accordance with the methods contained in the latest edition at the time of any such measurement, test, or analysis of Standard Methods for Examination of Water and Waste Water, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation or in accordance with any other method prescribed by the rules and regulations promulgated pursuant to the latest edition.

Lateral line means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.

Major contributing industry means any industrial user of the POTW that:

- (1) Has a flow of 50,000 gallons or more per average workday;
- (2) Has a flow greater than three percent of the flow carried by the municipality receiving the wastes;

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- (3) Has, in its waste, a toxic pollutant in toxic amounts as defined in the standards under section 307(a) of the Federal Water Pollution Control Act of 1972; or
 - (4) Is found by the permit issuance authority in connection with the issuance of a NPDES permit to the POTW receiving the waste, to significantly impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works. All major contributing industries shall be monitored.

May is permissive.

MDPH means the Michigan Department of Public Health or any successor governmental agency having similar regulatory jurisdiction.

MUC means the Hamburg Township Municipal Utilities Committee.

National Categorical Pretreatment Standard or *pretreatment standard* means any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.

National Pollution Discharge Elimination System (NPDES) permit means a permit issued pursuant to section 402 of the Act (33 USC 1342).

National Prohibitive Discharge Standard or *prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

Natural outlet means any outlet into a watercourse, pond, ditch, or other body of surface or groundwater.

New source means any source, the construction of which is commenced after the publication of proposed National Categorical Pretreatment Standards which will be applicable to such source, provided that:

- (1) Construction is at a site where no other source is located;
- (2) Process or production equipment causing discharge is totally replaced due to construction; or
- (3) Production or wastewater generating processes of the facility are substantially independent of an existing source at the same site.

Construction is considered to have commenced when installation or assembly of facilities/equipment has begun, significant site preparation has begun for installation or assembly, or the owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. (Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (2) or (3) of this definition, but otherwise alters, replaces, or adds to existing process or production equipment).

Normal domestic sewage (NDS) means wastewater which, when analyzed, shows a daily average concentration of not more than 250 mg/L of BOD; not more than 250 mg/L of suspended solids; not more than six mg/L of phosphorus; not more than 35 mg/L of Total Kjeldahl Nitrogen.

Nuisance means any condition or circumstance defined as a nuisance pursuant to state statute, at common law or in equity jurisprudence or Hamburg Township ordinances including this article, as well as, any condition or circumstance where sewage or the effluent from any sewage disposal facility or toilet device is exposed on the surface of the ground or is permitted to drain on or to the surface of the ground, into any ditch, storm sewer, lake or stream, of when the odor, appearance or presence of this material has an obnoxious or detrimental effect on or to the senses and/or health of persons, or when it shall obstruct the comfortable use, enjoyment or sale of adjacent and/or surrounding property.

Obstruction means any object of whatever nature that substantially impedes the sewage from the point of origination to the trunk line. This shall include, but not be limited to, objects, sewage, tree roots, rocks and debris of any type.

Operation and maintenance (O&M) means all work, materials, equipment, utilities and other effort required to operate and maintain the wastewater transportation, odor control, and treatment system consistent with ensuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable State and Federal regulations and includes the cost of replacement.

Owner means the equitable and/or legal owner of fee simple interest of a freehold estate, or any trustee, personal representative, receiver, firm, corporation or entity legally acting on behalf of the equitable and/or legal owner.

Pass through means a discharge which exits the POTW into waters located in or flowing through the Township in quantities or concentrations which, alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit, franchise, or applicable local ordinance, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any of various chemicals, substances, and refuse materials such as dredged spoil, incinerator residue, solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural wastes discharged into water.

Pollution means the manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of water.

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment or treatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging, or introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes and other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment requirements means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Private sewer means a sewer that is owned, operated and maintained by or on behalf of one or more individuals for the benefit of the owners.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 USC 1292), which is owned in this instance by a local government. The term "publicly owned treatment works (POTW)" includes any sewers that convey wastewater to the POTW treatment plant. For the purposes of this article, the term "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the applicable local government who are, by contract or agreement with the local government, users of the POTW.

Public sewer means a sewer that is owned and operated by the Township, including all publicly owned service connections, sewers, trunk lines, lift or pumping stations, odor control facilities, wastewater treatment plants or facilities, and any and all appurtenances thereto.

Replacement means the replacement in whole or in part of any equipment, appurtenances and accessories in the wastewater transportation or treatment systems to ensure continuous collection and treatment of wastewater in accordance with NPDES permit and other applicable state and federal regulations.

Residential equivalent unit (REU) means a standard basis of measuring the relative quantity of sewage, including the benefits derived from the disposal thereof, arising from the occupancy of a freestanding single-family residential dwelling (but such term shall not necessarily be related to actual use arising from any particular dwelling). A listing of the relative relationships between the various users of the system is hereby determined by the Township as set forth in appendix 1 Table of Unit Factors of Ordinance No. 69. The assignment of REU to a particular user shall be determined from time to time by the Township based upon the use to which the user's property is put. The assignment of the REU for any use not enumerated in appendix 1 Table of Unit Factors shall, in the sole discretion of the Township, be based upon the most similar use enumerated in Appendix 1 Table of Unit Factors as set forth in Ordinance 69. The term "REU" shall be defined as one REU is equivalent to 150 gallons per day.

Sanitary sewage means the waste discharged from toilets, urinals, lavatories, sinks, bathtubs, showers, household laundries, cellar and garage floor drains, soda fountains, bars, refrigerator drips, air conditioners, drinking fountains and other domestic or commercial water wastes.

Sanitary sewer means a public or private sewer that carries sewage and into which stormwaters, surface waters and groundwaters are not intentionally admitted.

Seasonal recreation use (SRU) means any nonresidential building or structure, the use of which depends on or is controlled by the season of the year and does not have nor will be authorized by the Township to have cooking facilities for the preparation of food. All applicants seeking SRU designation shall be required to specify the time period of operation. Seasonal use shall not exceed more than three months of operation in any calendar year.

Seepage pit means a cistern or underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the overflow or effluent to be absorbed directly into the surrounding soil.

Septic tank means a watertight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of suspended solids from sewage and to permit such retained solids to undergo decomposition therein.

Service connection means the portion of the public sewer which extends either to or onto the parcel of land adjacent to the path of the public sewer, and includes the sewer main, tee/wye, valve, check valve, connector pipes, the sewer lead, the grinder pump system, electrical controls and connections at the electric meter (but not including the meter) and appurtenances, but not including the building sewer.

Sewage means wastewaters from residences, business buildings, industrial establishments and/or other premises together with groundwater or surface water infiltration as may be present.

Sewage disposal facility means a privy, cesspool, seepage pit, septic tank, sub-surface disposal field or any other device used in the disposal of sewage or human excreta.

Sewage treatment facility means all facilities owned, operated, maintained or utilized for the collection, odor control, sampling, monitoring, pumping, treating and disposal of sewage, specifically including the treatment plant.

Sewer means a pipe or conduit carrying sewage and/or stormwaters, surface waters and groundwaters.

Sewer lead means that portion of the service connection that connects to the sewer main located in the public right-of-way and extends therefrom to the property line.

Sewer service charge means the sum of the applicable connection fee, inspection fee, and user charge, surcharges and debt service charges.

Shall is mandatory.

Significant industrial user means any industrial user discharging to a POTW who:

- (1) Has a discharge flow of 25,000 gallons or more per average work day;
- (2) Has a flow greater than three percent of the flow of the wastewater treatment system to which he is a contributor;
- (3) Has in his wastes toxic pollutants as defined pursuant to section 307 of the Act, state statutes and rules; or
- (4) Is found by the Township, Michigan Department of Environmental Quality, or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system to which he is a contributor, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

Significant noncompliance means one or more of the following:

- (1) Chronic violation of wastewater discharge limit, defined here as when 66 percent or more of all the measurements for a pollutant parameter taken during a six-month period exceed by any magnitude the corresponding daily maximum limit or the corresponding average limit;
- (2) Technical review criteria violation of wastewater discharge limit, defined here as when 33 percent or more of all of the measurements for a pollutant parameter taken during a six-month period equal or exceed the product of the corresponding daily maximum limit multiplied by the applicable TRC factor, or the product of the corresponding average limit multiplied by the applicable TRC factor (TRC Factor = 1.4 for BOD, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a daily maximum limit or an average limit that the EGLE and/or the Township determines has alone or in combination with other discharges caused interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, public welfare, or the environment, or has resulted in the POTW exercising its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, and/or reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; and
- (8) Any other violation, or group of violations, which the EGLE and/or the Township determines as adversely affecting operation or implementation of the Township's pretreatment program.

Slug load means any substance released in a discharge at a rate and/or concentration that causes interference to a POTW.

Special assessment district (SAD or SSAD) means all special assessment districts determined at any time by the Township Board within the Service District for the provision of sanitary sewer service by the public sewer.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Storm sewer or storm drain means a sewer that carries stormwaters, surface waters and groundwaters, but excludes sewage and polluted industrial waste.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Structure means a building used or available for use for household, commercial, industrial, or other purposes that generates sewage.

Superintendent means the person designated by the applicable local government to supervise the operation of the publicly owned treatment works, who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Sub-surface disposal field means a facility for the distribution of septic tank overflow or effluent below the ground surface through a line, or a series of branch lines, of drain tile laid with open joints to allow the overflow or effluent to be absorbed by the surrounding soil through the entire field.

Supervisor means the supervisor of the Township or his authorized representative.

Surcharge means an additional part of the service charge that any customer discharging wastewater, having strength in excess of limits set forth by the Township, may be required to pay to cover the cost of treatment of such excess strength wastewater.

Suspended solids means the solids that either floats on the surface of or are in suspension in water, sewage or other liquids.

Township means the Township of Hamburg, located in Livingston County, Michigan, and/or its duly authorized agent or representative.

Toxic pollutant means any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment, including, but not limited to, those listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of Clean Water Act, section 307(a) (33 USC 1317(a)) or other Acts or included in the critical materials register promulgated by the state.

Trunk line means the main sewer line located under any street or within any street right-of-way that collects and transmits the sewage of the various properties served by the sewer system.

Untaminated industrial process water means water that does not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added.

Upset means an exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the requirements of this article due to factors beyond the reasonable control of the user, excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

USEPA or EPA means the United States Environmental Protection Agency.

User means any person who contributes, causes or permits the contribution of sewage into a public sewer.

User charge means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to section 204 (b) of PL 92-500 and includes the cost of replacement.

User class means the kind of user connected to sanitary sewers, including, but not limited to, residential, industrial, commercial, institutional and governmental.

- (1) *Residential user* means a user of a treatment works whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multifamily dwellings.

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- (2) *Industrial user* means a user of the treatment works which discharges wastewater from industrial, manufacturing, trade or business processes or from any structure with these characteristics, and distinct from their employee's domestic wastewaters or wastewaters from sanitary conveniences.
 - (3) *Commercial user* means an establishment listed in the Office of the Management and Budget's Standard Industrial Classification Manual (SICM), involved in a commercial enterprise, business or service which, based on a determination by the Township, discharges primarily segregated domestic wastewaters or wastewaters from sanitary conveniences and which is not a residential user or an industrial user.
 - (4) *Institutional user* means any establishment listed in the SICM involved in a social, charitable, religious, or educational function that based on a determination by the Township, discharges primarily segregated domestic wastes or wastewaters from sanitary conveniences.
 - (5) *Governmental user* means any federal, state or local government user of the wastewater treatment works.

Wastewater means the industrial or domestic wastewaters from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which enter the POTW.

Watercourse means a channel, natural or artificial, in which a flow of water occurs, either continuously or intermittently.

Waters means all streams, rivers, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are located in the Township.

WEF means the Water Environment Federation.

(Ord. No. 69-H, § 3.0, 12-3-2019)

Sec. 14-48. Franchise required.

Any wastewater treatment system not owned by the Township, which is operating in the Township, shall be considered a public utility within the meaning of any constitutional or statutory provisions and shall be required to obtain, prior to site plan approval, a revocable franchise from the Township to engage in such operations and to build, construct, own or operate a wastewater treatment system in accordance with the state constitution and state law, including, but not limited to, part 43 of Public Act No. 451 of 1994 (MCL 324.4301 et seq.). The expansion, modification, or alteration of any such system shall require a new franchise.

(Ord. No. 69-H, § 4.0, 12-3-2019)

Sec. 14-49. Point source discharges.

- (a) The Township Board has found that the quality of waters located in the Township can be degraded due to the increasing amount of point source nutrient discharge into those waters. Therefore, as a matter of public health, safety, and welfare, and for the protection of lands and landowners adjacent or near these waters, does hereby prohibit an expansion or increase of surface water discharge containing nitrate nitrogen in excess of 200 parts per billion (micrograms per liter) or containing phosphorus in excess of 20 parts per billion (micrograms per liter) into waters located in and/or flowing through the Township. Any landowner making application to the Township for site plan approval for any development which may result in a direct point source discharge of wastewater to any lake, stream, drain, river, creek, wetland or other water body

within the Township shall apply for and obtain from the Hamburg Township Board of Trustees a point source discharge permit prior to final site plan approval.

- (b) The application for a point source discharge permit, together with the application fee established by the board of trustees shall be submitted to the clerk of Hamburg Township. Said application shall be accompanied by all information required for site plan review together with a written opinion from a licensed civil engineer with knowledge and experience in the area of limnology and point source discharges, a limnologist, or other professional acceptable to the Township that the anticipated direct point source wastewater discharge from the site into any lake, stream, river, creek, drain, wetland or other water body within the Township will not contain nitrate nitrogen in excess of 200 parts per billion, contain phosphorus in excess of 20 parts per billion, and will not degrade the quality of the receiving or downstream waters. The clerk, upon receipt of said application, shall forward the application to the zoning administrator for their consideration and recommendation to the Township Board of Trustees. This recommendation shall state whether the requested discharge will exceed the limitations contained in subsection (a) of this section; whether the requested discharge will likely result in degradation to the receiving or downstream waters; whether the issuance of a point source discharge will have any other adverse impacts to the environment; and whether they recommend any limitations on the issuance of a permit; and whether they recommend the issuance of a point source discharge permit. Upon receipt of the zoning administrators report, the Hamburg Township Board of Trustees shall consider the point source discharge permit request and either grant the permit; grant the permit with conditions; or deny the permit. In the event the Township Board of Trustees shall deny the permit, they shall state the reasons why such permit is being denied.
- (c) Where there are unnecessary hardships in the way of carrying out the strict letter of this section and where no alternative superior treatment technology, method and treatment, or discharge location is available, the Township Board may grant an exemption from this section. The request for exemption shall be in letterform to the Township Board, submitted to the attention of the Township Clerk. The request for exemption shall specify the reasons for the request in detail. The Township Clerk shall submit the request for an exemption to zoning administrator for consideration by the planning commission. The Township Board shall approve or disapprove, in writing, the request for exemption following its receipt of the recommendation by an environmental expert of the Township's choosing and the Township Engineer. Approval of the exemption under this section must be secured prior to final site plan approval.

(Ord. No. 69-H, § 5.0, 12-3-2019)

Sec. 14-50. Industrial wastewater pretreatment.

- (a) *General discharge prohibitions.* No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21 (1990). At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system, or at any point in the system, be more than five percent nor shall any single reading be over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides,

hydrides and sulfides, and any other substances which the Township, state or EPA has notified the user is a fire hazard or a hazard to the system.

- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grain, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (3) Any wastewater having a pH of less than 5.0 or greater than 9.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (4) Any waters or wastes containing compatible or toxic pollutants which, singly or by interaction with other pollutants, exceed limitations established by the Township for the following reasons:
 - a. To prevent treatment process pass through of pollutants that violate water quality standards of the receiving stream.
 - b. To prevent injury or inhibition of the treatment process or sludge handling facilities.
 - c. To prevent contamination of the wastewater sludge and interference with the sludge disposal process.
 - d. To comply with federal EPA categorical pretreatment standards.
 - e. Constitute a hazard to humans or animals.
 - f. Create a toxic effect in the receiving waters of the POTW.

Toxic pollutants shall include, but are not limited to, any substance identified in the federal EPA priority pollutant and state critical materials lists.

- (5) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (6) Any substance that may cause the POTW's effluent or any other product of the POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) Any substance that will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.
- (8) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plan resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (9) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants

that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.

- (10) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulations.
 - (11) Any wastewater that causes a hazard to human life or creates a public nuisance.
 - (12) Any waters or wastes which may contain more than 100 milligrams per liter, by weight, of fat, petroleum, oil or grease, nonbiodegradable cutting oils, or products of mineral oil origin.
 - (13) Any discharge which will violate any statute, rule, regulation, or ordinance of any public agency and/or local unit of government with jurisdiction, including the EPA.
 - (14) Any wastewater containing pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
 - (15) Any trucked or hauled pollutants, except at discharge points designated by the treatment works. When the superintendent determines that a user is contributing to the POTW any of the substances enumerated in subsection (a)(1) of this section in such amounts as to interfere with the operation of the POTW, the superintendent shall:
 - a. Advise the user of the impact of the contribution on the POTW; and
 - b. Develop effluent limitations for such user to correct the interference with the POTW.
- (b) *Federal categorical pretreatment standards.*
- (1) *Generally.* All industrial users subject to the federal categorical pretreatment standards shall be subject to the rules, regulations, and requirements of 40 CFR 403.
 - (2) *Federal standards supersede limitations under this article.* Any existing or new federal categorical pretreatment standards shall immediately supersede the limitations imposed under this article if more stringent. In such a case, the superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.
 - (3) *Deadline for compliance with categorical standards.*
 - a. Existing sources shall comply with federal categorical pretreatment standards within three years of the date the standard is effective, unless a shorter compliance time is specified in 40 CFR chapter I, subchapter N.
 - b. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable federal categorical pretreatment standard.
 - c. Existing sources which become industrial users subsequent to promulgation of an applicable categorical standard shall be considered existing industrial users except where such sources meet the definition of a new source as defined in 40 CFR 403.3(k).
 - d. New sources shall install and have in operating condition, and shall start up, all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed 90 days, new sources must meet all applicable pretreatment standards.
 - (4) *Calculation of equivalent mass and concentration limits.*
 - a. When the limits in a federal categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the superintendent may convert the limits to equivalent

limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

- b. Equivalent limitations shall be deemed pretreatment standards for the purposes of section 307(d) of the Act. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
 - c. Modification of federal categorical pretreatment standards. Where the wastewater treatment system achieves consistent removal of pollutants omitted by federal categorical pretreatment standards, the Township may apply to the approval authority for modification of specific limits in the categorical pretreatment standards. Consistent removal shall be determined in accordance with 40 CFR 403.7(b).
 - d. When the limits in a categorical standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
 - e. Equivalent limitations calculated in accordance with paragraphs (c)(3) and (c)(4) of 40 CFR 403.6 shall be deemed pretreatment standards for the purposes of section 307(d) of the Act and 40 CFR 403. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (c) *State requirements.* State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this article.
- (d) *Dilution prohibited.* No user or POTW shall increase the use of potable or process water in any way, nor mix separate waste streams, for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the requirements set forth in this article.
- (e) *Grease, oil, and sand interceptors.*
- (1) a. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Township, they are necessary for the proper handling of wastewaters containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients. Notwithstanding the foregoing, interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Township and shall be located so as to be readily accessible for cleaning and inspection. All grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. Such interceptors shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. All grease, oil and sand interceptors shall be maintained in continuously efficient operation at all times by the owner of the building or premises from which such wastewaters emanate, or his authorized representative, at the expense of the owner.
 - b. Residential users, who are found by the Township to have compromised their grinder pump by introducing grease into the can, shall be responsible for having the grease pumped out by a licensed septage hauler. All residential users will receive information via the Hamburg Township cable channel, Hamburg Township website, or informational newsletter on the proper use and management of household waste as it relates to grinder pumps and the wastewater treatment plant.
- (2) Grease interceptors for food service establishments.
- a. Unless otherwise authorized by the Township, all permitted FSEs shall install, operate and maintain an outdoor grease interceptor. The Township may issue a discharge permit to any FSE in

the service area at its discretion. FSE discharge permits may include user-specific conditions, such as interceptor inspection and pump-out frequencies, that are more or less stringent than specified herein.

- b. General requirements for permitted FSEs shall be as specified herein, unless the Township determines that installation of an outdoor grease interceptor would not be feasible and authorizes the installation of an alternate pretreatment technology. The FSE bears the burden of adequately demonstrating to the Township that the installation of an outdoor grease interceptor is not feasible.
1. For permitted FSEs initiating or modifying discharge after adoption of this article, the design for an outdoor grease interceptor shall be submitted to the Township for approval prior to submitting the building permit plans. The interceptor shall be installed, and deemed acceptable by the Township after inspection, prior to issuance of a certificate of occupancy.
 2. Permitted FSEs already discharging upon adoption of this article that are determined by the Township to have a reasonable potential to adversely impact the sewer system will be notified in writing of the obligation to install an outside grease interceptor and receive Township approval within 120 days. If an outdoor grease interceptor is not installed and approved after 120 days, the Township will issue a Class D municipal civil infraction. The penalties as set forth in section 1-45 are incorporated herein by reference. If, after 90 days of civil infractions, Township approval is still not met, sewer services shall be disconnected. The user shall be responsible for all reconnection costs.
 3. Outdoor grease interceptors shall be constructed in accordance with design approved by the Township and shall have a minimum of two compartments with fittings designed for grease retention. Sizing and installation shall conform to the current edition of the plumbing code used by the Township.
 4. Outdoor grease interceptors shall be inspected monthly at a minimum, or more often if dictated by site-specific conditions. Pump out of accumulated grease, water, and sludge shall occur quarterly at a minimum, or more often if the settled solids exceed a depth of six inches of any interceptor compartment. If an FSE fails a monthly inspection, they shall receive Class D municipal civil infraction. The penalties as set forth in section 1-45 are incorporated herein by reference. If, after 90 days of civil infractions, Township approval is still not met, sewer services shall be disconnected. The user shall be responsible for all reconnection costs.
 5. Outdoor grease interceptors shall be installed at a location where it shall be easily accessible for inspection, cleaning and removal of intercepted grease, but not in any part of the building where food is handled. The location of all outdoor grease interceptors are subject to approval by the Township.
 6. Outdoor grease interceptors shall be inspected monthly at a minimum, or more often if dictated by site-specific conditions. Pump-out of accumulated grease, water and sludge shall occur quarterly at a minimum, or more often if the settled solids exceed a depth of six inches of any interceptor compartment. Water removed during pump-out shall not be returned to the interceptor, and accumulated grease and sludge shall not be reintroduced into any drainage piping leading to the Township's sanitary sewer. The pump-out operation and disposal of the accumulated grease, water, and sludge shall only be by a licensed contractor. The Township shall be notified prior to any scheduled pump-out so the operation can be witnessed if desired.

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7. The FSE shall maintain a written record of inspections, pump-out, and maintenance of the outdoor grease interceptor for three years. All such records shall be available for review by the Township's representative during all operating hours.
 8. Outdoor grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for grease and sludge accumulation.
 9. Sanitary wastes shall not be discharged to sewer lines serviced by outdoor grease interceptors without specific approval of the Township.
- c. Alternate pretreatment technology shall be defined as a device to trap, separate, and hold grease from wastewater and prevent it from being discharged into the Township's sanitary sewer. If the Township-authorized alternate pretreatment technology is other than indoor grease trap, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the Township for approval. If the Township-authorized alternate pretreatment technology is indoor grease trap, the following requirements apply:
1. Indoor grease trap shall be installed in all waste lines from sinks, drains and other fixtures or equipment where grease may be introduced into the Township's sanitary sewer. Trap shall never be operated without the flow restrictor supplied by the unit's manufacturer.
 2. No food waste disposal unit, dishwasher, or wastewater in excess of 140 degrees Fahrenheit (60 degrees Celsius) shall be discharged into an indoor grease trap.
 3. Sizing and installation of the indoor grease trap shall be discharged into an indoor grease trap.
 4. FSEs with authorized indoor grease trap shall employ kitchen best management practices (BMPs) for pre-cleaning of plates, pots, pans, etc. to minimize grease loadings to the drainage system.
 5. Indoor grease trap shall be inspected weekly at a minimum, or more often if dictated by site-specific conditions. Trap shall be maintained in efficient operating condition at all times by removal of the accumulated grease.
 6. Disposal of accumulated grease shall be in an appropriate manner. Accumulated grease shall not be reintroduced into any drainage piping leading to the Township's sanitary sewer.
- (f) *Spill prevention and operational upset.* Significant industrial users and all industrial/commercial users with the potential to discharge toxic substances or prohibited pollutants shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article, slug loadings and operational upset of pretreatment facilities.
- (1) *Planning and periodic review.* Every SIU within the authority of the Township shall, within 180 days of enactment of this article or within 180 days of becoming a new discharger, submit a report which reviews the potential for accidental discharges, operational upsets and slug loadings. If the potential for slug loading or other accidental discharge is determined by the Township, a plan shall be prepared according to 40 CFR 403.8(f)(2)(v). This plan shall be known as the slug discharge action plan and shall be submitted in accordance with the provisions of subsection (l)(4) of this section to the Township.
 - (2) *Operation plans and facilities.*
 - a. Facilities to prevent accidental discharge of prohibited materials, slug loadings and operational upsets shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to

the Township and the superintendent for review and shall be approved by the Township and the superintendent before construction of the facility. The superintendent shall provide his comments in writing to the Township. All existing users shall complete such a plan by 180 days after the effective date of this article.

- b. No user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge and operational upset procedures have been approved by the Township. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility necessary to meet the requirements of this article. Copies of the user's spill prevention control and countermeasure (SPCC) plan, the user's pollution incidence prevention plan (PIPP) and the user's slug discharge action plan shall be filed with the Township and with the superintendent.

(3) *Notice requirements.*

- a. *Immediate notice.* In the case of an accidental discharge, slug loading, or operational upset, or any discharge that could cause problems to the POTW, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.
- b. *Written notice.* Within five days following an accidental discharge, slug loading, or operational upset, the use shall submit to the Township a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to persons or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- c. *Notice to employees.* A notice shall be permanently posted on the user's bulletin board of other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(g) *Right of review by Township.* Admission into the public sewers of wastewaters containing any of the prohibited discharges in subsection (a) of this section or having an average daily flow rate of 10,000 gallons or more shall be subject to review by the Township. All proposed discharges to the sanitary sewers shall be reviewed prior to connection. The discharge of an existing user shall be subject to review if a change in the contribution is anticipated or at the request of the Township to demonstrate continued compliance with ordinance requirements. In support of this review, existing or potential users of the sewers shall provide all information necessary to complete the review. This information shall include, but is not limited to, the following:

- (1) File a written statement setting forth the nature of the enterprise, the source and amount of water used, the amount of water to be discharged with its present or expected bacterial, physical, chemical, radioactive, or other pertinent characteristics of the wastes.
- (2) Provide a report on raw materials entering the process or support system, intermediate materials, final product, and waste by products as those factors may affect waste control.
- (3) Provide a plan map of the building, works, or complex, with each outfall to the surface waters, sanitary sewer, storm sewers, natural watercourse, or groundwaters noted and described, and the waste stream identified.
- (4) Records and reports on the final disposal of specific liquids, solids, sludges, oils, solvents, radioactive materials, and other wastes.

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- (5) In the case of existing discharges, sampling and test reports as may be required by the Township.
- (h) *Township's right of revision.* The Township reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in section 14-46.
- (i) *Fees.*
- (1) It is the purpose of this section to provide for the recovery of costs from users of POTWs located in the Township for the implementation of the program established in this section. The applicable charges or fees shall be set forth within the Township's schedule of charges and fees.
 - (2) The Township may adopt, through resolution, charges and fees that may include:
 - a. Fees for reimbursement of costs of setting up and operating the Township's pretreatment program.
 - b. Fees for monitoring, inspections and surveillance procedures.
 - c. Fees for reviewing accidental discharge procedures and construction.
 - d. Fees for filing appeals.
 - e. Fees for consistent removal by the Township of pollutants otherwise subject to federal categorical pretreatment standards.
 - f. Fees for permit applications.
 - g. Other fees as the Township may deem necessary to carry out the requirements contained in this article.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the applicable government.

- (j) *Wastewater dischargers; compliance required.*
- (1) It shall be unlawful to discharge any wastewater to a POTW or other natural outlets within the jurisdiction of the Township except as authorized in accordance with this article.
 - (2) The discharge of all major contributing industries shall be subject to review by the Township as provided in subsection (a)(1)h of this section. A wastewater discharge permit shall be obtained for any discharge from a major contributing discharger that is characterized by the Township as any one of the following:
 - a. A discharge from a significant industrial user as defined in 40 CFR 403.3(t).
 - b. A discharge with potential to cause violation of the applicable NPDES permit limitations or water quality standards of the stream receiving the effluent of the treatment works.
 - c. A discharge with potential to cause interference with the treatment process or wastewater sludge disposal procedures.
 - d. A discharge regulated by federal EPA categorical pretreatment standards.
 - e. A discharge from any pretreatment facility.
- (k) *Wastewater discharge permits.*
- (1) *Generally.* All significant industrial users and any industrial and commercial users, as required by the Township, shall obtain a wastewater discharge permit before connecting to or contributing to a POTW. All existing significant industrial users and any industrial and commercial users, as required by the Township, connected to or contributing to a POTW shall obtain a wastewater discharge permit.

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- (2) *Application.* Users required to obtain a wastewater discharge permit shall complete and file with the Township an application in the form prescribed by the Township signed by the principal executive officer of the user and accompanied by an application fee as set forth in subsection (a)(1)h of this section. New significant industrial users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the Township may require the user to submit, in units and terms sufficient for evaluation by the Township, the following information:
- a. Name, address, and location of the user.
 - b. Standard industrial classification (SIC) number according to the Standard Industrial Classification Manual, Federal Bureau of the Budget, 1972, as amended.
 - c. Wastewater constituents and characteristics, as determined by the superintendent. Sampling and analysis shall be performed in accordance with procedures and methods detailed by the EPA contained in 40 CFR 136, as amended. Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator of the EPA. The permit application shall indicate the time, date, and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
 - d. Time and duration of discharges.
 - e. Average daily and instantaneous peak sewage flow rates, in gallons per day, including daily, monthly, and seasonal variations, if any. All flows shall be measured, unless other verifiable techniques are approved by the Township.
 - f. Site plans, floor plans, mechanical and plumbing plans, including non-contact water cooling systems, and details showing all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location, and elevation.
 - g. Description of activities, facilities, and plant processes on the premises, including all materials that are or may be discharged to the wastewater treatment facilities.
 - h. Nature and concentration of any pollutants or materials prohibited by this article in the discharge, together with a statement regarding whether or not compliance is being achieved with this article on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the user to comply with this article.
 - i. Each product produced by type, amount, or processes, and rate of production.
 - j. Type and amount of raw materials utilized (average and maximum per day).
 - k. Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.
 - l. Where additional pretreatment and/or operation and maintenance activities will be required to comply with applicable pretreatment standards, the user shall provide a declaration of the shortest schedule by which the user will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation

of additional pretreatment required for the user to meet the applicable pretreatment standard. No increment referred to in this subsection shall exceed nine months.

2. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Township and the superintendent including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports.
- m. A listing of all environmental control permits held by or for the user.
- n. Any other information required by 40 CFR 403.12 or any similar successor federal regulation.
- o. Any other information as may be deemed by the Township to be necessary to evaluate the permit application.

The Township and superintendent will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Township may issue a wastewater contribution permit subject to terms and conditions provided in this article.

- (3) *Permit modifications.* Within nine months of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of users' subject to such standards shall be revised to require compliance with such standards within the timeframe prescribed by such standard. Where a user subject to a National Categorical Pretreatment Standard has not previously submitted an application for a wastewater discharge permit as required by subsection (b) of this subsection, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standards. In addition, the user with an existing wastewater discharge permit shall submit to the superintendent within 180 days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subsections (k)(4)h and i of this section.
- (4) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges, and fees established by the Township. Permits may contain the following:
 - a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
 - b. Limits on the average and maximum wastewater constituents and characteristics.
 - c. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
 - d. Requirements for installation and maintenance of inspection and sampling facilities.
 - e. Specifications for self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sampling type, based on the applicable general pretreatment standards of 40 CFR 403, this article, categorical pretreatment standards, local limits, and state and local law.
 - f. Compliance schedules.
 - g. Requirements for submission of technical reports or discharge reports (see subsection (a)(13) of this section).

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- h. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Township and affording the Township access thereto.
 - i. Requirements for notification of the Township of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
 - j. Requirements for notification of slug discharges as per this article.
 - k. Other conditions, as deemed appropriate by the Township, to ensure compliance with this article.
- (5) *Duration of permit.* Wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Township during the term of the permit as limitations or requirements as identified in subsection (a) of this section as may be modified or if other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- (6) *Nontransferability.* Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be assigned, transferred or sold to a new owner, new user or different premises.
- (l) *Reporting requirements for permittee.*
- (1) *Compliance date report.* Within 90 days following the date for final compliance by the user with applicable pretreatment standards or 90 days following commencement of the introduction of wastewater into the POTW by a new source, any user subject to pretreatment standards and requirements shall submit to the Township and the superintendent a report containing the information listed in 40 CFR 403.12(b)(4)–(6).
- For industrial users' subject to equivalent mass or concentration limits established by the Township, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users' subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.
- (2) *Compliance with pretreatment standards and requirements.* The report shall state whether the applicable pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards and requirements. This statement shall be signed by an authorized representative of the user and certified to by a professional licensed to practice in the state.
- a. Within 180 days after the effective date of a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the Township and the superintendent a report which contains the information listed in 40 CFR 403.12(b).
 - b. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the Township and the superintendent a report which contains the information listed in CFR 403.12(b). New sources shall also include in this report information on

the method of pretreatment the source intends to use to meet applicable pretreatment standards.

(3) *Periodic compliance report.*

- a. Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or in the case of a new source, after the commencement of the discharge into the POTW, shall submit to the Township and the superintendent during the months of June and December, unless required more frequently in the pretreatment standard or by the Township, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standard. In addition, this report shall include a record of all measured or estimated average and maximum daily flows for the reporting period for the discharge reported in subsection (a) of this section, except that the Township and the superintendent may require more detailed reporting of flows. Flows shall be reported on the basis of actual measurement; provided, however, that where cost or feasibility considerations justify, the Township and/or the superintendent may accept reports of average and maximum flows estimated by verifiable techniques. The Township, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may agree to alter the months during which the reports required by this subsection are to be submitted.
 - b. If sampling performed by an industrial user indicates a violation, the user shall notify the Township and the superintendent within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Township and the superintendent within 30 days after becoming aware of the initial violation unless the POTW samples the user's discharge.
 - c. All analyses shall be performed in accordance with procedures contained in 40 CFR 136 and amendments thereto or with any other test procedure approved by the Township, MEDQ or EPA. Sampling shall be performed in accordance with the techniques approved by the administrator. Where 40 CFR 136 does not include sampling or analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated and analytical methods or any other sampling and analytical methods or any other sampling and analytical procedures, including procedures suggested by the POTW or the approval authorities.
 - d. If an industrial user monitors any pollutant more frequently than required by the Township, using the procedures prescribed in subsection (l)(3)c of this section, the results of that monitoring shall be included in the report.
- (4) *Slug loading.* A user shall notify the POTW immediately of all discharges that could cause problems at the POTW, including, but not limited to, any slug loading of the prohibitions in subsection (a) of this section, and 40 CFR 403.5(b).

(5) *Reporting requirements for all industrial users.*

- a. Reporting requirements for industrial users' subject to federal categorical pretreatment standards are outlined in subsection (l)(3) of this section.
- b. Significant non-categorical industrial users shall submit to the Township and the superintendent at least once every six months, on dates specified by the Township, a description of the nature, concentration, and flow of the pollutants required to be reported by the Township. All sampling and analysis will be in accordance with all applicable state and federal regulations.
- c. The Township and the superintendent have the authority to require appropriate reporting from significant industrial users. Reporting requirements will be determined on a case-by-case basis.

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- d. All reports shall be based on sampling and analysis performed in the period covered by the report.
 - e. All industrial users shall notify the POTW, the EPA Region V waste management division director, the EGLE, and the Township in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Reporting requirements shall be in accordance with 40 CFR 403.12(p).
 - f. All industrial users shall promptly notify the POTW and the Township in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under subsection (l)(3)c of this section and 40 CFR 403.12(p).
 - g. All users with existing SPCC plans, PIPPs or slug discharge action plans, as described in subsection (f)(2) of this section, shall submit these plans to the Township and the superintendent by June 1 of each odd-numbered year for review along with proposed changes and other such information as requested by the Township or the control authority required to conduct such a review.
- (6) *Annual reports.* Each person issued a wastewater discharge permit shall submit a signed annual discharge report to the Township and the superintendent. The Township may require a permit holder to submit more frequent reports if in its judgment the wastes discharged are possibly in violation of this article. The report shall include, but not be limited to, nature of process, volume, rates of flow, mass emissions, production quantities, hours of operation, personnel or other information that relates to the generation, handling and discharge of wastes. The report may also include the chemical constituents and quantity of liquid or gaseous material stored on site. If insufficient data has been furnished, other information will be provided upon request.
- (7) *Signatory requirements for reports.*
- a. Any industrial user submitting a report required by this section shall include the following certification statement as set forth in 40 CFR 403.6(a)(2)(ii):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
 - b. The report shall be signed by an authorized representative (corporate officer, general partner, proprietor, or duly authorized representative, as noted in 40 CFR 403.12(1)).
- (m) *Bypass; notice.*
- (1) Bypassing is prohibited and the Township and/or the superintendent may take enforcement action against a user for a bypass unless:
- a. Such bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There was no feasible alternative to the bypass. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent bypass which occurred during periods of equipment downtime or preventive maintenance; and
 - c. The industrial user submitted proper notice of the bypass.

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- (2) The Township may approve an anticipated bypass, after considering its adverse effects, if the Township determines that it will meet the three conditions listed under subsection (k)(1) of this section.
- (3) An industrial user shall submit oral notice of an anticipated bypass that exceeds pretreatment limits to the Township and the superintendent within 24 hours from the time the user becomes aware of the bypass. A written submission as described in 40 CFR 403.17(c) shall also be provided within five days of the time the user becomes aware of the bypass.
- (n) *Monitoring facilities.*
- (1) When required by the Township and/or the superintendent, each user shall provide and operate, at the user's own expense, a monitoring facility to allow inspection, sampling, and flow measurement of each sewer discharge. Each monitoring facility shall be situated on the user's premises, except that, where such a location would be impractical or cause undue hardship on the user, the Township may concur with the facility being constructed in the right-of-way area, provided that the facility is so located that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- (2) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.
- (o) *Inspection and sampling.*
- (1) *Access.* The Township and/or the superintendent may inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are within compliance. Persons or occupants of premises where wastewater is created or discharged shall allow the Township or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination or in the performance of any of their duties. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that, upon presentation of suitable identification, personnel from the Township, EGLE and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities under this article.
- (2) *Sampling and inspection.* The Township, superintendent, EGLE and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.
- (3) *Annual sampling.* The Township shall, at its discretion, conduct annual, or more frequent if required, independent compliance sampling of effluents generated by users identified as SIUs.
- (p) *Pretreatment.* Users shall provide necessary wastewater treatment as required to comply with this section and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the Township shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Township and the superintendent for review and shall be acceptable to the Township and the superintendent before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Township under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Township and the superintendent prior to the user's initiation of the changes.

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- (q) *Confidential information.* All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction, unless the user specifically requests the information be classified confidential on the basis of proprietary processes. When information is classified as confidential, the Township Clerk shall provide proper and adequate facilities and procedures to safeguard the confidentiality of manufacturing proprietary processes, except that confidentiality shall not extend to waste products discharged to the waters of the state. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority by request.
- (r) *Enforcement; violations and penalties.*
- (1) *Affirmative defense.* A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions in this section and 40 CFR 403.5(a)(2).
- (2) *Injunctive relief.* The Township shall obtain remedies for noncompliance by any industrial user with any pretreatment standard and requirement. All POTWs shall be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards and requirements. Each violation by industrial users of pretreatment standards and requirements shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference. For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class B municipal civil infraction. Each day upon which such violation occurs shall constitute a separate offense.
- (3) *Emergency suspension of service or permit.*
- a. The Township and/or the superintendent may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the Township and/or the superintendent, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, causes interference to the POTW or causes the POTW to violate any condition of its NPDES permit.
- b. Any person notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit 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 and/or the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Township shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge and upon concurrence with the superintendent. 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 and the superintendent within 15 days of the date of occurrence.
- (4) *Revocation of permit.* Any user who violates the following conditions of this section, or applicable state and federal regulations, is subject to having his permit revoked in accordance with the procedures of this section:
- a. Failure of a user to factually report the wastewater constituents and characteristics of its discharge;
- b. Failure of the user to report significant changes in operations, or wastewater constituents and characteristics;
- c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring;
or

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- d. Violation of conditions of the permit.
- (5) *Notification of violation.* Whenever the Township finds that any user has violated or is violating this article, its wastewater discharge permit, or any prohibition, limitation or requirements contained within, the Township shall serve or cause to be served upon such user a written notice, either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within 30 days of the date of receipt of the notice, the discharger shall respond personally or in writing to the Township, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and, where necessary, establish a plan for the satisfactory correction thereof.
- (6) *Show cause hearing.*
- a. The Township may order any user that causes or allows conduct prohibited by subsection (k)(4) of this section to show cause before the Township or its duly authorized representative why the proposed service termination action should not be taken. A written notice shall be served on the user by personal service, or by certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the Township or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the user to show cause before the Township or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail not less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of a user.
- b. The Township Board may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the assigned department to:
1. Issue in the name of the Township Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
 2. Take the evidence;
 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Township Board for action thereon.
- c. At any hearing held pursuant to this section, testimony taken must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- d. After the Township Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.
- (7) *Judicial proceedings.* Following the entry of any order by the Township with respect to the conduct of a user contrary to the provisions of subsection (k)(4) of this section, the Township Attorney may, following the authorization of such action by the Township, commence an action for appropriate legal and/or equitable relief in the appropriate local court.
- (8) *Publication of violations.*
- a. The Township shall annually publish in the newspaper a list of users that, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards or other

pretreatment requirements. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.

- b. For purposes of this subsection, an industrial user is in significant noncompliance if its violation meets either one or more of the criteria listed in 40 CFR 403.8(f)(2)(vii) or which:
 - 1. Remains uncorrected for 30 days after notification of noncompliance;
 - 2. Resulted in the Township exercising its right to suspend service pursuant to subsection (r)(3) of this section; or
 - 3. Resulting in emergency suspension under subsection (r)(3) of this section.
- (9) *Right of appeal.* Any user or any interested party shall have the right to request in writing an interpretation or ruling by the Township on any matter covered by this section and shall be entitled to a prompt written reply. If such inquiry is by a user and deals with matters of performance or compliance with this section for which enforcement activity relating to an alleged violation is the subject, receipt of a user's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this section may be taken in accordance with local and state law.
- (10) *Operations upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards.
- a. For the purposes of this section, the term "upset," means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.
 - b. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
 - 1. An upset occurred and the user can identify the cause of the upset.
 - 2. The facility was at the time being operated in a prudent and workmanlike manner in compliance with applicable operation and maintenance procedures.
 - 3. The user submitted the following information to the POTW within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days), including:
 - (i) A description of the indirect discharge and cause of noncompliance.
 - (ii) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - c. In any enforcement preceding the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (11) *Violations; penalties.*
- a. *Violation or noncompliance with section or wastewater discharge permit.* Any user who is found to have violated an order of the Township or who willfully or negligently failed to comply with any provision of this section or any orders, rules, regulations and permits issued under this section shall be responsible for a municipal civil infraction. The fines and penalties as set forth in

section 1-45 are incorporated herein by reference. For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class B municipal civil infraction. Each day upon which such violation occurs shall constitute a separate offense.

- b. *Falsifying information.* Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or a wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article, shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference. For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class B municipal civil infraction.
- (s) *Adjustments to categorical standards.* Any industrial user may seek an adjustment in the categorical pretreatment standards to reflect the presence of pollutants in the industrial user's intake water. The Township may allow a credit therefor in accordance with 40 CFR 403.15.
- (t) *Removal credits.* A credit may be allowed for the reduction in the amount of a pollutant in the POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed POTW capabilities or may be incidental to the operation of the treatment system. Removal as used in this section shall not mean dilution of a pollutant in the POTW. The Township may allow a credit in accordance with 40 CFR 403.7.
- (u) *Records retention.* All users subject to this article shall retain and preserve, for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of the user in connection with its discharge. A record which pertains to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Township pursuant to this section shall be retained and presented by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. No. 69-H, § 6.0, 12-3-2019)

Sec. 14-51. Use and charges for wastewater treatment plant.

- (a) *Use of public sewers required.*
 - (1) Except as otherwise provided herein, no person shall construct, maintain, or use any cesspool, septic tank, seepage pit, toilet device, sub-surface disposal field, privy, privy vault, sewage disposal facility, or any other facility or device intended or used for the disposal of sewage unless the same is not dangerous to public health and public sanitary sewer system capacity is unavailable and is specifically permitted and approved by the Township, Livingston County Health Department, and, where appropriate, the EGLE and/or MDPH.
 - (2) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the Township, or in any area under the jurisdiction of the Township, any human or animal excrement, garbage, or other objectionable waste unless such deposits are in compliance with Township ordinances.
 - (3) It shall be unlawful to discharge to any natural outlet within the Township, or in any area under the jurisdiction of the Township, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with the provisions of this section.
 - (4) Mandatory connections.

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- a. New and existing structures located within sewer special assessment districts (SSAD). Any existing structure located within a special assessment district created for the purpose of building and/or maintaining a sanitary sewer shall connect to the available sanitary sewer within 12 months after publication by the Township of a legal notice of the availability of the sanitary sewer in a newspaper of general circulation in the Township and/or by individual notice. Connection for any new structure must be made prior to the time the structure is occupied.
 - b. Existing structures not located within sewer special assessment districts (SSAD). Any existing structure shall connect to the sanitary sewer after publication by the Township of a legal notice of the availability of the sanitary sewer in a newspaper of general circulation in the Township and/or by individual notice. For purposes of this section, a sanitary sewer shall be considered to be available when it is located not more than 400 feet at the nearest point from the structure. All existing structures shall connect upon the earlier of the occurrence of the following events:
 1. In the case where on-site sewage disposal exists for which no permits were issued by the LCHD, EGLE, and/or MDPH, connections must be made immediately.
 2. Whenever any modifications to or replacement of any on-site sewage disposal systems that requires the issuance of a permit through LCHD, EGLE, and/or MDPH.
 - c. New structures not located within sewer special assessment districts (SSAD). Any new structure shall connect to the available public sanitary sewer when the structure is located not more than 400 feet from the nearest point from the available sanitary sewer. All connections must be made prior to the time the structure is occupied.
 - d. If any structure in which sewage originates has not been connected to an available sanitary sewer within the applicable time periods specified herein, then the Township shall require the connection to be made in accordance with section 12754 of part 127 of Public Act No. 368 of 1978, as amended (MCL 127.12754). In so proceeding, the Township shall have the rights and remedies provided for therein, shall have the right to begin billing for sewer operations and maintenance, as well as the rights and remedies provided by this article.
- (5) An existing on-site building sewer may be used in connection with a new building and premises only where it is found, on inspection by the Township, to be of adequate construction, size, and location, and is not otherwise required to be connected to an available public sanitary sewer according to the terms of this article.
 - (6) Connection to or extension of an existing sanitary sewer shall not be permitted if it is determined that the receiving sewer or treatment plant cannot handle the additional influent flow.
- (b) *Private sewage disposal; permit; fee.*
- (1) If a house, building, or other premises used for human occupancy, employment, recreation or other purposes is not required to be connected to a sanitary sewer, then the building sewer shall be connected to a private sewage disposal system permitted and approved by the Township, Livingston County Health Department and, where appropriate, the EGLE and/or MDPH. Private sewage disposal systems shall not allow surface water discharge.
 - (2) At such time as a public sewer becomes available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer in compliance with all terms and conditions of state statutes or pertaining to Township ordinances.
 - (3) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times at no expense to the Township.
 - (4) At such time as a connection is made to a sanitary sewer, all private sewage disposal facilities shall be disconnected and abandoned. All abandoned septic tanks, cesspools, and seepage pits shall be pumped

out as necessary and filled with sand or other suitable backfill material approved by the state and local agencies within 15 days of connection to the public sewer.

- (5) The provisions of this section shall not be construed to preclude additional requirements that may be imposed by the EGLE, MDPH, Health Department, or Township.

(c) *Building sewers and connections.*

- (1) No unauthorized person shall uncover, make any connections with or openings into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Township pursuant to this article.
- (2) An inspection fee and a connection fee per unit as established by the Township Board shall be paid to the Township Treasurer whenever an application is filed to connect any building sewer to a public sewer. Application shall be made on the form by the Township. The inspection fee shall be deposited in the sewer enterprise fund. The payment of inspection and connection fees as stated in subsection (h) of this section shall be made when a building permit is obtained in conjunction with the connection.
- (3) All costs and expenses incident to the installation, connection and maintenance of the building sewer up to and including its point of connection to the public sewer shall be borne by the owner. The owner shall indemnify the Township from any loss or damage that may directly be caused by installation, connection, or maintenance of the building sewer.
- (4) A separate and independent building sewer shall be provided for every building; except that, where one building stands at the rear of another 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, at the discretion of the Township, be extended to the rear building and the whole considered as one building sewer.
- (5) The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the state and the Township. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9 shall apply.
- (6) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (7) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain that, in turn, is connected directly or indirectly to a public sanitary sewer.
- (8) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the state and the Township, or the procedures set forth in appropriate specifications of the ASTM and the WEF Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials shall be approved by the Township before installation.
- (9) The applicant for the building sewer permit shall notify the Township when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Township or its authorized representative. No backfill shall be placed until the work has been inspected and approved by the Township.

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- (10) All excavations for building sewer installations shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Township.
- (d) *On-lot easement requirements.* Prior to the approval and issuance of a service connection permit, the applicant will be requested to have executed by the owner of record for the premises to be connected, an easement in a form provided by the Township granting permission to the Township to operate, maintain, repair and replace the sewer connection to be installed on the premises.
- (1) If the applicant provides such easement, then the Township shall provide, at its cost, all needed repairs, operation, maintenance and replacement of the service connection in accordance with this article.
 - (2) If the applicant, for any reason, declines to provide said easement, then the permit shall be issued at the discretion of the Township, together with an appropriate bill of sale conveying from the Township to the owner title to all components comprising the service connection. Following installation of the service connection by the owner (which installation is subject to inspection by the Township in accordance with the terms of this article), the owner shall, at his expense, repair, operate, maintain and replace the service connection in accordance with subsection (f) of this section.
 - (3) An owner or his successor may, at any time following the installation of a service connection on a premise for which no easement was provided to the Township prior to the issuance of a permit, grant the appropriate easement to the Township. The Township shall accept said easement and assume the responsibility for repair, operation, maintenance and replacement provided that the Township has inspected the service connection and is satisfied that the service connection is in good working order, reasonable wear and tear excepted. In the event such inspection reveals that the service connection has not been properly maintained or that the condition of the service connection has deteriorated beyond reasonable wear and tear, the Township may condition its acceptance of the easement and assumption of the financial responsibility for operation, maintenance and repair and replacement of the service connection upon:
 - a. Appropriate repairs of the service connection at the expense of the owner;
 - b. Replacement of the service connection or individual components thereof at the expense of the owner; or
 - c. Such other conditions as the Township, in the exercise of its reasonable judgment, deems appropriate.The acceptance of the easement by the Township shall be accompanied by an executed bill of sale by the owner conveying the service connection to the Township.
 - (4) Subsection (d) of this section shall not apply to any premises for which the installation of the service connection was made by a contractor engaged by a developer or the Township pursuant to any agreement addressing all sewer issues or any future supplement or amendment thereto, it being the assumption in these circumstances that the owner granted an appropriate easement through the development project's master deed and bylaws prior to said installation.
- (e) *Use of public sewers.*
- (1) No person shall discharge or cause to be discharged to any sanitary sewer any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water, unpolluted air conditioning water, or industrial process water. Discharge of backwash from water conditioning devices shall not be discharged into the sanitary sewer system. No footing drain, roof downspout, areaway drain, or other source of surface water or groundwater shall be connected to a sanitary sewer. All footing drain water shall be discharged to storm sewers or dry wells. Stormwater and all other unpolluted drainage shall be

discharged to sewers specifically designated as storm sewers, or to a natural outlet approved by the EGLE. The discharge of cooling water or uncontaminated industrial process water shall only be permitted when authorized and approved by the EGLE and the Township in accordance with this article.

- (2) No person shall discharge or cause to be discharged into any sanitary sewer any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower or greater shall be subject to the review and approval of the DPW field superintendent.
- (3) No person shall discharge or cause to be discharged into any sanitary sewer materials that exert or cause unusual concentrations of inert suspended solids, such as but not limited to Fuller's earth, lime slurries, and lime residues, or of dissolved solids, such as but not limited to sodium chloride and sodium sulfate. All users shall be required to utilize a potassium based softening agent; salt or sodium-based regenerates are prohibited.
- (4) The property owner, or an approved contractor hired by the owner, must disconnect all backwash discharge lines, including, but not limited to, water softeners, air conditioning units, water processing or conditioning equipment, storm drains, etc., from the building sewer. The following are some (not all) methods of disposing of water softener discharge:
 - a. Run the discharge line to the outside and let the water run onto the ground.
 - b. Install a belowground infiltration basin (drywell): Bury a container in the ground, fill it with stone or sand, and run the discharge line to the container. Drill holes in the container to allow the water to seep into the surrounding soil. A sump pump tub, which ranges in size from 15 to 24 inches in diameter to two to four feet in depth, is an example of a container that could be used.
 - c. Convert an existing septic tank. Pump out and clean your existing septic tank, break holes in the bottom of the tank and fill the tank with stone. Disconnect and plug the outlet pipe to the tile field to prevent groundwater from flowing back into the tank.
- (5) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics which in the judgment of the Township and/or the superintendent may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Township and/or the superintendent may:
 - a. Reject the wastes.
 - b. Require pretreatment to an acceptable condition for discharge to the public sewers.
 - c. Require control over the quantities and rates of discharge.
 - d. Require payment to cover the added cost of handling and treating wastes not covered by existing taxes or sewer charges.

If the Township permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the requirements of all applicable codes, ordinances, and laws.

- (6) Where the preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(f) *Construction, repair and maintenance.*

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- (1) Application. Any person desiring to connect to the POTW shall file a written application to the Township Clerk and pay the applicable permit and inspection fees established by resolution of the Township Board.
 - (2) Permit required. No person in the Township shall connect to a public sewer unless the proposed connection has first been approved by the Township or its designated representative and the applicable fees have been paid. Such applications shall be addressed to the Township and shall be made on forms provided by the Township and shall contain the following: street name, house number, lot number, the name of the plumber or contractor, the names of the applicant and the owner, and any other pertinent information which may be required by the Township. A complete application must be made, the applicable fees paid, and approval obtained from the Township at least 72 hours before the time a connection is to be made. Connection permits will be issued to builders if the prospective lessee or owner consents in writing to the obtaining of such permit by the builder.
 - (3) Public sewer connections shall be installed in accordance with the applicable building code and the regulations of this article and upon the payment of the required charges and fees.
 - (4) The owner of building or premises, or his authorized representative, shall be responsible, at his own cost, for the installation, connection and maintenance of the building sewer for such building or premises up to and including its connection with the public sewer.
 - (5) Owner-related sewer repairs.
 - a. The owner and, where appropriate, his authorized representative shall indemnify and hold the Township, its officers, agents, employees, and representatives free and harmless from any liability or responsibility for all injury, loss or damage that may result directly or indirectly from any damages resulting from the owner's negligence or misuse of the HTSSS as follows:
 1. Costs incurred by the Township resulting from increasing numbers of sewer emergency calls for owner-related sewer repairs, including, but not limited to, building sewer pipe blockages, shut-off power breakers.
 2. The Township shall otherwise be authorized to recoup all costs and expenses associated with sewer emergency calls for owner-related operation and/or maintenance services.
 3. If the Township provides repairs or services, the owner shall be responsible for the full and prompt reimbursement to the Township for all Township DPW staff time, costs, labor, and/or materials incident to said operation and maintenance plus a ten percent administration fee.
 - b. Pursuant to the authorization to charge owners for costs and expenses incurred in providing services for owner-related sewer repairs, the following collection procedures shall apply:
 1. The DPW field superintendent shall prepare an invoice outlining the charges, including labor, materials, and a ten percent administrative fee, resulting from DPW staff services provided for owner-related sewer repairs. Upon approval, the invoice shall be forwarded to the property owners with a copy filed with the utilities coordinator.
 2. Invoices for owner-related sewer repairs shall be due and owing within 30 days from the date of issuance of the billing statement. If payment is not made within the allotted time a reminder letter shall be sent stating the bill is past due and that failure to submit payment within 30 days may result in the shut-off of sewer service.
 3. Upon receipt of the invoice, the owner may report any disagreements or objections related to the invoice to the utilities director within seven days of delivery of the billing statement.

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4. The utilities director shall investigate the owner-disputed charges with the DPW personnel to determine if charges are correct and will stand as billed or if a reduction or amendment of the fees is warranted. If the charges are reduced or amended, a new invoice will be issued to the owner.
 5. If the owner is not satisfied with the determination made by the utilities director, the owner shall have the right to appeal the sewer repair charges to MUC. The utilities director shall forward all documentation to MUC for their review and recommendation to the board of trustees.
 6. If the Township Board of Trustees determines that the owner is responsible for the sewer repair costs, the owner shall reimburse the Township for said expenditures immediately. Failure to pay the invoice for owner-related charges may result in sewer service being shut-off. The owner shall be responsible for all cleanup costs or expenses associated with the sewer service disconnection and will be subject to and must pay all costs relating to any startup of the system associated with the re-activation of sewer service.
 7. Any unpaid charges or costs for such repairs, operation or maintenance may, at the option of the Township Board, be added to the ad valorem tax bills of the property benefitted by the said Township repairs or services.

(g) *Township liability exemption; indemnification.*

- (1) The Township shall not be responsible for interruptions of service because of natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remains in good working order. No claim shall be made against the Township by reason of the breaking away of any service supply lines, pipes, appurtenances, or for any other interruption of the wastewater disposal and treatment.
- (2) The user and, where appropriate, his authorized representative, shall indemnify and hold the Township, its officers, agents, employees, and representatives free and harmless from any liability or responsibility for all injury, loss, or damage that may result directly or indirectly from the installation, connection or maintenance of the building sewer.

(h) *Rates and charges.*

(1) *Connection fee.*

- a. Before an initial connection is made or additional usage resulting from building alterations or change in building usage is added to a public sewer, a fee known as the sewer connection fee shall be paid to the Township Treasurer. The connection fee shall be established by Township Board resolution. REU shall be defined as one REU is equivalent to 150 gallons per day.
- b. In addition to the connection fee, the owner of the premises shall be liable for the costs and expenses of acquiring and installing the service connection pursuant to Township specifications on file at the Township.
- c. Subject to the provisions of subsection (h)(1)d of this section, those parcels located in a sewer special assessment district and subject to a full special assessment on the special assessment roll shall be deemed to have paid the connection fee and, if applicable, the cost of acquiring and installing the service connection.
- d. Determination of residential equivalency unit.
 1. A single-family residential building shall constitute a dwelling unit and shall be charged a minimum connection fee of one REU. Premises other than a single-family residential unit shall pay a connection fee based upon the number of REUs assigned to such premises.

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2. Upon connection to the system, a nonresidential user shall have a water meter, of the size and type approved by the Township, installed on the user's water supply. The user shall purchase the meter through the Township. The cost of both the meter and the installation shall be paid for by the user with the installation to be made by the user and approved by the Township. Wiring the meter to an electronic touchpad shall be included as part of the water meter installation and will also be subject to Township approval. User will have 30 days to comply with this article after receiving notice from the Township. Users who fail to receive Township approval for their water meter installation shall receive a written warning for their first offense. All subsequent offenses will be responsible for a Class B municipal civil infraction. The penalties as set forth in section 1-45 are incorporated herein by reference. If, after 90 days of civil infractions, Township approval is still not met, sewer services shall be disconnected. The user shall be responsible for all reconnection costs.
 - (i) After two years of meter readings have been obtained, the REUs assigned to the premises, in accordance with this section, shall be recalculated based on said meter readings using an equation, the numerator of which shall be the meter readings, in gallons, for the 24-month period and the denominator which shall be 108 thousand gallons. The resulting number of REUs shall be multiplied by the requisite connection fee, direct or indirect, to determine any adjusted connection fee for the premises. The number of REUs shall not be less than the number of REUs originally assigned and the original connection fees will not be adjusted. The subsequent operation and maintenance (O&M) rate shall be adjusted to the new REU allocation.
 - (ii) The Township may enter into an agreement with a nonresidential user to pay additional connection fees in installments pursuant to the terms of a written agreement to be entered between the Township and said user providing for annual installment payments to the Township for a period of time not to exceed 15 years or extend beyond the period of debt retirement, whichever is earlier, with interest on the unpaid balance at a rate not more than one percent higher than the average rate of interest on the bonds sold for the initial construction of the system. Said agreement shall be executed and the first installment shall be payable prior to the issuance of a service connection permit pursuant to subsection (f)(2) of this section. All subsequent installments shall be paid according to the terms agreed upon by the parties.
 3. For any subsequent enlargement, addition, extension or improvements to any structure or change of use of the building, the Township may require a review and redetermination of the REUs for that structure. Upon finding by the Township after such REU review and redetermination that additional connection fees are required, the owner shall immediately pay the required additional fees.
 4. All SRU buildings and/or structures shall pay a connection fee based upon the number of REUs assigned to such premises. All SRUs shall be charged a minimum connection fee of at least one REU. No food service facilities, i.e., kitchens, cooking areas, etc. will be allowed in a building or structure designated as seasonal recreational use.
 5. Upon connection to the HTSSS, all SRU buildings shall have a water meter, of the size and type approved by the Township, installed on the user's water supply. The user shall purchase the meter through the Township. The cost of both the meter and the installation shall be paid for by the user with the installation to be made by the user and approved by the Township. Wiring the meter to an electronic touchpad shall be included as part of the water meter installation and will also be subject to Township approval. User will have 30

days to comply with this provision after receiving notice from the Township. If after 90 days, Township approval is still not met, sewer service shall be disconnected. The user shall be responsible for all reconnection costs.

- (i) Water meters shall be read on a quarterly basis by the DPW staff during the peak seasonal use times for the property utilizing the electronic touchpad on the outside of the building. After two years of peak seasonal use meter readings have been obtained, based upon the intended seasonal recreation use, the REUs assigned to the premises, in accordance with the Wastewater Treatment and Administration Ordinance, shall be re-determined based on said meter readings.
 - (ii) Upon review and determination that additional connection fees are required based upon the water meter readings, the owner shall immediately pay the required additional fees. The number of REUs shall not be less than the number of REUs originally assigned, and the original connection fees will not be adjusted.
- 6. Non-residential users, including seasonal recreation use buildings and structures, upon connection to the sewer system shall be required to install a duplex grinder pump station. All users shall have a grinder pump station, of the size and type approved by the Township, installed on the user's premises. The user shall purchase the grinder pump station through the Township. In the event that the hook-up to the HTSSS can be made by connecting into an existing curb stop with check valve, the property owner shall have the option to hire a Township approved contractor to complete the sewer connection, provided the contractor used is on the Township's approved list of who can qualify for training, at the contractor's own expense, with the Township Engineer and DPW Field Superintendent. If it is determined by the DPW Field Superintendent and Township Engineer that the sewer connection will require tapping into a live sewer main or transmission line, the user will be required to hire a contractor from the Township's approved list that is authorized and approved by the DPW Field Superintendent and the municipal utilities committee (MUC). Contractors performing live main sewer taps shall be required to uphold all insurance and warranty assurances as established by the Township.
- 7. Permitted SRUs already connected to the Township sanitary sewer system (HTSSS) upon adoption of this article that currently have a simplex (Model 2010-93) grinder pump station will be reviewed by the Township Municipal Utilities Committee. If it is determined by the DPW staff that the water meter readings in a peak quarterly period do not exceed one REU for water usage for the property a simplex grinder pump station shall be deemed acceptable and the SRU will not be required to convert to a duplex grinder pump station. If it is determined that actual water usage does exceed one REU during peak seasonal usage the SRU will be required to install a duplex grinder pump station at the user's expense.
- e. Administrative appeal of sanitary sewer REU determination. Except for REU allocations which are a part of a proposed or established special assessment district, every property owner has a right to an administrative appeal of the initial sewer residential equivalent unit (REU) determination and allocation made by the Township Board. Appeals of such determination or allocation shall be submitted to the municipal utilities committee. Only owners of property affected by such a determination or allocation have standing to file the appeal. Any action taken by MUC is advisory in nature and shall be re-submitted to the Township Board for a final determination as provided below:
 - 1. The appeal must be by an owner, or an owner's authorized agent, within 30 days from the date of the initial Township Board REU determination or allocation for which the appeal is

filed. The appeal must be based on certified engineer's letter of review of the determination or allocation stating the reasons why the determination or allocation is being disputed as well as any other documentation that is relative to the appeal including the current REU schedule, evidence of actual maximum usage, metering where appropriate or required, the economic life of the sanitary sewer system, the uses or classes of uses involved, the history of the use of the property in the community and similar communities together with any rates, policies or fees of similar communities, and any and other data deemed relevant to make a recommendation or determination, all of which must be submitted with the application for appeal. Failure to file a timely appeal will result in the owner's acquiescence to the REU allocation and the owners shall be deemed to have consented to the allocation.

2. Upon receipt of the application for appeal, MUC shall fix a hearing date for the appeal. The date shall be scheduled within 60 days from the date of the filing of the notice of appeal. The hearing shall comply with the Open Meeting Act. MUC shall make its recommendation no later than 90 days after the appeal has been filed. However, MUC may extend the time required for the recommendation up to 60 days by a decision of a majority of the members of MUC. The extension must be based upon good cause shown and any decision for such an extension shall state the reasons the extension was granted.
 3. Minutes of all such meetings shall be recorded and state the grounds for each recommendation made by MUC, including any evidence and data considered and a brief summary of all findings of fact and conclusions made by MUC. Claims of economic hardship shall not be considered by MUC in making its recommendation. The recommendation shall be forwarded to the Township Board of Trustees for final approval of the REU allocation and any issues relating thereto.
 4. The recommendations of MUC shall be submitted to the Township Board which shall make a final decision on the REU determination and allocation for which the appeal was filed. This decision may confirm, reverse or modify the original determination or allocation. This Township Board may also impose additional conditions relating to the said REU determination and allocation. The action taken by the Township Board is final. Any appeals from the decision must be made to a court with proper jurisdiction.
 5. Upon any enlargement, addition, expansion or improvements to any structure or property, or change of use of the building, the Township may require a new review and determination of the REUs. In the event the Township determines additional REUs are in order, additional connection fees and any costs or expenses related to the REU determination shall be paid in full upon Township approval of said enlargement, addition, expansion or improvement.
- f. Hardship deferment. The owner of a single-family residence, in which residence said owner resides and upon which a connection fee has been imposed, may submit a hardship application to the Township seeking a deferment in the partial or total payment of the connection fee provided for herein, based upon a showing of financial hardship, in accordance with the criteria established for granting such deferment by the Township Board from time to time, subject to and in accordance with the following:
1. The owner of the premises shall, under oath, complete a hardship application, provided by the Township Board, and file said application, together with all file information and documentation reasonably required by the Township, with the Township Board not less than 60 days prior to the due date of any connection fee. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having only security interests in the premises.

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2. Hardship applications shall be reviewed by the Township Board, and after due deliberation of hardship applications, the Township Board shall determine, in each case, whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination.
 3. An applicant aggrieved by the determination of the Township Board may request the opportunity to appear before the Township Board in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the Township Board shall be final and conclusive.
 4. In the event that the Township Board makes a finding of hardship, the Township Board shall fix the amount of partial or total deferment of the connection fee, and in so doing, shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, said applicant shall immediately notify the Township Clerk so that a further review of the matter may be made by the Township Board and provided, further, that the duration of the deferment granted shall be self-termination upon the occurrence of any one of the following events:
 - (i) A change in the financial status of any applicant that removes the basis for financial hardship;
 - (ii) A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof;
 - (iii) A death of any of the applicants.
 5. Upon a determination of the Township Board deferring all or part of the connection fee, the owners of the premises shall, within one month after such determination, execute and deliver to the Township as the secured party a recordable security instrument covering the premises, guaranteeing payment of the deferred amounts upon the occurrence of any of the events set forth in subsection (h)(1)e.4 of this section. Said security interest shall guarantee payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for said security interest being the grant of deferment pursuant to this article.
- (2) *User charges.* User charges shall be charged to each user serviced for the privilege of discharging sanitary sewage and industrial wastes into the wastewater treatment system according to one of the following methods:
- a. Where a meter is installed, 100 percent of metered (owner shall install at his expense) water consumption.
 - b. Where no meter is installed in accordance with the REU rate established by the board by resolution and according to the number of REUs.
 - c. Establishment of rates.
 1. In accordance with the provisions of Ordinance No. 69, user charge rates shall be established by the Township Board. The Township Supervisor may present to the Township Board appropriate user charge rates during budget preparation to ensure that adequate revenues are generated to pay the costs of operation, maintenance, and replacement for the sewage treatment facility so that the system continues to provide for the proportional distribution of operation, maintenance and replacement costs among users and user classes.

2. User rates shall be established by the Township Board by a separate rate resolution for user charges based on water meter flow or sewer meter flow. Surchage rates for high strength users shall also be established.
 3. In the event the Township Board shall alter any rate, the Township Clerk shall cause each user to be notified, by publishing such notice in a newspaper of general circulation in the Township, of the separate rate being charged for operation, maintenance and replacement costs of the sewage treatment facility.
- (3) *Debt service charges.*
- a. Debt service charges, if applicable, shall be developed and established by the Township Board in accordance with the wastewater treatment and administration ordinance.
 - b. The Township may review the debt service charges annually and revise the charges and rates as necessary to ensure that adequate revenues are generated to pay the costs of the debt service for the wastewater treatment plant.
 - c. In the event the Township Board shall alter the rate, the Township Clerk shall cause each user to be notified by publication in a newspaper of general circulation in the Township of the separate rate being charged for debt service for the wastewater treatment plant.
- (4) *Service charges constitute lien on property.* Charges for wastewater treatment plant operation and maintenance service shall constitute a lien on the property served. On or before March 1 of each year, the officer in charge of collection of such charges shall prepare a certified statement of all charges then six months past due and unpaid. The treasurer shall then place such charges on the next general tax roll and such charges shall be collected as part of the general Township taxes.
- (5) *Discontinuing service; shutoff, turn-on charges.* The Township shall have the right to discontinue wastewater treatment plant service for nonpayment of the service charges or for refusal of the owner or occupant of premises to install a meter. Where the owner or occupant of premises subject to the installation of a meter refuses to install a meter, the Township may, at the discretion of the Township Supervisor, if wastewater service is not discontinued during a particular period of time, charge a flat rate for wastewater service as established by the Township, and if such sum is not paid, it shall constitute a lien on the premises and shall be added to the tax rolls. If wastewater service is shut off pursuant to the terms of this division, a shutoff charge and a turn-on charge as established by the Township shall be collected in addition to the amount of the delinquent wastewater service charge before the wastewater service is turned on.

(Ord. No. 69-H, § 7.0, 12-3-2019)

Sec. 14-52. Violation; penalties and enforcement.

In addition to the other penalties as provided in this article, any person violating any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference. For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class B municipal civil infraction. Each day upon which such violation occurs shall constitute a separate offense.

(Ord. No. 69-H, § 8.0, 12-3-2019)

Sec. 14-53. Table of unit factors.

<i>Usage</i>	<i>Residential Equivalent Unit Factor</i>
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Auto dealer—sales and/or service	1.00/premises + 0.40/1,000 ft. ²
Bakery	1.25/1,000 ft. ²
Bank	0.25 per employee station
Bar	2.00/1,000 ft. ²
Barbershop	1.00/shop + 0.10/chair
Beauty shop	1.00/shop + 0.10/booth
Boardinghouse, boarding school, dormitory, fraternity or sorority house, etc.	1.00/premises + 0.20/bedroom
Bowling alley and/or restaurant	0.16/alley (bar and/or restaurant to be completed at its respective residential equivalent)
Car wash—do it yourself	1.0 per stall
Car wash—automatic—non-recycled	10.00/single production line
Car wash—automatic—recycled	5.00/single production line
Church	0.20/1,000 ft. ²
Cleaners (pick-up only)	1.00/shop
Cleaners (pressing facilities)	1.25/press
Convalescent home	0.22/bed
Child care center	1.00/premises + 0.25/1,000 ft. ²
Drug store, dime store (with fountain service)	1.0 + 0.1 per seat
Factory (exclusive of industrial waste)	0.50/1,000 ft. ²
Fraternal organization (with bar and/or restaurant)	1.00/hall (bar and/or restaurant to be computed at its respective residential equivalent)
Funeral home	1.42/1,000 ft. ²
Hospital	1.10/bed
Hotel, motel, roominghouse (with bar and/or restaurant)	0.4 per bedroom (bar and/or restaurant to be computed at its respective residential equivalent)
Laundry	0.34/washer
Marina	0.10/slip (over 25 feet in length)
	0.06/slip (under 25 feet in length)
Office building (general)	0.40/1,000 ft. ²
Office building (medical, dental, clinic, etc.)	1.0 + 0.5 per exam room
Post office	1.00/1,000 ft. ²
Public institute	0.75/1,000 ft. ²
Residential	
Condominiums	1.00/per unit
Mobile home, trailer park	1.0/unit
Multiple family residence (three or more units in one structure)	0.75/unit
Single-family residence	1.00/unit
Two-family residence	1.00/unit
Restaurant (meals and bar)	2.50/1,000 ft. ² (excluding restrooms, public areas not in regular use and unfinished areas)

Restaurant (meals only)	1.50/1,000 ft. ² (excluding restrooms, public areas not in regular use and unfinished areas)
Retail store	1.00/premise + 0.10/1,000 ft. ²
School	1.00/classroom
Service station + repair area	0.25/pump + 0.40/1,000 ft. ²
Snack bar, drive-in	1.50/1,000 ft. ²
Supermarket, grocery store	1.10/1,000 ft. ²
Swimming pool	2.85/1,000 ft. ²
Theater—drive-in	0.04 per car space (plus snack bar, which is measured separately)
Theater—indoor	0.04 per seat (plus snack bar, which is measured separately)
Travel trailer park and campgrounds	0.20/site (plus waste disposal station calculated separately)
Utility sub-station	0.10/1,000 ft. ²
Warehouse or storage building	0.10/1,000 ft. ²
Waste disposal station (for travel trailers)	2.00/station
Veterinary facilities and kennels	1.00 + 0.10 per kennel

Notwithstanding the foregoing, each connecting customer shall be considered to be at least one residential equivalent unit.

(Ord. No. 64, appendix 1, 12-12-1995)

Secs. 14-54—14-68. Reserved.

ARTICLE IV. STORMWATER DRAINAGE PROCEDURES

Sec. 14-69. Purpose.

- (a) In the past, rules have governed stormwater management from a flood control perspective. The following procedures have been designed to provide more sophisticated control of discharge rates and volumes, and to directly address water quality. These standards are based upon the most current body of knowledge concerning stormwater management from across the state and the country, modified as appropriate for application in Hamburg Township.
- (b) The watershed hydrology immediately in response to site clearing and development of the natural landscape. The existing stormwater storage capacity is quickly lost as vegetation is removed, natural depressions are graded, and both topsoil and wetlands are eliminated. As the soil is compacted and resurfaced with impervious materials, rainfall can no longer penetrate into the ground and so runs off of the land. These modifications, along with the installation of efficient drainage facilities, such as catch basins and pipes, greatly alter natural drainage patterns. These stream hydrology changes result in greater magnitude and frequency of severe flooding, bankfull flooding, more rapid flow velocities, increased stream flow fluctuations resulting in disrupted habitats, reduced diversity of aquatic species, and reduced infiltration in the underlying water table which in turn lowers the level of surface water bodies dependent on groundwater to maintain base flows during dry periods.

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- (c) These changes in the watercourse hydrology then causes changes in stream morphology. The changes result in channel widening and down cutting, stream erosion acceleration, sediment load increases, pools and riffles that characterize natural streams are eliminated, and sediment fills voids in the stream body, thus severely altering the habitat.
 - (d) The ecology of urban watercourses may be completely reshaped by the extreme shifts in hydrology, morphology, and water quality that can accompany the development process. The stresses that these changes place on the aquatic community, although gradual and often not immediately visible, are profound. Because these impacts may be mitigated through proper stormwater management practices, it is necessary to re-evaluate the way that stormwater and land development are managed. The following procedures provide a framework for this re-evaluation which must encompass the entire development process from land use planning and zoning to site design and construction.

(Ord. No. 62-B, § 2.0, 2-19-2019)

Sec. 14-70. Intent.

The intent of the following procedures is to provide the developer the necessary framework for handling stormwater runoff in a manner that does not have a negative impact on the lakes, streams, wetlands, and other ecologically sensitive areas of Hamburg Township. The procedures will focus on source controls and site controls.

- (1) *Source control.* Source control practices to reduce the volume of runoff generated on site and eliminates initial opportunities of pollutants to enter the drainage system. Key practices are:
 - a. Preservation of existing natural features that perform stormwater management functions;
 - b. Minimization of impervious surface area through site planning;
 - c. Direction of stormwater discharges to open, grassed areas such as swales and lawns rather than allowing stormwater to run off the impervious areas directly into the stormwater conveyance system; and
 - d. Carefully design and installation of erosion control mechanism and rigorous maintenance of these mechanisms.
- (2) *Site control.* Site control is required to convey pretreated (e.g., detained, retained, or infiltrated) stormwater runoff generated by development. The range of engineering and design techniques available to achieve these objectives is to some degree dictated by site configuration, soil type, and the receiving waterway.

(Ord. No. 62-B, § 3.0, 2-19-2019)

Sec. 14-71. Stormwater discharge.

- (a) Direct discharging of untreated stormwater to a natural water body is prohibited.
- (b) In no event will the maximum design rate or volume of discharge exceed the maximum capacity of the downstream land, channel, pipe, or watercourse to pass the flow. It is the developer's obligation to meet this standard. Should a stormwater system, as built, fail to comply, it is the developer's/owner's responsibility to design and construct, or to have constructed at the developer's expense, any necessary additional and/or alternative stormwater management facilities. Such additional facilities will be subject to the Township Engineer's review and approval.
- (c) If no adequate watercourse exists to effectively handle a concentrated water flow from the proposed development, discharge will be reduced to sheet flow prior to existing the site and cannot exceed the pre-

development rate. Additional controls may be required in such cases and/or acquisition of rights-of-way from downstream property owners receiving the stormwater flow.

- (d) Discharge should outlet within the drainage basin where flows originate, and generally, may not be diverted to another basin.
- (e) In residential developments, stormwater discharge systems shall be maintained, managed, and monitored by the developer until the homeowner's association is established or a drainage district is established.
- (f) All stormwater discharge systems maintenance, management, and monitoring shall be incorporated into the homeowner's association master deed/deed restrictions.
- (g) For private drainage systems, the developer or homeowner's association shall set up a drainage district to provide for the stormwater discharge systems to be managed, maintained and monitored by future lot owners.
- (h) Determination of surface runoff. The rational method of calculating stormwater runoff is generally acceptable for sites less than 150 acres in size; however, it may not be considered an adequate design tool for sizing large drainage systems or for the design of detention/retention basins. More precise methodologies for predicting runoff such as runoff hydrographs are widely available and may be required by the Township Engineer.

(Ord. No. 62-B, § 4.0, 2-19-2019)

Sec. 14-72. Retention and detention systems.

General requirements for retention/detention systems:

- (1) Definitions for retention and detention as follows:
 - a. Retention facility: a system whereby water is held for considerable length of time for aesthetic, agricultural, consumptive, stormwater management or other uses. The water may never be discharged to a natural watercourse, but it may be consumed by plants, evaporation, or infiltration into the ground.
 - b. Detention facility: a system designed for storing stormwater runoff for a short period of time and then releasing it to a natural watercourse where it returns to the hydrologic cycle. The objective of a detention facility is to regulate the runoff from a given rainfall event and to reduce the impact on downstream drainage systems, natural or manmade.
- (2) To manage both water quantity and quality, basins must be designed to capture and treat three different storm events:
 - a. The 50-year storm event;
 - b. The bankfull flood: The two-year/24-hour storm event;
 - c. The first flush: The first one-half inch of run-off from the entire contributing watershed.
- (3) Wet ponds and stormwater marsh systems will be preferred to dry ponds. Dry ponds providing extended storage will be accepted when the development site's physical characteristics or other local circumstances make the use of a wet pond not feasible.
- (4) When discharge is within a watershed where thermal impacts are a primary concern of the Township, dry ponds will be preferred to wet ponds, and extended detention requirements will be reduced to six to 12 hours. Shade plantings on the east and south sides of facilities are encouraged.

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- (5) Public safety will be a paramount consideration in stormwater system and pond design. Providing safe retention is the developer's responsibility. Pond designs will incorporate gradual side slopes, vegetative plantings, and safety shelves.
 - (6) The first flush areas of the detention/retention systems shall not be placed on a platted residential lot.
 - (7) The Township Planning Commission may allow variations from this article for sites under five acres where circumstances are appropriate.

(Ord. No. 62-B, § 5.0, 2-19-2019)

Sec. 14-73. Storage volumes and release rates.

- (a) On-site management of storm drainage will be designed for control of flooding, downstream erosion, and water quality. Submission of flow calculations, cross sections, and other pertinent data will be required.
- (b) The volume of storage provided for flood control will be equal to or in excess of that required by the county drain commissioner's standards for a 50-year frequency storm according to Hamburg Township stormwater guidelines.
- (c) The volume and storage provided for controlling the bankfull flood will be equal to or in excess of the total rain from a two-year storm. The release rate from the bankfull storage volume will be such that this volume will be stored not less than 24 nor more than 40 hours.
- (d) The first flush of runoff will be captured and detained for at least 24 hours within a permanent pool. The first flush is defined as the first 0.5 inches of runoff over the entire site.
- (e) Retention basins with no outlet will be capable of storing two consecutive 50-year storms.
- (f) Stormwater runoff discharged to detention/retention basins or marsh systems will be diffused to non-erosive velocities before entering the receiving facility.
- (g) A sediment forebay will be provided at the inlet of all stormwater management facilities, to provide energy dissipation before trap and localize incoming sediments.
 - (1) The forebay will be a separate cell, which can be formed by gabions or an earthen berm.
 - (2) Capacity of the forebay should account for 15 years of sediment accumulation based on the Universal Soil Loss Equation appended to the Guidebook of Best Management Practices for Michigan Watersheds by the MDNR.
 - (3) Direct maintenance access to the forebay for heavy equipment will be provided of a minimum ten-foot-wide easement.

(Ord. No. 62-B, § 6.0, 2-19-2019)

Sec. 14-74. Basin inlet/outlet design.

- (a) Velocity dissipation measures will be incorporated into basin designs to minimize erosion at inlets and outlets and to minimize the resuspension of pollutants.
- (b) To the extent feasible, the distance between inlets and outlets will be maximized. The length and depth of the flow path across basin and marsh systems can be maximized by:
 - (1) Increasing the length to width ratio of the entire design.
 - (2) Increasing the dry weather flow path within the system to attain maximum sinuosity.

If possible, inlets and outlets should be offset at opposite longitudinal ends of the basin.

- (c) The use of V-notched weirs, dual outlets, or other designs to assure an appropriate detention time for all storm events is required.
- (d) Where a pipe outlet or orifice plate is to be used to control discharge, it will have a minimum diameter of four inches. If this minimum orifice size permits release rates greater than those specified in these rules, alternative outlet designs will be utilized that incorporate self-cleaning flow restrictors such as perforated risers and V-notch orifice plates that provide the required release rate.
- (e) All outlets will be accessible with a minimum ten feet wide easement for heavy equipment required for maintenance purposes.
- (f) The outlet will be well protected from clogging.
- (g) Vegetative plantings.
 - (1) Basins and marsh designs will be accompanied by a landscaping plan that gives preference to native plant species according to sections 36-276 through 36-284.
 - (2) A permanent buffer of at least 25 feet in width will be maintained or restored around the perimeter of all ponds and marshes. This permanent buffer may be used for other purposes such as building setback but be restricted to landscaping improvement of low maintenance grasses, shrubs, and trees.
 - (3) Viability of plantings will be monitored for two growing seasons after installation. Plants that do not survive the two growing seasons will be replaced by the developer.
- (h) For safety purposes and to minimize erosion, basin side slopes will generally not be flatter than 20:1 nor steeper than 5:1. Steeper slopes will be allowed if there are no alternatives, and if the Township Engineer concurs that there is no other feasible alternative and acceptable structural alternatives and safeguards are provided.
- (i) A minimum of one-foot freeboard will be required above the 50-year stormwater elevation on all detention/retention facilities.
- (j) All basins will have provisions for defined emergency spillway, routed to the main outflow channel.
- (k) Adequate maintenance access of a minimum ten feet wide easement from public or private right-of-way to the basin will be reserved.
- (l) The placement of retention/detention basins within a floodplain is not allowed.

(Ord. No. 62-B, § 7.0, 2-19-2019)

Sec. 14-75. Wet retention basins.

- (a) Storage volume on a gravity outflow wet basin is defined as the volume of detention provided above the invert of the outflow device will not be considered as detention.
 - (1) At a minimum, the volume of the permanent pool should be at least: 2½-inch by one-half-inch by runoff coefficient by site drainage area.
- (b) Wet detention pond configuration will be as follows:
 - (1) Surface area to volume ratio should be maximized to the extent feasible.
 - (2) In general, depths of the permanent pool should be varied and average between three and six feet.
 - (3) A minimum length to width ratio of 3:1 should be used unless structural measures are used to extend the flow path.

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- (4) Ponds should be wedge-shaped, narrower at the inlet and wider at the outlet.
 - (5) Irregular shorelines are preferred.
- (c) A marsh fringe should be established near the inlet or forebay and around at least 20 percent of the pond's perimeter.
 - (d) A shelf, a minimum of four feet wide at a depth of one foot below normal water levels, will surround the perimeter to provide suitable conditions for the establishment of aquatic vegetation.
 - (e) To avoid drawdowns, a reliable supply of base flow and/or groundwater will be required.
 - (f) If underlying soils are highly permeable, the bottom of the basin should be lined with an impermeable geotextile of a six-inch clay liner.
- (Ord. No. 62-B, § 8.0, 2-19-2019)

Sec. 14-76. Extended detention basins.

- (a) A two-stage design is required, with separate outlet controls to detain both the 1.5 year and larger rain events.
 - (b) The lower stage should contain a shallow, permanent pool designed to store and treat the first flush, or 0.5 inch of rainfall over the entire site. The pool should be managed as a shallow marsh or wetland and average six-inch to 12-inch depth. At a minimum, the volume or runoff detained in the entire lower stage should be equivalent to the runoff volume produced by a 1½-year storm.
 - (c) The upper stage should be sized for the 50-year, 24-hour storm, and should be graded to remain dry except during large storms.
 - (d) A low flow channel, stabilized against erosion, will be provided through the dry portion of the basin. This channel should have a minimum grade of 0.5 percent and the remainder of the basin should drain toward this channel at a grade of at least one percent. The low flow channel should end at the lip of the lower stage, where riprap or gabion baffles will be placed to prevent scour and resuspension.
- (Ord. No. 62-B, § 9.0, 2-19-2019)

Sec. 14-77. Stormwater wetland systems.

- (a) The term "stormwater wetlands" means constructed systems explicitly designed to mitigate the stormwater quality and quantity impacts associated with development. They do so by quantity impacts associated with development. They do so by temporarily storing stormwater runoff in shallow pools that create growing conditions suitable for emergent and riparian wetlands plants.
 - (b) Stormwater wetlands should not be located within delineated wetland areas, or mitigated wetlands.
 - (c) Wetland construction, re-construction, or modification must be overseen by a qualified professional with specific wetland expertise.
 - (d) Stormwater wetland systems must be designed to perform in conformance with all standards for storage volume and discharge rates established in these rules.
 - (e) Viability of the plantings will be monitored by the developer for two growing seasons after installation. Plantings that do not survive the two growing seasons will be replaced by the developer.
- (Ord. No. 62-B, § 10.0, 2-19-2019)

Sec. 14-78. Stormwater conveyance.

- (a) Natural streams and channels are to be preserved whenever possible.
- (b) Streams and channels will withstand all events up to the 50-year storm without increased erosion.
- (c) Open swale/ditch drainage systems will be preferred to enclosed storm sewers where applicable and site conditions permit.
- (d) Swales should follow natural, pre-development drainage paths insofar as possible and be well vegetated, wide, and shallow.
- (e) Open ditch flow velocities will be neither siltative nor erosive.
- (f) Open ditch slopes will depend on existing soils and vegetation, and, whenever possible, will be greater than 1½ percent. For slopes less than 1½ percent, the developer shall provide record drawings with grades certified by licensed surveyor or engineer to document.
- (g) Side slopes of ditches should be no steeper than one vertical to three horizontal. Soil condition, vegetative cover and maintenance ability will be the governing factors for determining slope requirements.
- (h) Slopes and bottoms of open ditches and swales will be stabilized to prevent erosions.
- (i) Swale length should be a minimum of 200 feet whenever possible to increase the contact time of stormwater.
- (j) A series of check dams or drop structures across swales should be provided to enhance water quality performance and reduce velocities.
- (k) Designers should consider integrating additional redundant pollutant removal enhancement features such as stilling basins, stone infiltration trenches.

(Ord. No. 62-B, § 11.0, 2-19-2019)

Sec. 14-79. Enclosed drainage structures.

- (a) All enclosed drainage structures shall conform to Livingston County Drainage Department standards.
- (b) All outlets will be designed so that velocities will be appropriate to, and will not damage, receiving waterways.
- (c) Outlet protection using riprap or other approved materials will be provided as necessary to prevent erosion.
- (d) When the outlet empties into a detention/retention facility, channel or other watercourse, it will be designed such that there is no overfall from the end of the apron to the receiving waterway.

(Ord. No. 62-B, § 12.0, 2-19-2019)

Sec. 14-80. Natural wetlands.

- (a) Wetlands will be protected from damaging modification and adverse changes in runoff quality and quantity associated with land developments. Before approval of the final preliminary plat, all necessary wetland permits from the Michigan Department of Natural Resources (MDNR) will be in place.
- (b) Direct discharge of untreated stormwater to a natural wetland is prohibited. All runoff from the development will be pre-treated to remove sediment and other pollutants prior to discharge to a wetland. Such treatment facilities will be constructed before property grading begins.

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- (c) Site drainage patterns will not be altered in any way that will modify existing water levels in protected wetland areas without proof that all applicable permits from the MDNR and/or local government agencies have been obtained.
 - (d) Wetland construction, reconstruction or modification will be overseen by a qualified professional with specific wetland expertise.

(Ord. No. 62-B, § 13.0, 2-19-2019)

Sec. 14-81. Additional township, county and state requirements.

The requirements of this article are in addition to any other township, county and state requirements regulating storm drainage in Hamburg Township.

(Ord. No. 62-B, § 14.0, 2-19-2019)

Sec. 14-82. Penalty.

- (a) Any person who shall violate any part of the terms of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 62-B, § 15.0, 2-19-2019)

Chapter 16 FIRE PREVENTION AND PROTECTION⁶

ARTICLE I. IN GENERAL

Secs. 16-1—16-18. Reserved.

ARTICLE II. INTERNATIONAL FIRE CODE

Sec. 16-19. Adoption.

That a certain document, three copies each of which are on file in the offices of the Township, being marked and designated as the International Fire Code, 2018 edition, including Appendix Chapters A, B, C, D, E, F and G as published by the International Code Council, be and is hereby adopted as the Fire Code for Hamburg Township for regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life and property in occupancy of buildings and premises in Hamburg Township and providing for the issuance of

⁶State law reference(s)—State Fire Prevention Act, MCL 29.1 et seq.; Explosives Act, MCL 29.41 et seq.; arson and burning, MCL 750.71 et seq.; crimes related to explosives and bombs, MCL 750.200 et seq.; crimes related to fires, MCL 750.240 et seq.

permits for hazardous uses or operations; and each and all of the regulations, provisions, conditions and terms of such International Fire Code, 2018 edition, published by International Code Council, on file in the offices of Hamburg Township are hereby referred to, adopted and made a part hereof as if fully set out in this article.

(Ord. No. 76-A, § 2, 3-5-2019)

State law reference(s)—Authority to adopt technical codes by reference, MCL 42.23.

Sec. 16-20. Revisions and additions.

That the following sections of the International Fire Code, 2018 edition, are hereby revised and/or added:

Section 101.1. These regulations shall be known as the Fire Prevention Code of Hamburg Township Fire Department.

Section 102.7 Referenced Codes and Standards. The codes and standards referenced in the International Fire Code, 2018 edition, as amended, this article shall be those that are listed in Chapter 80 and such codes and standards shall be considered part of the requirements of this article to the prescribed extent of each such reference.

Section 102.7.1. The Hamburg Township Fire Department additionally adopts the 2018 edition of the National Fire Protection Association (NFPA) 1 and the 2018 Edition of NFPA 101. Where differences occur between the provisions of this article and the adopted standards, the provisions which in the opinion of the Hamburg Township Fire Chief and/or Fire Marshal establishes the higher standard for the promotion of the safety and welfare of the public and the protection of the public, or as otherwise determined by State of Michigan Law, shall apply.

Section 103.1 General. The Hamburg Township Fire Department shall be responsible for fire prevention, inspection activities and code enforcement of buildings and occupancies as related to the risk of fire or explosion within Hamburg Township Fire Department jurisdiction. The Department of Fire Prevention is established within the jurisdiction under the direction of the code official. The function of the Department shall be the implementation, administration and enforcement of the provisions of this code and the codes and standards referenced in chapter 80 of this code.

Section 104.11.4 Unlawful boarding or tampering with fire department emergency equipment. A person shall not, without proper authorization from the fire official in charge of said Fire Department emergency equipment, cling to, attach to, climb upon or into, board or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, operate any emergency warning equipment, or to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on, or a part of, any Fire Department emergency vehicle.

Section 104.11.5 Damage/injury to fire department equipment/personnel. It shall be unlawful for any person to damage or deface, or attempt or conspire to damage or deface, any Fire Department emergency vehicle or equipment at any time; or to injure, or attempt or conspire to injure, Fire Department Personnel while performing departmental duties.

Section 105.1 General. Permits shall be in accordance with section 105. Where reference is made to this section for permits elsewhere in this code and there are no provisions for issuing said permits by the Department of Fire Prevention, the code official is authorized to waive the particular permit requirement.

Section 105.6 Required operational permits. The code official is authorized to issue operational permits for the operations set forth in section 105.6.1 through 105.6.50. Where there are no provisions for issuing said permits, the code official is authorized to waive the particular permit requirement.

Section 105.6.13 Exhibits, crafts and trade shows. An operational permit is required to operate exhibits, crafts and trade shows.

Section 105.6.13.1 Permit fees. A minimum fee in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees may be applied to each exhibit, craft, trade show, or any other item that requires a permit for operation. In addition, thereto, fees shall be set by Hamburg Township in its discretion for the issuance of permits authorized under this article. The Township shall issue from time to time, revised updates of a fee schedule which shall be incorporated by reference hereto as the particular fees are adopted by the Township.

Section 105.6.20 Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20. An operational permit, once issued, shall remain valid until revoked or until the occupancy for which the permit was issued shall change ownership. Upon any change of ownership, a new operational permit for the occupancy shall be required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20. Notwithstanding the fact that no additional permit needs to be issued, nor any further fee charged, for a change in the operation or manner of storage, transportation, dispensing, use or handling of the permitted hazardous substance, nor for any change in the type of hazardous substance being so used, any such change from the conditions of the original permit shall create a duty on the permit holder to advise the fire marshal or his designee of such changes forthwith. Failure to comply with this notification mandate may be cause for revocation of an operational permit where the circumstances surrounding such permit have been changed without notice to the fire marshal.

Exception. Nothing in this subsection shall apply to a farm or farm operation as defined in Section 202 of this code and MCL 286.472, that being the Michigan Right to Farm Act, Public Act No. 93 of 1981, as amended.

Section 105.6.20.1 Required amounts for reporting. Reportable quantities shall be considered the maximum amount of hazardous materials on site at any given time. This amount is required to be reported to the Fire Department as indicated in Table 105.6.20.

Section 105.6.20.2 Permit fees. The fees in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees shall be applied to the maximum quantity of each form of hazardous materials.

Section 105.7.1.1 Installations. Before any fire suppression system or component is installed, enlarged, extended or modified, a permit shall be obtained from the code official. This shall include any device or relay connected to or controlled by the fire suppression system. A qualified installer who is properly licensed and/or certified to perform such work as determined by the code official must perform all work. Construction documents shall be reviewed by the code official prior to the issuance of the permit. Upon issuance of the permit, the permit must be posted at the job site in plain view.

Section 105.7.1.2 Permit fees. Permit fees cover initial plan review and two inspections.

1. Sprinkler systems: In accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.
2. Standpipes: In accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.
3. Fire pump: In accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.
4. Dry or wet chemical fire suppression systems: In accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.

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5. Total flooding agent extinguishing systems: In accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.
 6. Plan reviews: The code official might require an outside third party. This review will be changed at the current fire safety consultants or plan reviewer's rates. These fees shall be paid prior to issuance of the permit.

Section 105.7.7.1 Installations. Before any fire alarm or detection system or component is installed, enlarged, extended or modified, a permit shall be obtained from the code official. This shall include auxiliary devices such as magnetic locks, electronic locks or any device or relay connected to or controlled by the fire alarm or detection system. A qualified installer who is properly licensed and/or certified to perform such work as determined by the code official must perform all work. Construction documents shall be reviewed by the code official prior to the issuance of the permit. Upon issuance of the permit, the permit must be posted at the job site in plain view.

Section 105.7.7.2 Permit fees. Permit fees cover initial plan review and two inspections and are in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.

Plan reviews. The code official might require an outside third party. This review will be charged at the current fire safety consultants or plan reviewer's rate. These fees shall be paid prior to issuance of the permit.

Section 105.7.26 Permit issuance. A permit granted hereunder shall not be transferrable nor shall any such permit be extended beyond the time set forth therein unless approved by the fire official. When work is started without a permit, the permit fee shall be doubled.

Section 106.6 Additional fees. The fees in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees may be charged for a re-inspection and shall apply to each inspector performing the re-inspection. These fees shall be paid in full prior to the re-inspection being performed.

Section 106.7 Cancellation fees. Handling cost of permits cancelled after being issued is in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.

Section 109.4 Board of appeals members. The board of appeals shall consist of the following:

1. Two members of the Hamburg Township Board.
2. Three certified Fire Inspectors from jurisdictions outside the jurisdiction.
3. No member of the appeals board can have a conflict of interest with the issue being addressed.

Section 110.4.2 Violation penalties. Persons who violate a provision of this article or fail to comply with any of the requirements thereof or who erect, install, alter, repair, or do work in violation of the approved construction documents or directive of this article, shall be responsible for a municipal civil infraction. The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount, as provided by this article, plus any costs, damages, expenses and other sanctions, as authorized by the Revised Judicature Act (MCL 600.101 et seq.), that being Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

Section 110.5 Prohibited parking; exception, bus-loading zone; violation as civil infraction.

- (1) A vehicle shall not be parked, except if necessary to avoid conflict with other traffic or in compliance with the law or the directions of a police officer, fire official/personnel or traffic-control device, in any of the following places:
 - a. Within 15 feet of a fire hydrant.

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- b. Within 20 feet of the driveway entrance to a fire station and within 75 feet of a fire station entrance on opposite side of street if properly marked by an official sign.
 - c. Alongside or opposite a street excavation or obstruction, if the stopping, standing, or parking would obstruct traffic.
 - d. Within 500 feet of an accident at which police officer, fire official/personnel is in attendance.
 - e. In a place or in a manner that blocks immediate egress from an emergency exit conspicuously marked as an emergency exit of a building.
 - f. In a place or in a manner that blocks or hampers the immediate egress from a fire escape conspicuously marked as a fire escape providing an emergency means of egress from a building.
 - g. Within 500 feet of a fire at which fire apparatus is in attendance. However, volunteer fire fighters responding to the fire may park within 500 feet of the fire in a manner not to interfere with the fire apparatus at the scene. A vehicle parked legally previous to the fire is exempt from this subdivision.
 - h. In a place or in a manner that blocks access to a space clearly designated as a fire lane.
 - i. A person shall not move a vehicle not owned by the person into a prohibited area or away from a curb a distance that makes the parking unlawful.
- (2) A person who violates this section will be issued a civil infraction, by the fire chief, fire marshal and/or his designee, or any person duly appointed by the Township Board. A person who violates this section will be issued a civil infraction of a class E violation.

Section 110.5.2 Towing and storage costs. In addition to the above violation penalties, a person who violates this section shall be responsible for all vehicle towing and storage costs incurred if the fire chief and/or his designees, as defined in section 110.5(2) herein, determines that the vehicle parked in violation of section 110.5 must be towed to ensure public safety and/or Fire Department access to a building or emergency scene.

Section 110.6 Application and allocation of fees, fines. Payment for any permit fees, violation fines shall be paid to Hamburg Township.

Section 110.6.1 Issuing of tickets for violations. The fire chief and/or his designees, who shall be the deputy fire chief, assistant fire chiefs, fire marshal, fire inspectors, fire captains and anyone designated by the Township shall be authorized to issue tickets for violation of any code within this document.

Section 112.4 Failure to comply. Any person who shall continue any work after having been served with a stop-work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine in the amount as outlined in section 8 of this article.

Section 112.5 Collection of charges. Hamburg Township may proceed in a court of appropriate jurisdiction to collect any monies remaining unpaid for services provided by Hamburg Township and shall have any and all other remedies provided by law for the collection of all charges.

Section 114 False alarms.

Section 114.1 False alarms; inspections; orders to correct.

- (1) A fire, sprinkler, or water alarm system experiencing more than two false alarms within a 30-day period or four false alarms within the calendar year is deemed defective. Upon written notice to the owner or lessee of the alarm system by the fire chief and/or his designee, the owner or lessee shall have the system inspected by an alarm system contractor who shall, within 15 days,

file a written report to the fire chief and/or his designee of the result of his inspection, the probable cause of the false alarms and his recommendation for eliminating false alarms.

- (2) Upon receipt of the report, the fire chief and/or his designee shall forward the same to the owner or lessee, ordering corrections, based upon recommendations contained in the report.
- (3) The owner or lessee shall have three working days from the receipt of the order to make such corrections. Thereafter, to defray the cost of responding to false alarms, the owner or lessee of an alarms system shall pay to the Township the amount of the response as per the cost recovery fees for each false alarm received and responded to by the Fire Department during the calendar year in which the order to correct the system was issued. The amount due to the Township shall be paid forthwith upon demand by the fire department or the Township and if not so paid, the Township shall have the right, along with all of the other rights it may have, to impose a lien on the real and personal property of the owner or lessee and such lien shall be enforced in the same manner as are delinquent taxes.

Section 114.2 Misrepresented false alarms. It shall be unlawful for any person to summon, in any way, the Fire Department unless a valid reason for their response is present. The fire chief and/or his designee shall have the authority to issue fines as per the Cost Recovery Ordinance to any person causing a false alarm, if the person causing a false alarm is a minor the fines shall be the responsibility of the minor's legal supervisor.

Section 202 General definitions. The following definitions shall be in addition to the definitions noted in the International Fire Code, 2018 edition:

"Code official" The fire chief, fire marshal, fire inspector, code enforcement officer, or other designated authority charged by the applicable governing body with the duties of administration and enforcement of the code, or duly authorized representative. The term "fire official" may be used interchangeably with "code official" in this code.

"False alarm" Means the activation of an alarm of an alarm system through mechanical failure, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or his employee or agent. "False Alarm" does not include the alarm caused by severe weather or other violent conditions beyond the control of the owner or lessee of an alarm system or his employee or agent.

"Farm" Means the land, plants, animals, building, structures, including ponds used for agricultural activities, machinery, equipment, and other appurtenances used in the commercial production of farm products. MCL 286.472(a).

"Farm operations" Means the operations and management of a farm or a condition or activity that occurs at any time as necessary on a farm in connection with the commercial production, harvesting, and storage of farm products. MCL 286.472(b).

"Fire watch" A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the Fire Department by method approved or recommended by the Code Official.

"Misrepresented false alarm" The willful and knowing initiation or transmission of a signal, message or other notification of event of fire or the emergency when no danger exists.

"Water capacity" The amount of water, in either pounds or gallons, at 60 degrees Fahrenheit (15.6 degrees Celsius) required to fill a container full of water.

Section 307.1.2 Local burning ordinances preserved. Nothing in this code shall be construed as prohibiting Hamburg Township from regulating matters of open burning by duly adopted local ordinance, whether or not such ordinance predates the adoption of this code. In the event of a conflict between this

code and the ordinance in force and adopted by the Township, the ordinance shall be deemed to supersede this code and control, for so long as it remains in force. Notwithstanding any superseding ordinance, however, the fire chief, fire marshal, or fire code official shall retain the authorization under section 307.7 of this code to ban all open burning if conditions warrant.

Section 307.6 Fire Department training. Open burning is allowed for the purpose of training firefighters in firefighting practice, or for the purpose of training the public, including workers or employees, or for the purpose of demonstration by the fire official or other trained fire personnel, when such burning is done in accordance with accepted practice.

Section 307.7 Banning open burning. The fire chief, fire marshal, or fire code official shall be authorized to issue a ban on all open burning if conditions are too hazardous in the opinion of the fire code official to allow the open burning, open flame, etc.

Section 308.3.1.1 Open flame. A person shall not utilize or allow to be utilized, an open flame in connection with any public meeting or gathering for purpose of deliberation, entertainment, amusement, instruction, education, recreation, awaiting transportation or similar purpose in assembly or educational occupancies without first obtaining approval from the code official.

Section 312.2.1 Maintenance of guard posts. It shall be the property owner's responsibility to provide and maintain this protection.

Section 505.1 Address numbers. New and existing buildings shall have approved numbers, building numbers, or approved building identification placed in a position to be plainly legible and visible from the street or road fronting this property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabet letters. Numbers shall be a minimum of six inches high with a minimum stroke of 0.5 inches.

Section 506.1.1 Locks and key switches. An approved lock or key switch shall be installed on gates or similar barriers when required by the code official. Any business that is issued a land use permit that does not currently have a compliant lock box is required to supply one in compliance with the International Fire Code.

Section 507.3 Fire flow. Fire flow requirements for buildings or portions of buildings and facilities shall be determined in accordance with Appendix B. An appropriate pressure and flow margin of safety shall be provided with each fire sprinkler system as required by the code official.

Section 507.5 Fire hydrants systems. Fire hydrant systems shall comply with section 508.5.1 through 508.5.6 and shall be in accordance with Appendix C and Hamburg Township standards and policies.

Section 507.4.1 Removal of obstructions. If upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments to fire hydrant, or to other fire protection equipment, are not removed, the code official shall proceed to remove or have removed the same. The expense incurred shall be a debt to the local governing body from the responsible person and shall be collected as any other debt to Hamburg Township.

Section 507.6 Residential and commercial development water supply. The code official has the authority to require that an approved means of water supply for fire suppression efforts be provided in the following instances:

- (1) All residential developments that require site plan review/approval by the Township.
- (2) All commercial developments.
- (3) Creation of a new roadway which could provide access to ten or more residential lots.
- (4) On a parcel, on an existing roadway, that is divided into ten or more residential lots.

Section 608.8 Exhaust fans. Exhaust fans for commercial cooking hoods shall be installed so that the fans are operational at all times when cooking is occurring. This may be accomplished by a temperature-monitoring device installed in, on, or near the hood to activate the exhaust fan at a pre-determined temperature, or as otherwise approved by the code official.

Section 901.6.3 Records. Records of all system inspections, tests, and maintenance required by the referenced standards shall be maintained on the subject premises for a minimum of one year and made available to the code official upon request. The service company or individual performing such work shall also send a copy to the code official.

Section 901.6.4 Anti-freeze fire sprinkler systems. Fire sprinkler systems designed and installed to protect areas prone to freezing shall be drained and tested, then refilled and maintained to insure the solution is operable to -40 degrees Fahrenheit or as otherwise approved by the code official.

Section 903.5.1 Required pressure margin. Due to unforeseeable and changing conditions within the water supply, the code official is authorized to require a pressure margin of up to 20 pounds over the minimum design criteria for installed automatic fire sprinkler systems. Where this margin cannot be achieved, approved means shall be taken to provide the margin.

Section 904.3.6 Monitoring. A supervising station in accordance with NFPA 72, as approved by the code official to monitor automatic fire extinguishing systems. Where a building fire alarm is installed, automatic fire-extinguishing systems shall be a monitored by the building fire alarm systems in accordance with NFPA 72 and shall automatically annunciate their location at the building's fire alarm control panel, and activate the building's appropriate fire protective signaling sequence.

Section 907.4.2.4 Signs. Where fire alarm systems are not monitored by a supervising station, an approved permanent sign shall be posted that reads: THIS ALARM DOES NOT NOTIFY THE FIRE DEPARTMENT—TO REPORT A FIRE DIAL 911. Such sign shall be installed adjacent to each manual fire alarm box.

Exception. Where the manufacturer has permanently provided this information on the manual fire alarm box and as approved by the code official.

Section 907.6.3.1.1 Annunciation. Where fire suppression systems exist in multi-tenant occupancies, i.e., strip malls, separate annunciation shall be required for each separately addressed tenant space unless otherwise approved by the code official.

Section 909.16.1 Smoke control systems. Fans within the building shall be shown on the firefighter's control panel. A clear indication of the direction of airflow and the relationship of components shall be displayed. A means of confirming equipment function such as an atmospheric pressure switch, air velocity switch, or electrical current differential device, shall be installed to indicate the status of fans, dampers, or other associated equipment during alarm activation or smoke control operations. Status indicators shall be provided for all smoke control equipment, annunciated by fan and zone and by pilot-lamp-type indicators as follows:

- (1) Fans, dampers and other operating equipment in their normal status—WHITE.
- (2) Fans, dampers and other operating equipment in their off or closed status—RED.
- (3) Fans, dampers and other operating equipment in their on or open status—GREEN.
- (4) Fans, dampers and other operating equipment in a fault status—YELLOW/AMBER.

Section 912.2 Location. With respect to hydrants, driveways, buildings and landscaping, Fire Department connections shall be so located that fire apparatus and hose connected to supply the system will not obstruct access to the buildings for other fire apparatus. The location of Fire Department connections shall be within 100 feet of a hydrant and shall be approved by the code official.

Section 918. Fire protection systems precautions.

Section 918.1 General. Precautions shall be taken in all rooms and areas containing fire sprinkler equipment such as piping, valve, and fire pump, to prevent freezing of said equipment during times of extremely cold temperatures.

Section 1201.1 Scope. Dry cleaning plants and their operations shall comply with the requirements of this chapter and NFPA 32, and the Michigan Fire Prevention Code 1941, P.A. 207, as amended, or its equivalent.

Section 2101.1 Scope. Automotive services stations, marine service stations, fleet vehicle service stations and repair garages shall be in accordance with this chapter and the International Fuel Gas Code, International Building Code, International Mechanical Code, and the Michigan Storage and Handling of Flammable and Combustible Liquids Rules, as amended, or their equivalent. Such operations shall include both public accessible and private operations.

(Ord. No. 76-A, § 3, 3-5-2019)

Sec. 16-21. General fire services charges.

This section is adopted for the purpose of governing costs and services provided by Hamburg Township for the provision of fire and emergency services through charging for benefits received for the fire protection service.

- (1) *Changes by resolution.* Hamburg Township hereby authorizes the collection of charges for specific fire services. The fire services to be covered and the actual amount of the charges shall be established by resolution of the Hamburg Township Board from time to time. These charges shall be due and payable to Hamburg Township for the services so stated. For services such as, but not limited to, fire inspection services, false alarms, grass fires, rubbish fires, automobile fires, house fires, fires in commercial establishments, fires in an industrial or manufacturing establishment, hotel and motel fires, aircraft fires, truck fires, forest fires, emergency rescue services, standby rescue or fire services for special events, resuscitator services, swimming pool services, and other services as may be specifically enumerated in the resolution. Categories of costs may also be established for services based upon geographic location and resident status of the benefiting party.
- (2) *Due date of payment.* The charges shall be due and payable within 30 calendar days from the date the services are rendered.
- (3) *Exemptions.* The following properties and services shall be exempt from charges: Fire services performed outside the jurisdiction of Hamburg Township involving buildings and properties of a township, city, or fire department which is a part of a mutual aid contract.
- (4) *Collection of charges.* Hamburg Township may proceed in a court appropriate jurisdiction to collect any monies remaining unpaid for services provided as a mature debt of Hamburg Township and shall have any and all other remedies provided by law for the collection of all charges.
- (5) *Non-exclusive charge.* The charges established by resolution of Hamburg Township shall not be the exclusive source of revenue available for Hamburg Township to meet the expenses of maintaining and operating services contemplated herein. These charges may be supplemented by other sources permitted by state law, including, but not limited to, general taxation following approval by a vote of the electorate, a special assessment established under the applicable state statutes or an appropriation of the general funds of Hamburg Township.
- (6) *Multiple property protection.* When particular services rendered by the Hamburg Township Fire Department directly benefits more than one person or more than one property, each person so benefited and the owner of each property receiving benefit shall be liable for the payment of the full

charge for such service. The interpretation and application of this section is hereby delegated to the Hamburg Township Fire Department's fire chief, subject to appeal to the Hamburg Township Board. This section shall be administered so that charges shall be assigned and collected only from the recipients of the service or their agent.

- (7) *Collection agent and reservation of funds.* Hamburg Township shall function as the collection agent for all fees established under this section or any adopted ordinances or fee schedule thereof. Hamburg Township shall be responsible for all procedures and activities concerning billing, collection, recordkeeping, and inquiries.

(Ord. No. 76-A, § 4, 3-5-2019)

Sec. 16-22. Fees for services.

The Hamburg Township Board shall adopt a designated set of fees for services provided by the Township and/or the Hamburg Township Fire Department and said schedule may be amended from time to time.

(Ord. No. 76-A, § 5, 3-5-2019)

Sec. 16-23. Enforcement.

The provisions of this article shall be enforced by the Hamburg Township Fire Department or Hamburg Township and any employees and officials as the board may delegate to enforce the provisions of this article.

- (1) *Violation and nuisance.* Buildings erected, altered, moved, raised or converted or any use of land or premises carried on in violation of any provision of this article, the laws of the state, and the International Fire Code are declared to be nuisances per se. Any and all buildings or land use activities considered possible violations of the provisions of this article shall be reported to the fire marshal or fire chief of the Hamburg Township Fire Department.
- (2) *Inspection of violation.* The fire marshal and/or fire chief or his designee shall inspect each alleged violation and shall order correction in writing to the violator within 30 days of all conditions found to be in violation of this article, and/or the laws of the state, and/or the International Fire Code, or sooner if an emergency violation shall occur. A copy of any order issued shall be filed with the fire chief. The person who initiates the complaint may be sent a notice of any determination made by the fire marshal and/or fire chief and his designee within a period of 30 days.
- (3) *Correction period.* All violations shall be corrected within a period of 30 days or sooner if an emergency situation exists after the order is issued by the fire marshal, fire chief, or his designee, or such period of time to be determined by the fire marshal and/or fire chief. A violation not corrected within the period required shall be reported to the Hamburg Township Board and prosecution proceedings and/or civil remedies and relief or other enforcement action shall be pursued within the same time period that is necessary to correct the particular situation.
- (4) *Remedies.* The Hamburg Township Board may institute an injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any unlawful erection, alteration, maintenance or use in violation of this article. The rights and remedies herein provided are civil in nature and in addition to criminal remedies.
- (5) *Scope of remedies.* The rights and remedies provided in the article are cumulative and are in addition to all of the remedies provided by law. All fines collected shall belong to Hamburg Township and be deposited to its general fund.

(Ord. No. 76-A, § 6, 3-5-2019)

Sec. 16-24. Compliance bond.

A surety bond may be required by the Hamburg Township Board to ensure the complete construction of structures and/or the development of area as proposed and approved in conjunction with any ordinance enforcement hereto.

(Ord. No. 76-A, § 7, 3-5-2019)

Sec. 16-25. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class B municipal civil infraction.

(Ord. No. 76-A, § 8, 3-5-2019)

Secs. 16-26—16-53. Reserved.

ARTICLE III. OPEN BURNING⁷

Sec. 16-54. Purpose.

This article is intended to promote the public health, safety and welfare and to safeguard the health, safety and welfare of the citizens of the Township of Hamburg, Michigan by regulating the air pollution and fire hazards of open burning and outdoor burning.

(Ord. No. 40-F, § 1.0, 11-9-2017)

Sec. 16-55. Applicability.

- (a) This article applies to all outdoor burning and open burning within the Township.
- (b) This article does not apply to grilling or cooking food using charcoal, clean wood, propane or natural gas in cooking or grilling appliances.
- (c) This article does not apply to burning for the purpose of generating heat in a stove, furnace, fireplace or other heating device within a building used for human or animal habitation.
- (d) This article does not apply to the use of propane, acetylene, natural gas, gasoline or kerosene in a device intended for heating, construction or maintenance activities.

(Ord. No. 40-F, § 2.0, 11-9-2017)

⁷State law reference(s)—Open burning of grass and leaves, MCL 324.11522.

Sec. 16-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Campfire means a small outdoor fire intended for recreation or cooking but not including a fire intended for disposal of waste, wood or refuse.

Clean wood means natural wood which has not been painted, varnished or coated with a similar material; has not been pressure treated with preservatives; and does not contain resins or glues as in plywood or other composite wood products.

Construction and demolition waste means building waste materials, including, but not limited to, waste shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, and rubble that results from construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other structure.

Fire Chief means the Chief of the Hamburg Township Fire Department or other person designated by the fire chief.

Open burning means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

Outdoor burning means open burning or burning in an outdoor wood-fired boiler or patio wood-burning unit.

Outdoor wood-fired boiler means a wood-fired boiler, stove or furnace that is not located within a building intended for habitation by humans or domestic animals.

Patio wood-burning unit means a chimney, patio warmer, or other portable wood-burning device used for outdoor recreation and/or heating.

Refuse means any waste material, garbage, animal carcasses, and trash or household materials except trees, logs, brush, stumps, leaves, and other vegetative matter.

(Ord. No. 40-F, § 4.0, 11-9-2017)

Sec. 16-57. General prohibition on outdoor burning and open burning.

Except as provided in this article, open burning and outdoor burning are prohibited in the Township of Hamburg.

(Ord. No. 40-F, § 5.0, 11-9-2017)

Sec. 16-58. Open burning or refuse.

Open burning of refuse or grass clippings is prohibited.

(Ord. No. 40-F, § 6.0, 11-9-2017)

Sec. 16-59. General prohibition of trees, logs, brush, stumps, leaves and grass clippings.

Open burning of trees, logs, and leaves is allowed only in accordance with all the following provisions.

- (1) Except fires occurring during the times specified in subsection (7) of this section, a permit issued in accordance with section 16-62 must be obtained prior to open burning under this section.

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- (2) Except for barbecue, gas, and charcoal grills, no open burning shall be undertaken during periods when the governor of the state has issued a burning ban applicable to Hamburg Township.
 - (3) All allowed open burning shall not create a visibility hazard on roadways, railroads, or airfields. Open burning shall be conducted in conformance with all local and state fire protection regulations.
 - (4) Open burning shall be conducted only on the property on which the materials were generated or naturally deposited.
 - (5) Outdoor campfires for cooking, ceremonies, or recreation are allowed. Said fires may be around a home or place of residence, within the curtilage of said dwelling where the material to be burned has been properly placed in a debris burner constructed of metal or masonry. Said burners shall not be larger than three feet square or three feet in diameter and located not less than 25 feet away from any building or less than ten feet from any adjoining line. Said campfires must be supervised at all times by an adult. No permits shall be required for such fires. Except as provided in this article, leaf burning is specifically prohibited.
 - (6) Open burning under this section shall only be conducted at a location at least 25 feet from the nearest building and ten feet from any property line.
 - (7) Except for campfires, open burning shall only be conducted during months of April, May, October and November. Burning hours are from sunrise to sunset, local time.
 - (8) Open burning shall be constantly attended and supervised by a competent person of at least 18 years of age until the fire is extinguished and is cold. The person shall have readily available for use such fire extinguishing equipment as may be necessary for the total control of the fire. One adult must be in attendance of each fire (i.e., three fires equals three attendees). The adults in attendance must be free from the effects of alcohol and/or illegally used controlled substances and/or over the counter medicines and/or prescribed medications that may impair proper judgement.
 - (9) Open burn fires must not exceed eight feet in diameter or square or be within 25 feet of a lake, stream or river.
 - (10) No materials may be burned upon any street, curb, gutter, sidewalk or active railroad right-of-way.
 - (11) Barbecue, gas, charcoal grills and patio wood-burning units are exempt under this section.
 - (12) The fire chief or designee shall have the authority to implement a temporary burning ban due to environmental conditions, including, but not limited to, high winds or extreme dry conditions. The Fire Department shall make a reasonable attempt to inform the public of the ban using available resources. If a temporary burning ban is imposed, the fire chief or designee shall have the authority to implement alternate open burning times. The alternate burning times shall be comparable in length to the temporary burning ban.
 - (13) The Township Board may temporarily suspend any of the terms and conditions of this article for reasons it deems appropriate. The Township Board, after consultation with the fire chief or the fire marshal, may allow additional open burning times if a storm results in large amounts of downed trees, branches and/or leaves. Such additional open burns shall otherwise comply with the applicable requirements of this article.

(Ord. No. 40-F, § 7.0, 11-9-2017)

Sec. 16-60. Outdoor wood-fired boilers.

An outdoor wood-fired boiler may be installed and used in the Township of Hamburg only in accordance with all of the following provisions:

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- (1) The outdoor wood-fired boiler shall not be used to burn refuse and shall be used to burn only clean wood.
 - (2) The outdoor wood-fired boiler shall be located at least 100 feet from the nearest residential dwelling which is not on the same property as the outdoor wood-fired boiler.
 - (3) The outdoor wood-fired boiler shall have a chimney that extends at least 15 feet above the ground surface or three feet above the building it serves, whichever is greater. In addition, the chimney shall extend three feet above the highest peak of any residence located within 500 feet from the wood-fired boiler. The fire chief or designee may approve a lesser height on a case-by-case basis if, in the opinion of the fire chief or designee, it is necessary to comply with the manufacturer's recommendations and if a lower chimney height does not create a nuisance for neighbors.
 - (4) The owner of the outdoor wood-fired boiler shall obtain a permit from the fire chief prior to any installation and the final installation shall be inspected by the fire chief and only put into operation with written approval from the fire chief. The purpose of the fire chief's inspection will only be to ensure compliance with this article and shall not be considered a safety inspection.

(Ord. No. 40-F, § 8.0, 11-9-2017)

Sec. 16-61. Patio wood-burning units.

A patio wood-burning unit may be installed and used in the Township of Hamburg only in accordance with all of the following provisions:

- (1) The patio wood-burning unit shall not be used to burn refuse.
- (2) The patio wood-burning unit shall burn only clean wood.
- (3) The patio wood-burning unit shall be located at least 25 feet from the nearest structure which is not on the same property as the patio wood-burning unit.

(Ord. No. 40-F, § 9.0, 11-9-2017)

Sec. 16-62. Burn permits.

- (a) For all fires not otherwise defined in this article and for fires which would otherwise result in the violation of specifications and requirements of this article, a permit shall be obtained through the Hamburg Township Fire Department. The fire chief or the fire chief's designee has the discretion to issue all such permits. The application must be made to the Hamburg Township Fire Department at least 30 days in advance of any such fire. The fire chief or the fire chief's designee shall immediately notify the Hamburg Township Board of any such application.
- (b) A burning permit for a special event fire is necessary. Special event fires are those which are normally incident to commemorative or celebration events that are sponsored by schools, municipalities, and other charitable type organizations. Any person, partnership, firm, association, corporation, other entity seeking a special event fire must make application to and obtain from the Hamburg Township Fire Department a permit for such fire. A formal written request must be made to the Hamburg Township Fire Department, c/o the fire chief, at least 30 days in advance of any such special event fire.
- (c) The fire chief or designee shall immediately notify the Hamburg Township Board of any such application.

(Ord. No. 40-F, § 10.0, 11-9-2017)

Sec. 16-63. Liability.

A person utilizing or maintaining an outdoor fire shall be responsible for all fire suppression costs and any other liability resulting from damage caused by the fire.

(Ord. No. 40-F, § 11.0, 11-9-2017)

Sec. 16-64. Right of entry and inspection.

Upon probable cause of a possible violation of this article, the fire chief or any authorized officer, agent, employee or representative of the Township of Hamburg who presents credentials may inspect any property for the purpose of ascertaining compliance with the provisions of this article.

(Ord. No. 40-F, § 12.0, 11-9-2017)

Sec. 16-65. Enforcement and penalties.

- (a) The enforcing authority for this article shall be the Hamburg Township Board, Hamburg Township Police Department, Hamburg Township Fire Department, or the Hamburg Township Zoning Department.
- (b) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (c) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 40-F, § 13.0, 11-9-2017)

Sec. 16-66. Recovery of costs, charges for Fire Department services and administrative services.

The method of recovery of costs incurred by the Township in providing emergency services and equipment, set forth in Hamburg Township Ordinance No. 98, is incorporated herein by reference.

(Ord. No. 40-F, § 14.0, 11-9-2017)

Chapter 18 LAND DEVELOPMENT⁸

ARTICLE I. IN GENERAL

Secs. 18-1—18-18. Reserved.

⁸State law reference(s)—Michigan Planning Enabling Act, MCL 125.3801 et seq.; Condominium Act, MCL 559.101 et seq.; Land Division Act, MCL 560.101 et seq.

ARTICLE II. CONDOMINIUMS

DIVISION 1. GENERALLY

Sec. 18-19. Purpose.

The purpose of this article is to regulate the creation and use of condominiums within Hamburg Township and to promote and protect the public health, safety and welfare.

(Ord. No. 46-B, § 1.1, 2-19-2019)

Sec. 18-20. Legal authorization.

This article is enacted pursuant to the statutory authority conferred by the Condominium Act, Public Act No. 59 of 1978, as amended; the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.); and the Township Ordinance Act, Public Act No. 246 of 1945 (MCL 41.181 et seq.), as amended, whereby all developments utilizing any form of condominium subdivision of land may be reviewed and approved by the Township Planning Commission and the Township Board.

(Ord. No. 46-B, § 1.2, 2-19-2019)

Sec. 18-21. Applicability.

The provisions of this article shall apply to the creation, use and approval of condominiums and site condominiums after the effective date of the ordinance from which this article is derived.

(Ord. No. 46-B, § 1.3, 2-19-2019)

Sec. 18-22. Fees.

The Township Board shall establish by resolution a schedule of fees to be charged to the petitioner with respect to application administration, planning and engineering review, legal review and final inspection of all condominium developments.

(Ord. No. 46-B, § 1.4, 2-19-2019)

Sec. 18-23. Violations.

- (a) Any person who shall violate any part of the terms of this article shall be responsible for a municipal civil infraction. The fines and penalties, as set forth in section 1-45, are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 46-B, § 1.5, 2-19-2019)

Sec. 18-24. Definitions.

The definitions in the Hamburg Township Zoning Ordinance, in addition to following definitions, shall apply in the construction and application of this section. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building envelope means the area in which a principal structure together with any attached accessory structures (e.g., in a residential development, the building envelope would refer to the house and any attached garage) may be located.

Condominium Act means Public Act No. 59 of 1978 (MCL 559.101 et seq.), as amended.

Condominium subdivision plan means the drawings and information along with a master deed pursuant to the Condominium Act. The term "condominium subdivision plan" must contain not less than the following:

- (1) A cover sheet.
- (2) A survey plan.
- (3) A floodplain, if the condominium lies within or abuts a floodplain area.
- (4) A site plan.
- (5) A utility plan.
- (6) Floor plans (if applicable).
- (7) The size, location, area, and horizontal boundaries of each condominium unit.
- (8) A number assigned to each condominium unit.
- (9) The vertical boundaries and volume for each unit comprised of enclosed air space.
- (10) Building sections showing the existing and proposed structures and improvements including their location on the land. Any proposed structure and improvement shown shall be labeled either "must be built" or "need not be built." To the extent that a developer is contractually obligated to deliver utility conduits, buildings, sidewalks, driveways, landscaping and an access road, the same shall be shown and designated as "must be built," but the obligation to deliver such items exist whether or not they are so shown and designated.
- (11) The nature, location, and size of the common elements.
- (12) Other items the zoning administrator, planning commission or Township Board may require.

Condominium unit lot lines.

Front condominium lot line means the line separating the front yard of a condominium unit from any abutting property.

Rear condominium lot line means the condominium unit line, which is opposite and most distant from the front condominium unit lot line.

Side condominium lot line means any condominium unit lot line that is not a front or rear condominium unit lot line.

Consolidating master deed means the final amended master deed for a contractible condominium project, an expandable condominium project, or a condominium project containing convertible land or convertible space, and fully describes the condominium project as complete.

Contractible condominium means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to express provisions in the condominium and in accordance with the Ordinance and the Condominium Act.

Conversion condominium means a condominium project containing condominium units, some or all of which were occupied before the establishment of the condominium project.

Convertible area means a unit or portion of the common elements of the condominium project referred to in the condominium documents within which additional condominium units or general or limited common elements may be created in accordance with this article and the Condominium Act.

Design standards means those standards referenced in section 36-292.

Developer means a person engaged in the business of developing a condominium project as provided in the act. The term "developer" does not include the following:

- (1) A real estate broker acting as agent for the developer in selling condominium units.
- (2) Other persons exempted from this definition by rule or order of the state department of licensing and regulatory affairs or the appropriate state agency or its successor or the administrator thereof.

Expandable condominium means condominium documents and in accordance with this article and the Condominium Act.

Front yard means:

- (1) In the case of a condominium unit which consists solely of a building envelope, a yard extending across the front of a building envelope and extending between the side condominium unit lot lines and measured between the front condominium unit lot line and any adjacent forms of property ownership;
- (2) In the case of a condominium unit which includes a greater area than a building envelope, a yard existing across the front of a building envelope between the side condominium unit lot line.

Front yard setback means the distance between the front yard area line and the building envelope.

Master deed means the condominium document recording the condominium project to which is attached as exhibits and incorporated by reference the approved bylaws for the project, the approved condominium subdivision plan for the project, and a list of all conditions of approval imposed by Township review agencies.

Mobile home condominium project means a condominium project in which mobile homes are intended to be located upon separate sites which constitute individual condominium units.

Rear yard means:

- (1) In the case of a condominium unit which consists solely of a building envelope, a yard extending across the rear of a building envelope and extending between the side condominium unit lot lines and measured between the rear condominium unit lot line and any abutting forms of property ownership;
- (2) In the case of a condominium unit which includes a greater area than a building envelope, a yard extending across the rear of a building envelope between the side condominium unit lot lines and measured between building envelope and the condominium unit lot line.

Rear yard setback shall be equal to the distance between the rear yard area line and the building envelope.

Side yard means:

- (1) In the case of a condominium unit which consists solely of a building envelope, a yard between the side of a building envelope, a yard between the side of a building envelope and any adjacent form of property ownership and extending from the rear boundary line of the building envelope to the front boundary line of the building envelope.

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- (2) In the case of a condominium unit which includes a greater area than a building envelope, a yard between the side of the building envelope and the side condominium unit lot line and extending from the rear line of the building envelope to the front line of the building envelope.

Side yard setback shall be equal to the distance between the side yard area line and the building envelope.

Subdivision regulations means and refers to the Hamburg Township Subdivision Plat Ordinance No. 24C as has or may be amended, incorporated as part of this section by reference.

Yard, as used in this article, means:

- (1) In the case of a condominium unit solely consisting of a building envelope, a yard shall be that area of open space between such building envelope and any adjacent forms of property ownership.
- (2) In the case of a condominium unit which includes a greater area than a building envelope, a yard shall be an open space between the lot lines of the condominium unit and the building envelope.

Yard area lines.

Front yard area line means a line which demarcates the front yard of a condominium unit, but not including a side condominium unit lot line and nor any line abutting the building envelope.

Rear yard area line means a line which demarcates the rear yard of a condominium unit, but not including a side condominium unit lot line nor any line abutting the building envelope.

Side yard area line means that line which demarcates the side yard of a condominium unit, not including front or rear condominium unit lot lines.

Zoning administrator means the Hamburg Township Zoning Administrator.

(Ord. No. 46-B, § 1.6, 2-19-2019)

Secs. 18-25—18-51. Reserved.

DIVISION 2. GENERAL REQUIREMENTS AND STANDARDS

Sec. 18-52. Notice of intent.

It is the duty of the applicant to ascertain that the clerk receives a copy of the notice of intent as required by section 71 of Public Act 59 of 1978, as amended (MCL 559.171).

(Ord. No. 46-B, § 2.0, 2-19-2019)

Sec. 18-53. Compliance with federal, state and local law.

All condominium projects shall comply with applicable federal and state statute and local ordinances.

(Ord. No. 46-B, § 2.1, 2-19-2019)

Sec. 18-54. Monuments required.

- (a) All site condominium projects shall be marked with monuments at all unit corners and as may be required in the Condominium Act and any Michigan Administrative Rules promulgated under said Act. Developer shall provide performance guarantees as required per section 36-102, as may be amended.

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- (b) All other condominium projects shall be marked with monuments as provided in the Condominium Act, as amended. Developer shall provide performance guarantees as required per section 36-102, as may be amended.

(Ord. No. 46-B, § 2.2, 2-19-2019)

Sec. 18-55. Relocation of boundaries.

The relocation of boundaries, as described in section 48 of the Condominium Act, as amended, shall also comply with all applicable Township Ordinances.

(Ord. No. 46-B, § 2.3, 2-19-2019)

Sec. 18-56. Zoning standards.

All condominium projects shall be located in the appropriate zoning district for their intended use and shall comply with all design and zoning standards.

(Ord. No. 46-B, § 2.4, 2-19-2019)

Sec. 18-57. Information to be kept current.

All information applicable to a condominium project shall be furnished to the zoning administrator and shall be kept updated until such time as certificates of occupancy for all units have been issued.

(Ord. No. 46-B, § 2.5, 2-19-2019)

Sec. 18-58. Amendment of master deed.

Any proposed amendment of a master deed which would have any direct or indirect effect upon any matter reviewed or approved under this article shall be reviewed and approved by the planning commission prior to recording.

(Ord. No. 46-B, § 2.6, 2-19-2019)

Sec. 18-59. Issuance of land use permits.

- (a) Land use permits for homes or structures shall not be issued by the zoning administrator until the roads servicing the condominium unit in question has been constructed and approved by all local, county and state entities having jurisdiction over said roads or, in the alternative, until such time that the provisions of section 36-102 have been met.

- (b) All other land use permits will be issued in accordance with procedures established by the Township.

(Ord. No. 46-B, § 2.7, 2-19-2019)

Secs. 18-60—18-76. Reserved.

DIVISION 3. PROCEDURE

Sec. 18-77. New projects; required review and approval.

- (a) Prior to the recording of the master deed required by section 72 of Public Act No. 59 of 1978, as amended (MCL 559.108), the condominium project shall undergo: site plan review as required in the Township Zoning Ordinance.
- (b) Approval under this article shall be required as a condition to the right to construct, expand or convert a condominium project in Hamburg Township.

(Ord. No. 46-B, § 3.0, 2-19-2019)

Sec. 18-78. Site plan; expandable or convertible projects.

A developer of a condominium project shall submit the following information in addition to any information required for site plan review in the Township Zoning Ordinance to the zoning administrator. Required information is as follows:

- (1) Project name.
- (2) Name, address and telephone number of the provider.
- (3) Name, address, telephone number and seal of the surveyor or engineer who prepared the plan.
- (4) Date of preparation.
- (5) Proof of ownership or legal connection with the property.
- (6) The project property tax code number.
- (7) A metes and bounds legal description of the project accurate to the nearest $\frac{1}{100}$ th of an acre with the certification of a licensed surveyor.
- (8) Vicinity map showing the relationship of the project to the surrounding area within one mile.
- (9) Topographic map of the existing site with contours at two-foot intervals and indicating drainage patterns.
- (10) The location of all significant natural features, such as watercourses, floodplains, surface water, wetlands, slopes greater than 20 percent and wood lots.
- (11) North arrow and scale of the plan (not greater than one inch equals 200 feet).
- (12) The proposed layout, numbers, dimensions, and building grades of each condominium unit.
- (13) Street names and right-of-way widths and identification as public and private.
- (14) Location of existing and proposed sewers, culverts, water mains, storm drains, other underground facilities, and electrical, telephone and gas lines within or adjacent to the project site.
- (15) All easements by type and dimension (existing and proposed).
- (16) All parcels to be dedicated or reserved for public use or as private common areas.
- (17) A grading and drainage plan.
- (18) Water supply plan.
- (19) Sewage disposal plan.
- (20) Soil test borings prepared in accordance with Livingston County Health Department standards.

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- (21) A schedule of project area, height, and bulk requirements.
 - (22) The master deed, bylaws and deed restrictions.
 - (23) Construction plans and documents.

(Ord. No. 46-B, § 3.1, 2-19-2019)

Sec. 18-79. Additional filings required.

Subsequent to the recording of the master deed, bylaws and deed restrictions and subsequent to the construction of improvements, the developer shall file the following information with the Township Clerk:

- (1) Three prints of the as-built condominium subdivision plans with surveys.
- (2) Two copies of the recorded master deed, bylaws, and deed restrictions with all pertinent attachments.
- (3) Certification from the developer's engineer that improvements have been installed in conformance with the approved construction drawings and that monuments have been set.

(Ord. No. 46-B, § 3.4, 2-19-2019)

Secs. 18-80—18-101. Reserved.

DIVISION 4. LEGAL PROVISIONS

Sec. 18-102. Conflict with other laws.

- (a) Where any condition imposed by any provision of this article upon the use of any condominium unit, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of this article, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive, or which imposes a higher standard or requirement, shall govern.
- (b) This article is not intended to abrogate or annul any easement, covenant or other private agreement provided that where any provision of this article is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provisions of this article shall govern.

(Ord. No. 46-B, § 4.3, 2-19-2019)

Secs. 18-103—18-132. Reserved.

ARTICLE III. LAND DIVISION

Sec. 18-133. Land divisions, combinations and boundary adjustments.

Land divisions, combinations and boundary adjustments can be applied for by the property owners or the Township if deemed necessary.

(Ord. No. 95-A, § 1.0, 10-2-2018)

Sec. 18-134. Recorded plats.

- (a) Statement of purpose. No divisioning or partitioning of any parcel in a recorded plat is permitted unless specifically approved by the Township Staff in accordance with section 263 of Public Act No. 288 of 1967 (MCL 560.263), as amended, and the provisions of this article.
- (b) Where the application states that the purpose is to add to adjoining existing building sites and not to create separate building sites, the Township Staff may approve the application. When a separate building site is created by division of a recorded lot in a plat, no approval of the application by the Township Staff shall be given until assurance is provided that the septic system and well can be installed in accordance with the standards of the Livingston County Health Department.
- (c) No lot in a recorded plat shall be divided into more than four parts.
- (d) No application shall be approved unless the minimum requirements of this article are met.

(Ord. No. 95-A, § 2.0, 10-2-2018)

Sec. 18-135. Unplatted land.

- (a) *Statement of purpose.* This section is intended to establish an orderly procedure and standards of review for divisions of land within the Township in a manner consistent with the Master Plan, the purpose of this article, the protection of property values, to ensure adequate vehicular access to lots and as a means to promote compliance with the Hamburg Township subdivision control ordinance.
- (b) *Applicability.* This section regulates divisions of land or lease of more than one year, or for building site development, for any parcel of unplatted land proposed to be divided into not more than four parcels each containing ten acres or less, or into additional parcels each containing more than ten acres. A combination of unplatted lots shall be in accordance with the same standards and procedures.

(Ord. No. 95-A, § 3.0, 10-2-2018)

Sec. 18-136. Process.

- (a) *Procedure.*
 - (1) The applicant shall submit an application requesting to divide, combine or transfer property including the information listed in chapter 22, article III (Ord. No. 95-A).
 - (2) The application shall be submitted to the Township Assessor or other official designated by the governing body. As a part of the application, the applicant shall receive verification from the Township Assessor that lot splits are available on the subject lot.
 - (3) The application shall be reviewed by the Township Treasurer. The applicant shall also receive verification from the Township Treasurer and any other taxing agencies that all taxes have been paid on the lots in question.
 - (4) The application shall be reviewed by the zoning administrator. The applicant shall receive verification from the zoning administrator that the project meets the required zoning regulations and the lot has adequate access.
 - (5) The application shall be reviewed by the Township Utilities Department.
 - (6) The application shall be reviewed by the supervisor.

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- (7) The Township Staff may request review and comment from public safety agencies, the fire department, the Township Engineer and Township Planner.
 - (8) Once all the reviews are complete the Township Supervisor or his designee shall either approve, approve with conditions or deny the requested land divisions. If denied, the reasons for denial shall be written into a letter and sent to the applicant.
 - (9) If the land division is approved, the Township Assessor, or other official designated by the governing body, shall prepare the required documentation and record the land division information with the County Register of Deeds.
- (b) *Submittal requirements.* Three copies of a plan shall be submitted to the assessor or other official designated by the governing body. The submittal shall include all of the following:
- (1) A completed application on such written form as the Township provides and payment of the applications fee.
 - (2) Proof of ownership interest in the land which is subject to the proposed application.
 - (3) A statement indicating any restrictions and/or covenants which apply to or run with the land having bearing upon the proposed division.
 - (4) If access is along a public road, the applicant shall provide documentation from the county road commission stating the proposed lot has adequate sight distance.
 - (5) Where easements are needed, written documentation of their availability shall be provided.
 - (6) Any due or unpaid taxes, special assessments, or sewer fees upon the property shall be paid before the division of land is given final approval.
 - a. In the event the proposed division of land is located in a special assessment district, prior to any division of the land, the owner of the same shall acknowledge in writing, that each resulting lot, parcel or tract, shall be specially assessed according to the established formula of the district.
 - b. In the event of combinations of property, it shall be acknowledged in writing by the owner prior to combination that the special assessment on the resulting parcel or tract of land shall not be less than the total amount of the special assessments on the lots, parcels or tracts proposed to be combined, unless allowed by law.
 - c. In the event any proposed division of land is located in an established sewer district, no division of land shall be permitted unless there exists adequate sewer capacity for each resulting parcel or tract. All additional sewer capacity required by any proposed land division shall be paid in full prior to the assignment of any tax codes for the resulting lot, parcels, or tracts of land.
 - (7) When a separate building site is created by division, the applicant shall provide a letter from the Livingston County Health Department that states a septic system and well can be installed in accordance with the required standards if needed.
 - (8) When determined to be necessary by the assessor's office: A survey and plan of the lot to be divided, accurately drawn at a scale of not smaller than one inch equals 100 feet, prepared by a registered land surveyor or civil engineer licensed to practice in the state. The plan shall show:
 - a. All existing buildings and structures on the site and located on abutting property within 50 feet of the lot to be divided;
 - b. Driveways on the lot to be divided and within 250 feet of any lot frontage (on both sides of the roadway);
 - c. Boundaries of any water body or wetland over two acres in size;

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- d. All proposed divisions, with complete dimensions and area of each proposed resultant parcel;
 - e. Proposed easements locations, with dimensions;
 - f. Proposed limits within which principal structure and accessory building shall be confined on such parcel, with dimensions.
- (9) When determined to be necessary by the assessor's office: An adequate and accurate legal description of each resulting parcel.
- (10) The time period for approval shall not commence until all of the requirements for an application have been completed.
- (c) *Standards for review.* In reviewing a requested land division regulated by this article, the following shall be considered:
- (1) The proposed division, together with any previous division of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under the Land Division Act.
 - (2) The depth to width ratio of any parcel created by the proposed division, exclusive of access roads, easements, or non-developed sites, shall not exceed four to one, except for:
 - a. Parcels approved as a part of a subdivision, site condominium and planned unit development;
 - b. Parcels greater than ten acres;
 - c. Parcels that are the remainder of the parent parcel or parent tract retained by the proprietor;
 - d. Parcels having more than one-half of their street frontage on a cul-de-sac:
 - 1. In the case of an unimproved corner lot or corner lot, the depth of a lot or parcel shall be measured midway between the side lot lines and from the front lot line to the rear lot line along the dimension of the lot comprising the greatest distance.
 - 2. The Township Supervisor or his designee may permit the creation of a lot or parcel which does not comply with this section. In determining whether to grant its approval, the Township Supervisor or his designee shall first find that:
 - (i) The greater depth is necessitated by conditions of the land in question, such as topography, street access, soils, wetlands, or floodplain; and
 - (ii) The creation or use of the lot will not conflict with other Township ordinances and regulations, unless an appropriate variance is received from other ordinances or regulations.
 - (3) Easements. Any lot or parcel created shall include adequate provision or easements for current or future public utilities and franchised utilities.
 - (4) Access. No lot or parcel shall be created unless accessibility is provided either by a public street or private road within a permanent easement. All public roads shall meet the standards of the county road commission. All private roads shall be designed and constructed according to the Hamburg Township Private Road Ordinance. The number, spacing, location and design of driveways meet the standards contained in sections 36-335 through 36-344.
- (d) *Duration of approval.* A decision approving of a land division, adjustment, or merger application shall be effective for up to one year, unless either of the following requirements are satisfied within that one-year period:

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- (1) A deed or other recordable instrument of conveyance, accurately describing the resulting parcels, other than the remainder of the parent parcel or parent tract retained by the applicant, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Township Assessor's Office;
 - (2) A survey, accurately showing the resulting parcels, shall be recorded with the county register of deeds and a true copy thereof, showing proof of such recording, shall be filed with the Township Assessor's Office. Such survey shall comply with the minimum requirements of Public Act No. 132 of 1970 (MCL 54.211 et seq.).
 - (3) If the requirements of subsection (d)(1) or (2) of this section are not satisfied within one year of the approval, such land division approval shall, without further action of the Township, be deemed revoked.

(Ord. No. 95-A, § 4.0, 10-2-2018)

Sec. 18-137. Civil infraction.

- (a) Any person who shall violate any part of the terms of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 95-A, § 5.0, 10-2-2018)

Secs. 18-138—18-157. Reserved.

ARTICLE IV. SUBDIVISIONS⁹

DIVISION 1. GENERALLY

Sec. 18-158. Purpose.

The purpose of this article is to carry out the provisions of the Land Division Act, Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended (formerly known as the Subdivision Control Act), and to regulate and control the subdivision of land within the Township, in order to promote the safety, public health and general welfare of the community.

(Ord. No. 24-C, § 1.1, 4-7-2020)

Sec. 18-159. Legal authorization.

This article is enacted pursuant to the statutory authority granted by the Township Planning Commission Act, Public Act No. 168 of 1959, as amended; and the Land Division Act, Public Act No. 288 of 1967, as amended. All

⁹State law reference(s)—Michigan Planning Enabling Act, MCL 125.3801 et seq.; Land Division Act, MCL 560.101 et seq.; Condominium Act, MCL 559.101 et seq.

plats submitted to the Township Board for approval shall be made, approved, filed, recorded, revised and vacated in the manner provided by the Michigan Land Division Act of 1967, and in the manner and in accordance with the provisions of this article as hereinafter set forth.

(Ord. No. 24-C, § 1.2, 4-7-2020)

Sec. 18-160. Application.

This article shall not apply to any lot or lots forming a part of a subdivision created and recorded prior to the effective date of the ordinance from which this article is derived, except for further dividing of existing lots. Nor is it intended by this article to repeal, abrogate, annul, or in any way impair or interfere with existing provisions of other laws, ordinances or regulation, or with private restrictions placed upon property by deed, covenant or other private restrictions placed upon property of deed, covenant or other private agreements, or with restrictive covenants running with the land to which the Township is a party. Where this article imposes a greater restriction upon land than is imposed or required by such existing provisions of any other ordinance of the Township, the provisions of this article shall prevail.

(Ord. No. 24-C, § 1.3, 4-7-2020)

Sec. 18-161. Conformance with zoning ordinance.

All plats reviewed under these regulations shall conform to all zoning ordinance provisions for the district in which the proposed plat is to be located. All required zoning changes shall be made prior to tentative approval of the preliminary plat by the Township Board.

(Ord. No. 24-C, § 1.4, 4-7-2020)

Sec. 18-162. Fees.

- (a) The Township Board shall establish, by resolution, a schedule of fees, charges and expenses for preliminary and final plat review, planning review, engineering review, attorney, inspection and other matters pertaining to this article. The schedule shall be available in the Township Office and may be amended only by the Township Board.
- (b) Any special meeting of the planning commission requested by the developer shall be paid for by the developer prior to said meeting at the rate of a special meeting.
- (c) Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application.

(Ord. No. 24-C, § 1.5, 4-7-2020)

Sec. 18-163. Violation.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
- (c) The fines and penalties in section 1-45 are incorporated herein by reference.

(Ord. No. 24-C, § 1.6, 4-7-2020)

Sec. 18-164. Severability.

- (a) Should any article, section, subsection, paragraph, subparagraph, sentence, or clause of this article be declared by a court of competent jurisdiction to be unconstitutional or invalid, that holding shall not affect the validity of this article in whole or part, other than that part declared to be unconstitutional or invalid.
- (b) Where extraordinary circumstances exist or there are practical difficulties in complying with a certain provision or requirement of this article, the Township Board may, at their discretion, vary or modify any of the provisions or requirements herein contained at a particular instance so that the spirit of the ordinance shall be observed and an adequate development be encouraged.

(Ord. No. 24-C, § 1.7, 4-7-2020)

Secs. 18-165—18-181. Reserved.

DIVISION 2. DEFINITIONS, AGENCIES

Sec. 18-182. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

As-built plans means revised construction plans in accordance with all approved field changes.

Buffer strip means a strip or parcel of land, privately restricted or publicly dedicated as open space intended to minimize conflicts between incompatible land uses.

Date of filing means the date upon which the zoning administrator certifies a submittal to be complete.

Dedication means the intentional transfer by the proprietor to the public of the ownership of, or an interest in, land for a public purpose.

Design standards means the engineering and design standards adopted by Hamburg Township.

Easement means an interest in land owned by another which entitles the owner or owners of the easement to a limited use or enjoyment of the land. An easement may be created in favor of the public generally, federal and state agencies, municipal and private corporations and individuals.

Engineer means a civil engineer who is registered in the state as a registered professional engineer.

Improvements means any structure or material change incident to servicing or furnishing facilities for a subdivision such as, but not limited to, grading, street surfacing, curb and gutter, driveway approaches, sidewalks, pedestrianways, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals, and other appropriate items, with appurtenant construction; demolition of structures; planting or removal of trees and other vegetation cover.

Master plan means the Master Plan for the Township of Hamburg, Livingston County, Michigan, as adopted by the planning commission in accordance with Public Act No. 168 of 1959, as amended.

Outlot, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a development site, park or other land dedicated to public use or reserved to private use. (The definition of the term "outlot" applies to outlots platted after January 1, 1968.)

Pedestrianway means a separate right-of-way dedicated to or reserved for public use by pedestrians, which crosses blocks or other tracts of land for the purpose of facilitating pedestrian access to adjacent streets and properties.

Planning commission means the Planning Commission of Hamburg Township as established under Public Act No. 168 of 1959, as amended.

Proprietor means any person or any combination of persons, including a government agency, undertaking any development as defined in this article. The term "proprietor" includes such commonly used references as subdivider, developer, and owner.

Public utility means all persons, firms, corporations, or municipal or other public authority providing gas, electricity, water, steam, telephone, telegraph, storm sewers, sanitary sewers, transportation, or other services of a similar nature.

Right-of-way means a street, alley or other thoroughfare or easement permanently established for the passage of persons or vehicles.

Sidewalk means a facility, placed within the right-of-way of existing streets, or a facility connecting buildings, parking lots, or other activities having access to the street right-of-way, for the purpose of providing safe movement of pedestrians.

Subdivide or subdivision means the partitioning or splitting 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 of building development that results in one or more parcels of less than 40 acres or the equivalent, and that is not exempted from the platting requirements of the Land Division Act by sections 108 and 109 of the Act (MCL 560.108 and 560.109). The term "subdivide" or "subdivision" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of this chapter.

Land Division Act means Public Act No. 288 of 1967 (MCL 560.101 et seq.), as amended.

Surveyor means a land surveyor who is registered in the state as a registered land surveyor.

Topographical map means a map showing existing physical characteristics, with contour lines at sufficient intervals to permit determination of proposed grades and drainage.

Township Engineer means the staff engineer or consulting engineer of the Township.

Township Planner means the staff planner or consulting planner of the Township.

Zoning ordinance means the Hamburg Township Zoning Ordinance.

(Ord. No. 24-C, § 2.0, 4-7-2020)

Sec. 18-183. Agencies.

Approval by the following agencies may be required:

- (1) Department of transportation (MDOT): Michigan Department of Transportation.
- (2) Michigan Department of Commerce: Michigan Department of Licensing and Regulatory Affairs or the appropriate state agency or its successor.
- (3) Department of public health: Livingston County Health Department.
- (4) Department of natural resources (DNR): Michigan Department of Natural Resources or their successive agency.

Secs. 18-184—18-204. Reserved.

DIVISION 3. PLAT PROCEDURES AND REQUIREMENTS

Sec. 18-205. Preliminary plat—Tentative approval.

- (a) *Filing.* The proprietor shall file ten copies of the preliminary plat together with fees, proof of ownership, and a written request with the Township Clerk at least 30 days prior to the planning commission meeting at which the plat is to be considered. The clerk or other Township Staff Designee shall check the completeness of the submittal, and, if complete, transmit same to the planning commission for the next regular meeting. If the application is not complete, the clerk or other Township designee shall so notify the applicant in writing and shall list deficiencies.
- (b) *Required information.*
- (1) Name and address of the proprietor and proof of ownership, and the name and address of the engineer or surveyor who prepared the plat.
 - (2) Name of proposed subdivision and full legal description of the parcel to be subdivided. The legal description must bear the certificate of a surveyor.
 - (3) Date of plat preparation, north arrow, and scale of plat, which shall not be greater than 200 feet to the inch.
 - (4) Area maps showing the relationship of the proposed subdivision to the surrounding area within one-half mile.
 - (5) Map of existing topography at two-foot contour intervals. Existing surface drainage shall be indicated.
 - (6) If the site is not served by public water and sewer, soil test borings must be prepared in accordance with the standards of the Livingston County Health Department. Borings shall be taken at a minimum of one per lot.
 - (7) Layout of streets indicating proposed street names; right-of-way widths; and connections with, and location and width of platted streets, alleys, easements and public walkways.
 - (8) Layouts, numbers and dimensions of lots, including building setback lines showing dimensions and finished grade elevations and schedule of lot sizes.
 - (9) Location, widths and names of existing or prior easements of record, public and/or private.
 - (10) Location of existing sewers, culverts, water mains, storm drains, other underground facilities and electricity, telephone, and gas lines within or adjacent to the tract being proposed for subdivision.
 - (11) Proposed plans for surface drainage, water supply and sewage disposal.
 - (12) The location of significant natural features, such as watercourses, floodplains and wetlands, bodies of water, stands of trees, and individual trees (apart from stands of trees) having a caliper of 12 inches or greater, within the area to be platted.
 - (13) All parcels or lands to be dedicated or reserved for public use or for use in common property owners in the subdivision shall be indicated on the preliminary plat, along with any conditions of such dedication or reservation.
 - (14) If the subdivision is to be developed in stages, the relation of each stage to the entire subdivision plan shall be clearly indicated.

(15) A statement of proposed deed restrictions or protective covenants, if any.

(c) *Review procedures.*

- (1) The planning commission shall review the preliminary plat for conformance with the zoning ordinance, master plan, design standards, this article and any pertinent general ordinances. The planning commission shall refer the plat to the Township Engineer, Planner, Fire Department and any other agency it deems necessary for review and recommendations.
- (2) The planning commission shall take action on the preliminary plat within 30 days of the date of filing of the plat if a preapplication review meeting was held, and within 60 days if the meeting was not held. The review period may be extended by written agreement between the planning commission and the proprietor. If no action is taken by the planning commission within the 60-day period, and if no extension is secured, the proprietor may submit the preliminary plat to the Township Board for action.
- (3) The planning commission shall then recommend tentative approval, conditional approval, or disapproval, of the preliminary plat and transmit all copies of the preliminary plat together with the reasons for its action to the Township Board.
- (4) The Township Board shall, within 30 days of receiving the planning commission's recommendation, approve or disapprove the tentative preliminary plat. The clerk shall notify the proprietor or developer if the preliminary plat is approved or disapproved; and if disapproved, the reason shall be stated.

(d) *Effect of tentative approval of preliminary plat.* Tentative approval of the preliminary plat shall confer upon the proprietor for a period of one year from the approval date, approval of the lot sizes, lot orientations and street layout of the proposed subdivision. The tentative approval may be extended if an extension is applied for by the proprietor and granted in writing by the Township Board at the recommendation of the planning commission. Written notice of any extension shall be sent by the Township Board to all other plat approval authorities.

(Ord. No. 24-C, § 3.1, 4-7-2020)

Sec. 18-206. Preliminary plat—Final approval.

(a) *Filing.*

- (1) The proprietor shall submit ten copies of the preliminary plat, as tentatively approved by the Township Board and approved by all county and state plat approval authorities as required by the Land Division Act, together with the required information and fees, to the clerk at least 20 days prior to the meeting of the Township Board at which the preliminary plat is to be considered for final approval. The clerk or other Township Staff Designee shall check the completeness of the submittal, and if complete, transmit same to the Township Board in adequate time for inclusion on the agenda for the board's next meeting. If the application is not complete, the clerk shall so notify the proprietor in writing and shall list deficiencies.
- (2) The clerk shall simultaneously transmit one copy of the preliminary plat as tentatively approved by the Township Board and as approved by all county and state plat approval authorities, to the Township Engineer, Planner, and if deed restrictions are part of the plat, to the Township Attorney.

(b) *Required information.*

- (1) A list of all county and state authorities required by the Land Division Act to approved the preliminary plat, certifying that the list is complete and that each authority has approved the preliminary plat.
- (2) One approved copy of the preliminary plat from each county and state authority required by the Land Division Act to approve the preliminary plat.

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- (3) Copy of the receipt from the Township Treasurer that all fees have been paid and/or that funds are in escrow to cover the remaining fees.
- (c) *Review procedures.*
- (1) The clerk shall forward the preliminary plat to the Township Engineer and Planner for review of compliance with zoning and design regulations and to the Township Attorney for review of deed restrictions, if required. All reports are forwarded to the Township Board.
 - (2) The Township Board shall consider and review the preliminary plat at its next meeting, or within 20 days from the date of submission, and approve it if the proprietor has met all conditions laid down for approval. If the preliminary plat does not meet all conditions laid down for approval, the Township Board may deny the preliminary plat or, with the acquiescence of the proprietor, return the preliminary plat to the planning commission for amendment.
 - (3) After the Township Board has taken action on the final preliminary plat, the clerk shall notify the proprietor or developer if the preliminary plat is approved or disapproved; and if disapproved, the reason shall be stated.
- (d) *Final approval of the preliminary plat.*
- (1) Final approval of the final preliminary plat confers upon the proprietor for a period of two years from the date of the approval the conditional right that the general terms and conditions under which the final approval of the preliminary plat was granted will not be changed.
 - (2) The two-year period may be extended if the proprietor applies for an extension in writing and said extension is granted by the Township Board in writing. Written notice of any extension shall be sent by the board to all other plat approval authorities. Construction of improvements may commence upon final approval of the preliminary plat by the Township Board.

(Ord. No. 24-C, § 3.2, 4-7-2020)

Sec. 18-207. Final plat.

- (a) *Filing.* The proprietor or developer shall submit the final plat in a form complying with the provisions and procedures of the Land Division Act, together with the required information and fees, to the clerk at least ten days prior to the meeting of the Township Board at which the plat is to be considered. The clerk or other Township Staff Designee shall check the completeness of the submittal, and if complete, transmit same to the board in adequate time for inclusion on the agenda for the board's next meeting. If the application is not complete, the clerk or other Township Staff Designee shall so notify the applicant in writing and shall list deficiencies. A final plat shall not be accepted for review after the date of expiration of the final approval of the preliminary plat.
- (b) *Required information* (Revised in Amendment B to subdivision control ordinance).
 - (1) One Mylar copy and ten prints thereof.
 - (2) Abstract of title or other certificate establishing ownership interests and to ascertain if proper parties have signed the plat, for all land included in the subdivision.
 - (3) The proprietor shall provide the Township Clerk with a certificate from his engineer indicating that improvements have been installed in conformance with the approved engineering drawings, with any changes noted therein and attached in drawings, and proof of a guarantee of completion for those improvements to be installed after final plat approval, as finally approved in the preliminary plat. All monuments, lot corners must be in and inspected or bonded to assure completion before final approval is given.

(c) *Review procedures.*

- (1) The final plat shall conform closely to the preliminary plat as finally approved. The final plat may cover only a portion of the area covered by the preliminary plat as finally approved (per section 18-206(d)).
- (2) All improvements and facilities to be provided by the proprietor shall be installed, or adequate security in lieu thereof shall be provided; and all dedications, and easements shall be evidenced as having been made before the Township Board may approve the final plat. However, approval of the final plat shall not constitute acceptance of items for dedication. The Township Board reserves the right to have all installations inspected and approved by the Township Engineer before the board approved the final plat.
- (3) Prior to final plat approval, the proprietor shall present a letter from the county drain commissioner stating that all drains and the stormwater retention/detention facilities in the proposed plat are in the established county drainage district.
- (4) The Township Board, at its next regular meeting or within 20 days of submittal of the plat to the clerk, shall approve or disapprove the final plat. The clerk shall notify the proprietor final plat approval or disapproval.
- (5) If the final plat is approved, the clerk shall transmit the reproducible copy of the plat and the filing and recording fees to the county plat board. One paper print shall be forwarded to the County Building Department, and one print shall be retained by the Township Clerk. The reproducible copy and paper prints shall have the date of approval marked thereon.
- (6) If the final plat is approved, the Township Clerk shall sign a certificate signifying approval of the final plat by the Township Board. The certificate shall include the date of approval and the date on which the clerk signs the certificate.
- (7) If the final plat is disapproved, the clerk shall record the reasons for rejection in the minutes of the meeting, notifying the proprietor in writing of the action and the reasons therefor, and return the plat to the proprietor.

(d) *Effect of final plat approval.* Approval of the final plat shall confer upon the proprietor for a period of three years from the date of approval, a right that all existing zoning regulations and subdivision regulations shall remain unchanged as they apply to the property included in the final plat.

(Ord. No. 24-C, § 3.3, 4-7-2020)

Secs. 18-208—18-237. Reserved.

DIVISION 4. DESIGN STANDARDS FOR SUBDIVISION IMPROVEMENTS

Sec. 18-238. General applicability.

The design standards of this division shall be considered as minimum requirements applicable to subdivisions. Variances from the standards set forth in this division shall be granted only as provided for in division 5 of this article.

(Ord. No. 24-C, § 4.0, 4-7-2020)

Sec. 18-239. Streets and roads.

- (a) The design, layout and construction of all subdivision streets and roads, including the necessary provisions for drainage, shall be in accordance with the standards and specifications of the county road commission and the provisions of this article.
- (b) The arrangement of streets in the subdivision shall provide for the continuation of streets in adjacent subdivisions, where such extensions are deemed desirable by the planning commission and county road commission, and where such extension is not precluded by topographic or other existing conditions. The layout shall provide for proper projection of principal streets into adjoining properties not yet subdivided. In general, all such streets shall have a width at least as great as the street being extended.
- (c) Local streets shall be laid out so as to discourage their use by through traffic.
- (d) Streets shall be arranged in proper relation to topography so as to result in usable lots, safe streets, and reasonable grades, both for the streets and for driveways intersecting therewith.
- (e) The street layouts shall not isolate lands from existing public streets or roads, unless suitable access is provided, and the access is granted by easement or dedicated to public use. Slight jogs in continuous streets at points of intersection with other streets shall not be permitted. Where offsets cannot be avoided, a minimum distance of 125 feet shall be established between centerlines of the intersecting streets.
- (f) Where future connections to adjacent areas are to be provided, the land for such connection shall be covered by an easement and shall be designated "future road" on the various plats. Each such easement shall be at least 66 feet wide and a document conveying the easement for road purposes shall be filed with the county road commission at the time of filing of the preliminary plat for final approval.
- (g) Intersection of local or residential roads with collector and arterial roads shall be reduced to a reasonable minimum but should, in general, be at least 500 feet apart, centerline to centerline, to preserve the traffic-carrying capacity of the collector and arterial roads, and to reduce the potential accidents at such intersections. In general, all streets should intersect each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins. In no case shall an intersection form an angle of less than 90 degrees. No more than two streets shall cross at one intersection.
- (h) All street construction shall be centered on the street right-of-way. Section line and quarter line roads shall be centered on these lines unless the Township Engineer or county road commission approves an exception.

(Ord. No. 24-C, § 4.1, 4-7-2020)

Sec. 18-240. Lot dimensions and orientation.

No lot created within a plat shall be less than the minimum lot dimensions and minimum area as stated in the Township zoning ordinance for the zoning district in which it is located, unless modifications are approved pursuant to the ordinances of the Township. Where a lot abuts two or more streets, the proprietor shall clearly designate on the plat which street line constitutes the front lot line. Side lot lines shall be generated at right angles to straight street lines or shall project radially from a curved street line or cul-de-sac.

(Ord. No. 24-C, § 4.2, 4-7-2020)

Sec. 18-241. Pedestrianways and sidewalks.

Sidewalks may be required on one or both sides of the street depending on environmental or traffic conditions; or, in the case of low-density development, they may be excluded entirely. Pedestrianways linking portions of the subdivision may also be required.

(Ord. No. 24-C, § 4.3, 4-7-2020)

Sec. 18-242. Storm drainage.

The design and construction of storm drainage improvements shall be in accordance with the standards and specifications of the county drain commissioner.

(Ord. No. 24-C, § 4.4, 4-7-2020)

Sec. 18-243. Sanitary sewage disposal and water supply systems.

Central sanitary sewer and water supply facilities shall be designed and located in accordance with the specifications and procedural requirements of the Michigan Department of Health. On-site waste disposal and water supply systems shall be designed and located in accordance with the specifications and procedural requirements of the Livingston County Health Department.

(Ord. No. 24-C, § 4.5, 4-7-2020)

Sec. 18-244. Gas, wire or cable utilities.

- (a) All lines for telephone, electrical, television, and other services distributed by wire or cable shall be placed underground throughout a subdivision. Overhead lines may be permitted upon recommendation of the planning commission and approval by the Township Board at the time of tentative approval of the preliminary plat where it is determined that such lines will not impair the health, safety, general welfare, design, appearance, and character of the subdivision, and only where such overhead lines are brought to the perimeter of the subdivision. This section shall not be construed to prohibit the construction above ground of surface equipment associated with an underground distribution system, such as, but not limited to, surface mounted transformers, power terminal pedestals, meters and meter boxes, concealed wires, streetlights, and streetlight poles.
- (b) All facilities, including those for gas distribution, shall be installed in accordance with standards and specifications of the state public service commission. The layout of such facilities shall be submitted to the utility companies having jurisdiction in the area for their review before filing for final approval of the preliminary plat. All said utilities placed in public rights-of-way shall not conflict with other underground lines.
- (c) All underground public utility installations, including lines for street lighting systems which traverse privately owned property, shall be protected by easements granted by the proprietor and approved by the public utility. Such easements shall be so located as to not interfere with the use of any lot or other part of the subdivision. The size of, and restrictions pertaining to, such easements shall be in accordance with the standards and specifications of the agency having jurisdiction over the utility line and the Land Division Act and shall be indicated on the preliminary plat submitted for tentative approval.

(Ord. No. 24-C, § 4.6, 4-7-2020)

Sec. 18-245. Reservation of playground areas.

- (a) Any subdivision comprising 20 lots or more, either as a single subdivision or as a group of adjacent subdivisions offered by a single proprietor, shall provide a children's playground, pedestrian trail system or combination thereof which shall contain an area equal in size to 1,500 square feet for each lot in the subdivision.
- (b) Said playground, pedestrian trail system or combination thereof shall be well drained, graded, seeded or sodded, safe from hazard, accessible to all lots, and the location shall be determined prior to tentative approval of the preliminary plat by the planning commission and Township Board. Reservation of playground, pedestrian trail system or combination thereof shall be achieved through deed restrictions or dedication to a subdivision homeowner's association.

(Ord. No. 24-C, § 4.7, 4-7-2020)

Sec. 18-246. Preservation of buffer strips and natural features.

- (a) The planning commission shall, wherever possible, require the preservation of all natural features which add value to the proposed subdivision and the community at large, such as large trees or groves of trees, watercourses, vistas, historic spots and features, wildlife habitats and ecological areas, and similar irreplaceable assets. The location, nature, and extent of such features should be identified in the "preliminary plat—tentative approval" stages and shall be made a part of the subsequent plats to the greatest possible extent. The preservation and/or inclusion of such features may be made a condition of tentative approval of the preliminary plat.
- (b) Should a proposed subdivision border or contain an existing or proposed major thoroughfare, buffer strips parallel and adjacent to the road shall be provided as required by the Planning Commission may require landscaping, marginal access streets, reverse frontage, or other such treatment as may be necessary to adequately separate buffer strips and natural features shall be achieved through deed restrictions or dedication to a subdivision homeowner's association.

(Ord. No. 24-C, § 4.8, 4-7-2020)

Sec. 18-247. Uninhabitable areas.

Lands deemed uninhabitable in their natural state by the Planning Commission shall not be platted for residential use, or for any other use that might create a danger to health, safety, or property, within or outside the subdivision. Such lands shall be set aside for recreational use or shall be retained in their natural state as open space. However, such lands may be platted and developed if the features making the lands uninhabitable can reasonably be removed without destruction of adjacent or nearby property or desirable natural features of the land, and if approval is obtained from all plat approval authorities required to review plats under the Land Division Act and this article. Any areas of land within the proposed subdivision which lie either wholly or partly within the flood plain of a river, stream, creek, or lake, or any other areas which are subject to flooding by stormwater shall be clearly shown on the preliminary plat and the final plat.

(Ord. No. 24-C, § 4.9, 4-7-2020)

Sec. 18-248. Performance guarantees.

In the event the improvements as required by the Township Board shall not have been completed by the time the plat is ready for final approval, the developer shall enter into an agreement with the Township to

construct or complete such improvements within a reasonable time and, in such case, shall deposit with the Township a certified check, cash, or a surety bond for the faithful performance and completion of the required improvements. Such bond, cash or check shall be in such an amount as the Township Engineer shall estimate to be a sufficiently adequate sum to cover the cost to construct or to complete construction of the required improvements. The Township shall rebate to the developer, as the work progresses, amounts of such deposits equal to the ratio of work satisfactorily completed to the entire project. Such rebate shall be based on report and recommendation of the Township Engineer.

(Ord. No. 24-C, § 4.10, 4-7-2020)

Sec. 18-249. As-built drawings.

The proprietor shall submit to the Township Engineer or Building Department one reproducible copy of as-built engineering drawings of each of the required improvements that has been completed prior to the final plat approval. Each set of drawings shall be certified by the proprietor's engineer. Similar drawings shall also be submitted after final plat approval of improvements installed under bond. This provision does not apply to improvements made under the jurisdiction of other public agencies.

(Ord. No. 24-C, § 4.11, 4-7-2020)

Secs. 18-250—18-276. Reserved.

DIVISION 5. VARIANCES

Sec. 18-277. Authorization and applicability.

The Township Board, upon the recommendation of the planning commission, may authorize a variance from the provisions of this article on a finding that undue hardship may result from strict compliance. Variances shall apply only to improvements, standards and specifications set forth in the ordinance but not to procedures required herein.

(Ord. No. 24-C, § 5.0, 4-7-2020)

Sec. 18-278. Findings required.

No variance shall be granted unless the following findings are made upon examination of the request:

- (1) That there are such special circumstances or conditions affecting said property that strict application of the provisions of this article would clearly be impractical or unreasonable.
- (2) That the conditions requiring the variance were not created by the proprietor.
- (3) That the variance is necessary for the preservation and enjoyment of a substantial property right of the proprietor and is not primarily intended for his economic gain.
- (4) That the granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.
- (5) That such variance will not have the effect of nullifying the intent and purpose of this article, the adopted master plan, and the zoning ordinance.
- (6) That such variance will not violate the provisions of the Land Division Act.

(Ord. No. 24-C, § 5.1, 4-7-2020)

Sec. 18-279. Application for variance.

Application for any such variance shall be submitted in writing by the proprietor to the Township Board at the time the preliminary plat is filed for tentative approval by the planning commission. The petition shall state fully the grounds for the application and all the facts relied upon by the proprietor and shall be supplemented by maps, plans, or other data which may aid in the analysis of the condition of the request for variance.

(Ord. No. 24-C, § 5.2, 4-7-2020)

Chapter 20 NUISANCES

ARTICLE I. IN GENERAL

Secs. 20-1—20-11. Reserved.

ARTICLE II. ANTI-BLIGHT AND ANTI-NUISANCE

Sec. 20-12. Purpose.

It is the purpose of this article to prevent, reduce and eliminate blight, blighting factors and nuisances in Hamburg Township by preventing or eliminating certain conditions and uses of land and water and buildings and structures in Hamburg Township which caused blight or nuisance and which conditions and uses may now exist or may in the future exist within Hamburg Township.

(Ord. No. 38-C, § 2.0, 1-2-2018)

Sec. 20-13. Prohibited blight, blighting factors, nuisances and causes.

All blight, blighting factors, nuisances and causes thereof, as defined herein, are prohibited upon all property in Hamburg Township and shall constitute illegal, nonconforming uses to be abated. No owner, occupant or other person shall permit any such uses to exist upon any property in Hamburg Township.

(Ord. No. 38-C, § 3.0, 1-2-2018)

Sec. 20-14. Blight, blighting factors, nuisances and causes.

The following conditions and uses of land, buildings and structures, or similar conditions and uses of land, buildings and structures, are determined to be blight, blighting factors, or nuisances, or causes thereof, which will result in blighted and undesirable neighborhoods or which will result in public nuisances unless abated:

- (1) The keeping, maintaining, accumulating or storage of junk, trash or litter. The term "junk," "trash" and/or "litter" is defined as including:
 - a. Building materials, unless there are, in force, valid land use and building permits with respect to construction taking place upon the property, and the materials are intended for use in such

construction. The term "building materials" means and includes, but is not necessarily limited to, lumber, bricks, concrete or cinder blocks, plumbing pipe and material, electrical wiring and equipment, heating ducts and equipment, shingles, mortar, concrete, cement, nails, screws, windows, glass and any other substance or material used in the construction of buildings.

- b. Parts of machinery, automobiles or other motorized vehicles.
 - c. Remnants of wood, other than that which constitutes building material or is cut and stacked for heating use.
 - d. Unused, abandoned, or discarded stoves, refrigerators, televisions, furniture and other appliances.
 - e. Old scrap materials of every kind, such as, but not necessarily limited to, copper, brass, rope, rags, batteries, paper, boxes, rubber, iron, steel, metal shavings, metal scrap or scrap metal in any other form.
 - f. Broken glass or any other dangerous pointed or edged substances.
 - g. Refuse, garbage, waste, dead animals, accumulations of ashes, branches, leaves or yard clippings, or other noxious materials with the exception of managed compost piles.
- (2) The keeping of any abandoned, unattended or discarded icebox, refrigerator or container of any kind and size which is sufficient to permit the entrapment of a child therein.
 - (3) Any well or cistern which is not sufficiently covered so as to prevent access thereto by any person or which is not fenced with a good and substantial fence of a height not less than four feet.
 - (4) Any hole, excavation or partially constructed basement which is not sufficiently covered so as to prevent access thereto by any person or is not fenced with a good and substantial fence to a height of not less than four feet where the same is for the purpose of ongoing construction of a building or structure pursuant to valid land use and building permits and where more than 60 days has elapsed from the date of the commencement of digging or excavation.
 - (5) Any hole, shaft, pit, trench or other non-natural opening in the ground which is not filled in with dirt or sufficiently covered so as to prevent access thereto by any person or fenced with a good and substantial fence to a height of not less than four feet and any such opening, even if fenced, which is allowed to accumulate stagnant or putrid water.
 - (6) Any building or structure, or portion thereof, which is unoccupied and which is unguarded or open at any door or window or any other portal or opening permitting ingress, its windows to be glazed and locked or boarded up and its doors to be locked or boarded up to prevent ingress and all other portals to be boarded up to prevent ingress.
 - (7) Any land, building or structure which has thereupon any obstruction or hindrance of any sort which would be reasonably expected to interfere with the efficiency and use of any fire, ambulance or police protection equipment, either upon or around that, or any other, land, building or structure.
 - (8) Any dwelling which does not have adequate facilities for the disposal of human excreta or other sewage.
 - (9) Any dwelling which does not have available therein, or upon its premises, a sufficient source of clean water which could be reasonably expected to meet the needs of persons residing thereat.
 - (10) Any dwelling or portion thereof, which is conducive to the harboring or breeding of rats, rodents or vermin.
 - (11) Any building or structure, or portion thereof, which, by reason of structural damage caused by fire, explosion, wind, rain or other natural disaster, or by reason of vandalism or other intentional damage

or by reason of neglect, lack of maintenance, obsolescence, physical deterioration, dilapidation and the like is no longer habitable or reasonably and safely useful as a dwelling or no longer reasonably and safely useful for any other purpose for which it was originally intended.

- (12) Any building or structure, or any portion thereof, which is partially completed, unless it is in the process of construction and/or completion pursuant to valid land use and building permits.
- (13) Any building or structure, or any portion thereof, which constitutes a fire hazard or is dangerous to human life for any other reason not specifically listed herein.
- (14) Any building or structure, or any portion thereof, which, due to any one or more of the aforesaid conditions, cannot be repaired, rehabilitated or completed, so as to abate its violation of this article, at a cost less than its state equalized value.
- (15) The throwing or depositing of any litter, debris, or similar substance by any person in any fountain, pond, lake, stream, or other body of water.
- (16) The throwing or depositing by any person of any litter, debris or similar substance on any private property, whether occupied or vacant.
- (17) The dumping of any soil, sand, clay, gravel or like materials on any lot or parcel of land, unless within six months following the dumping thereof, such lot or parcel shall be graded to provide proper drainage and if more than 50 cubic yards of materials are dumped a land use permit must be approved by Hamburg Township.
- (18) Manufacturing, both light and heavy processes, if they are obnoxious or offensive by reason of emission of odors, fumes, dust, smoke, noise or vibration, or by reason of accumulation of unsightly waste material on public or private property.

(Ord. No. 38-C, § 4.0, 1-2-2018)

Sec. 20-15. Civil infraction; penalty.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
- (c) The fines and penalties in section 1-45 are incorporated herein by reference.

(Ord. No. 38-C, § 5.0, 1-2-2018)

Secs. 20-16—20-30. Reserved.

ARTICLE III. DANGEROUS/ABANDONED BUILDINGS

Sec. 20-31. Intent and purpose.

It is the intent and purpose of the Township of Hamburg to preserve, promote the health, safety and general welfare of the citizens of the Township by establishing an ordinance addressing the problems concerning the dangers, blight and unsafe conditions as may be caused by dangerous or abandoned buildings as hereinafter defined.

Sec. 20-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned buildings means buildings or structures that have been inspected by the Township and the inspection does not reveal the property owner or anyone claiming under him is presently occupying or will occupy the buildings, or reveals that the owner has relinquished all right, title, claim and possession of the property and buildings.

Dangerous building means any building or structure which has one or more of the following defects or conditions:

- (1) Any door, aisle, passageway, stairway or other means of exit does not conform to the State, County or Township Fire Code or the State, County or Township Building Code enforced within the Township.
- (2) Any portion of the building or structure has been damaged by fire, wind, flood, or by any other cause so that its structural strength or stability is appreciably less than it was before such damage and does not meet the minimum requirements of the Housing Law of the State of Michigan, Public Act No. 144 of 1992, as amended, or the State, County or Township Building Code enforced within the Township for a new building or structure, purpose or location.
- (3) Any part of the building or structure is likely to fall or to become detached or dislodged, or to collapse and injure persons or damage property.
- (4) Any portion of the building or structure has settled to such an extent that its walls or other structural portions have materially less resistance to wind than is required in the case of new construction by the Housing Law of the State of Michigan, Public Act No. 144 of 1992, or any other state, county or township rules, regulations or codes as may be enforced within the Township.
- (5) The building or structure or any part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, or the removal or movement of some portion of the ground necessary for the support or for other reason, is likely to partially or completely collapse or some portion of the foundation or underpinning of the building or structure is likely to fall or give away.
- (6) The building structure, or any part of the building or structure is manifestly unsafe for the purpose for which it is used.
- (7) The building or structure is damaged by fire, wind, or flood, or is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, or becomes a harbor for vagrants or criminals, or enables persons to utilize the building or structure for committing a nuisance or an unlawful or immoral act.
- (8) A building or structure used or intended to be used for dwelling, commercial, or industrial purposes, including the adjoining grounds, which because of dilapidation, decay, damage, faulty construction or otherwise, is unsanitary or unfit for its intended use or is in a condition that the state, county or Township has determined is likely to cause sickness or disease or is otherwise a dangerous building.
- (9) When a building or structure is vacant or dilapidated and the interior of the building is exposed to the elements or otherwise accessible for entrance by trespassers.

Enforcing agency and Township mean the Township of Hamburg.

State, County or Township Building Code means the code administered and enforced in the Township pursuant to the State Construction Commission Act, Public Act No. 230 of 1972 (MCL 125.1501 et seq.), as amended.

Ordinance means the dangerous/abandoned building ordinance.

Ordinance enforcement officer means the zoning administrator or any other officer or agent designated by Township Board of Trustees.

(Ord. No. 85-A, § 3.0, 12-19-2017)

Sec. 20-33. Notice; contents; filing of notice; appeals of determination regarding dangerous buildings.

- (a) *Notice requirement.* Whenever the Township, through its ordinance enforcement officer, determines that the whole or any part of any building or structure is a dangerous building or otherwise abandoned, as defined in section 20-32, the ordinance enforcement officer shall issue a notice that the building or structure is dangerous or abandoned.
- (b) *Parties entitled to notice.* Such notice shall be served on each owner of or party in interest in the building or structure in whose name the property appears on the last local tax assessment records, by certified mail return receipt requested or personal service.
- (c) *Contents of notice.* The notice shall specify the determination made by the appropriate Township official and the action that will be or can be taken by the Township in order to remediate the conditions set forth in the notice. Any person receiving a copy of the notice has the right to appeal the determination to the Hamburg Township Board of Trustees and request a hearing within ten days after receiving a copy of the notice as provided herein. All costs and fees related to the hearing shall be paid by the party requesting the hearing. The board shall hear all arguments made relating to whether the building or structure is a dangerous building or abandoned. The person to whom the notice is directed shall have the opportunity to show cause why the board should not order appropriate remediation of the dangerous conditions or order the building or structure to be demolished or otherwise made safe, or properly maintained. The decision made by the board shall be final. Any appeals from the board's decision must be made to the Hamburg Township Zoning Board of Appeals. All costs related to such an appeal must be paid by the party requesting the appeal.
- (d) *Hearing notice.* The notice of the Township Board hearing for the appeal shall be in writing and served upon all parties entitled to notice either personally or by certified mail with return receipt requested, addressed to the parties of interest at the address shown on the tax records at least ten days before the date of the hearing. In addition, the notice shall be conspicuously posted on a part of the building or structure or lands subject to the violations set forth in the original notice.
- (e) *Hearing testimony and decision.* The Board shall take testimony of the ordinance enforcement officer, or any other person requested by the Township, the owner of the property, and any interested party, or witnesses of the owner or interested party. The Township Board must render its final decision as to what action can be taken to order the building or structure to be demolished, otherwise made safe, or properly maintained, within ten days from the date of the scheduled board hearing.
- (f) *Order, compliance with order.* If it is determined by the board that the building or structure should be demolished or otherwise made safe or properly maintained, the board shall so order, fixing a time within which the owner or party in interest must comply with the order. The order may require the owner, agent, or person occupying the property to demolish or bring the building and surrounding property into compliance with the terms and conditions of the order and all applicable ordinances of the Township.

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- (g) *Failure to appear.* If the owner or party in interest fails to appear at the properly called board meeting, the board may proceed with the hearing and make all findings it deems necessary to bring the property, buildings and structures into compliance with the terms of Township ordinances. A copy of the findings and determinations of the board at the hearing shall be served on the owner or party of interest in the manner prescribed in this article.
 - (h) *Appeal of board decision.* Any party affected by the decision of the board must file an appeal to the Township Zoning Board of Appeals within 30 days after the mailing of the notice of the board's decision prescribed in subsection (g) of this section. If no such appeal is filed, the Township Board's decision becomes full, final and complete. The Township Zoning Board of Appeals may approve, disapprove or modify any decision made by the Township Board. If applicable, the Township Board of Appeals action becomes full and final upon the approval of the minutes of the meeting wherein the Township Zoning Board of Appeals' decision was made.

(Ord. No. 85-A, § 4.0, 12-19-2017)

Sec. 20-34. Implementation and enforcement of remedies.

- (a) *Implementation of order by Township.* In the event that the owner or party in interest does not comply with the decision of the Township Board, the Township Board may, in its discretion, contract for the demolition, making safe, or maintaining the exterior of the building or structure or grounds adjoining the building or structure or to otherwise bring the building, structure or premises into compliance with the board's decision.
- (b) *Reimbursement of costs.* The cost of the demolition, or making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining building or structure, incurred by the Township to bring the property into conformance with this article shall be reimbursed to the Township by the owner or party in interest, in whose name the property appears. For purposes of this section, the term "costs" includes, but is not limited to, actual costs incurred in bringing the property into compliance with the board's decision as well as administration fees and actual attorney fees and court costs.
- (c) *Notification of costs; lien for unpaid costs.* The owner or party in interest in whose name the property appears on the last local tax assessment records shall be notified by the assessor of the amount of the cost of the demolition, of making the building safe, or maintaining the exterior of the building, structure or grounds adjoining the building or structure, by first class mail at the address shown on the records. If the owner or party in interest fails to pay the cost within 30 days after mailing by the assessor of the notice amount of the cost, the Township shall have a lien for the cost incurred by the Township filed with the affidavit setting forth the amounts incurred by the Township with the county register of deeds. The lien for the cost shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act No. 206 of 1893, as amended, being MCL 211.1 to 211.157.
- (d) *Court judgment for unpaid costs; lien.* In addition to other remedies under this article, the Township may bring an action against the owner of the building or structure for the full costs of the demolition, of making the building safe, or of maintaining the exterior of the building, structure or grounds adjoining the building or structure. The Township shall have a lien on the property for the amount of the judgment. The lien provided for in this subsection shall be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act No. 206 of 1983, as amended, being MCL 211.1 to 211.157.
- (e) *Lien for judgment amount.* The Township shall have a lien for the amount of a judgment obtained against the owner's interest in all real property located in this state that is owned in whole or in part by the owner of the building or structure against whom the judgment is obtained. A lien provided for in this subsection does not take effect until notice of the lien is filed or recorded as provided by law and the lien does not have priority over previously filed or recorded liens and encumbrances.

(Ord. No. 85-A, § 5.0, 12-19-2017)

Sec. 20-35. Penalties.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction.
 - (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
 - (c) The fines and penalties in section 1-45 are incorporated herein by reference.
- (Ord. No. 85-A, § 6.0, 12-19-2017)

Secs. 20-36—20-60. Reserved.

ARTICLE IV. GRASS AND NOXIOUS WEEDS¹⁰

Sec. 20-61. Intent and purpose.

The Hamburg Township Board of Trustees hereby determines that, under certain circumstances, as set forth herein, the presence of grass and noxious weeds creates blight and constitutes a nuisance. It is recognized that such blight lowers property values, leads to deteriorating housing conditions, undermines the quality of neighborhood life, adversely affects the public health, safety and general welfare, health safety and welfare, of the citizens of the community. This article provides for the cutting and/or removal of grass, noxious weeds and miscellaneous debris, and provides for the administration and enforcement of this article.

(Ord. No. 84-A, § 2.0, 12-19-2017)

Sec. 20-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Grass and noxious weeds means grass or noxious weeds exceeding eight inches in height which is growing or located on any properties covered by this article. The term "noxious weeds" includes, but is not limited to, 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 sowhistle (*Sonchus Arvensis*), hoary alyssum (*Berteroa Incana*), giant hogweed (*Heracleum mantegazzianum*), ragweed (*Ambrosia Elatior* 1), poison ivy (*Rhus Toxicodendron*), and poison sumac (*Toxicodendron*).

Miscellaneous debris means miscellaneous debris shall be that debris such as wood, metal, synthetic materials, glass, wire, brush, rubbish, or other refuse matter that must be removed in order to allow for the cutting and removal of grass or noxious weeds.

(Ord. No. 84-A, § 3.0, 12-19-2017)

¹⁰State law reference(s)—Noxious weeds, MCL 247.61 et seq.

Sec. 20-63. Duty of owners.

The owner or any person or entity in control of any property to which this article applies, shall cut, remove or destroy by lawful means all such grass and noxious weeds and remove the accumulation of any miscellaneous debris within a 100-foot radius of any building or structure as referenced herein as often as necessary in order to comply with the provisions of this article.

(Ord. No. 84-A, § 4.0, 12-19-2017)

Sec. 20-64. Applicability.

This article shall be applied to residential, commercial and industrial parcels, whether occupied or not, provided that such parcels have a building or structure intended for the shelter, storage, housing or enclosure of persons, animals or property. This article shall not apply to the following:

- (1) This article shall not apply to farms or farm operations as defined in MCL 286.471 et seq., commonly referred to as the Right to Farm Act.
- (2) This article shall not apply to lands enrolled in the U.S. Department of Agriculture Conservation Reserve program, or similar government programs.
- (3) This article shall not apply to public lands.
- (4) This article shall not apply to railroads or properties owned by railroads or public utilities.
- (5) This article shall not apply to sites without a structure intended for the shelter, storage, housing or enclosure of persons, animals or property.

(Ord. No. 84-A, § 5.0, 12-19-2017)

Sec. 20-65. Administration and enforcement.

The Township may provide a ten-day written notice to any owner, agent or occupant of a property found to be in violation of the terms of this article. The notice shall include a time period within which such removal or destruction must occur. In the event, the owner, agent or occupant of property fails to comply with the said notice; the Township may choose to do either of the following:

- (1) *Cutting and removal by the Township.* The Township Supervisor may direct staff to hire a contractor to enter upon the property and cut, destroy, or remove the noxious weeds or grass and/or to remove the accumulation of any miscellaneous debris within a 100-foot-radius of any building or structure. Any and all expenses, fees, or costs incurred in the removal, destruction or cutting the grass or noxious weeds and the removal of any miscellaneous debris, including, but not limited to, the contractor cost paid for removal, destruction or cutting the grass or noxious weeds and the removal of any miscellaneous debris, administrative costs and actual attorney fees and court costs, shall be immediately paid by the owner, agent or occupant of the property. In the event payment is not made, Hamburg Township shall have the right to file a lien against the property for the amount of all such costs and expenses, including, but not limited to, legal fees and expenses. Any liens so filed may be collected and treated in the same manner as provided for property tax liens under the General Property Tax Act, Public Act No. 206 of 1893, as amended, being MCL 211.1 to 211.157.
- (2) *Municipal civil infraction.* In lieu of or in addition to cutting and removal by the Township, the Township ordinance enforcement officer may choose to administer and enforce this article in the same manner as other general and zoning ordinances enacted by the Township and as discussed in section 20-66.

(Ord. No. 84-A, § 6.0, 12-19-2017)

Sec. 20-66. Penalties and enforcement.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
- (c) The fines and penalties in section 1-45 are incorporated herein by reference.

(Ord. No. 84-A, § 7.0, 12-19-2017)

Secs. 20-67—20-92. Reserved.

ARTICLE V. INOPERABLE AND/OR UNLICENSED MOTOR VEHICLE

Sec. 20-93. Purpose.

The purpose of this article is to regulate the accumulation of inoperable motor vehicles, and/or unlicensed motor vehicles and/or inoperable machinery on private property and to provide penalties for the violation of its provisions.

(Ord. No. 44-B, § 2.0, 1-2-2018)

Sec. 20-94. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Immediate family member means a person's parents, spouses, siblings, or children.

Inoperable motor vehicle means any machine, truck, tractor, motorcycle, automobile or any other type of motor vehicle defined as such by the state vehicle code, which by reason of accident, mechanical condition, disrepair or other cause is apparently not operational and safe as required by section 683 of Public Act No. 300 of 1949 (MCL 257.683), as amended, or does not have current state registration and does not display a current registration plate from another state.

Machinery means every machine, device, tool and/or any other type of manufactured article other than a motor vehicle. Machinery by way of illustration, but not limitation, includes industrial, agricultural and domestic machinery. Examples include, but are not limited to, tractors, bob cats, fork lifts, boats, trailers, landscape rake, turf cultivator, and campers.

Motor vehicle means every vehicle is self-propelled by any means whatsoever, regardless of the number of wheels on the motor vehicle, the number of passengers the motor vehicle was designed to carry, or the use for which the motor vehicle was originally intended.

Parcel means each and every piece of land having a separate and distinct tax code as determined by the general property tax rolls of Hamburg Township.

Parking means to bring a vehicle or machinery to a halt and leave it temporarily.

Stored/storage mean parking a vehicle or machinery on a site without the vehicle moving for a period of 72 hours or more.

(Ord. No. 44-B, § 3.0, 1-2-2018)

Sec. 20-95. Storage and/or parking of inoperable motor vehicles.

The storage or parking of any motor vehicle or body, or chassis of any motor vehicle in any disassembled state, or inoperable condition is hereby declared to be a nuisance and prohibited unless such motor vehicle, body or chassis is enclosed in a building or meets the regulations of this article.

(Ord. No. 44-B, § 4.0, 1-2-2018)

Sec. 20-96. Storage and/or parking of inoperable machinery.

- (a) The storage or parking of any machinery in any disassembled state or inoperable condition, is hereby declared to be a nuisance and prohibited unless such machinery is enclosed in a building.
- (b) The term "inoperable condition" means machinery that is not then and there capable of performing the purpose for which it was originally manufactured.

(Ord. No. 44-B, § 5.0, 1-2-2018)

Sec. 20-97. Repair of motor vehicles and/or machinery.

- (a) The repair of motor vehicles and machinery is allowed in commercial and industrial zoning districts as long as the proposed businesses comply with the Township Zoning Ordinance and the storage complies with the approved site plan.
- (b) The repair of motor vehicles and machinery is allowed in residential districts only if the owner or person leasing the subject site is also the owner of the vehicle or machinery being repaired, or the owner of the vehicle or machinery being repaired is an immediate family member of the owner or person leasing the subject property. Auto repair in the residential districts is not allowed on sites that do not have a primary residence.

(Ord. No. 44-B, § 6.0, 1-2-2018)

Sec. 20-98. Requirement of residence or business.

- (a) Inoperable and/or unlicensed motor vehicles and/or inoperable machinery shall only be stored upon a parcel of property within Hamburg Township if the parcel contains an inhabited residence and/or active business establishment, and the inoperable and/or unlicensed vehicles or machinery are contained within an enclosed building or meets the exception requirements of this article.
- (b) Operable and licensed motor vehicles and machinery can be stored outside in residential districts as long as they are owned by the owner of the property where they are located, there is a residence on the site where they are located and they are stored outside of the required setbacks for the zoning district where they are located.

(Ord. No. 44-B, § 7.0, 1-2-2018)

Sec. 20-99. Exceptions.

The following are exceptions to this article:

- (1) Duly licensed new and used car sales businesses may store cars in operating condition outside of an enclosed building as long as the storage area complies with their approved site plan.
- (2) Auto repair centers may store vehicles or machinery outside of an enclosed building as long as the storage complies with their approved site plans.
- (3) Duly licensed operators of junk yards and authorized waste collection facilities may store junk vehicles and machinery as provided by state statutes and local ordinances.
- (4) Any person who owns or leases a developed residential property and is repairing a motor vehicle or machinery they own or that is owned by an immediate family member, on said property and not within an enclosed building, shall be allowed a reasonable time, not exceed 60 days, for the repair.
- (5) An historic vehicle which is a motor vehicle which is over 25 years old, and which is owned solely as a collector's item and for participation in club activities, exhibitions, tours, parades, and similar uses, but is not used for general transportation may be stored outside as long as it is stored completely to the rear of the home and is within all required setbacks.

(Ord. No. 44-B, § 8.0, 1-2-2018)

Sec. 20-100. Civil infraction; penalty.

- (a) Any person who shall violate any part of the terms of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 44-B, § 9.0, 1-2-2018)

Chapter 22 OFFENSES AND MISCELLANEOUS PROVISIONS¹¹

ARTICLE I. IN GENERAL

Secs. 22-1—22-18. Reserved.

ARTICLE II. BREACH OF PEACE

Sec. 22-19. Purpose.

The purpose of this article is to promote the public health, safety, comfort and general welfare of the community through the proper regulation of noise and conduct which unreasonably interferes with another

¹¹State law reference(s)—Michigan Penal Code, MCL 750.1 et seq.

person's use and enjoyment of private real property, interferes with another person's use or enjoyment of public facilities or disturbs the peace, tranquility and good order of the Township.

(Ord. No. 94-A, § 2.0, 8-6-2019; Ord. No. 94-B, § 2.0, 11-17-2020)

Sec. 22-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

APA standard 87-1 means 2001 APA standard 87-1, standard for construction and approval for transportation of fireworks, novelties, and theatrical pyrotechnics, published by the American Pyrotechnics Association of Bethesda, Maryland.

Consumer firework means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States consumer product safety commission under 16 CFR 1500 and 1507, and that are listed in APA standard 87-1, 3.1.2, 3.1.3, or 3.5. The term "consumer fireworks" does not include low-impact fireworks.

Low-impact firework means ground and handheld sparking devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8, and 3.5.

Plainly audible means any sound that can be clearly detected by a person using his unaided hearing faculties.

Property line means either the boundary line that separates one parcel of real property from another; the boundary line that separates one parcel of real property from a body of water; or the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit building.

Public facilities means public parks and Township buildings as defined herein.

Public park means any property owned, leased or operated by Hamburg Township or the state, which is used by the public for recreational purposes.

Residential disturbance means a gathering of more than one person at a residential property between the hours of 10:00 p.m. and 7:00 a.m., at which noise associated with the gathering, including human voices, is frequent, repetitive or continuous for a period of 15 minutes or more and is plainly audible at a distance of 100 feet or more beyond the property line or plainly audible within another person's residential dwelling.

Residential dwelling means any building or structure or part of a structure used by one or more persons for habitation and includes, but is not limited to, houses, condominiums, apartments, boarding rooms, and mobile homes.

Residential street means any street or roadway, whether public or private, which is located within any of the Hamburg Township Zoning Districts, as established by the Township Zoning Ordinance, where the property adjoining the street or roadway is authorized to be used for dwelling purposes.

Sports official means any person authorized to act in a sporting or other competitive event as a judge, referee or umpire of such event.

Township building means any building, structure or other facility owned or operated by the Township and used for a public purpose.

Township employee means any full-time employee, part-time employee, temporary employee, seasonal employee or on-call employee of the Township. It also shall mean any unpaid volunteer or intern performing work for Hamburg Township as authorized by the Township Board.

(Ord. No. 94-A, § 3.0, 8-6-2019; Ord. No. 94-B, § 3.0, 11-17-2020)

Sec. 22-21. General prohibition.

Any person who shall create or assist in creating or maintaining any unnecessary or unreasonable noise, disturbance, trouble or improper diversion which unreasonably interferes with another person's use and enjoyment of private real property, interferes with another person's use or enjoyment of public facilities, causing a reasonable person to feel intimidated, threatened or harassed in a place open to the general public by means of yelling, screaming or using voice amplification devices, or disturbs the peace, tranquility and good order of the Township shall be in violation of this article.

(Ord. No. 94-A, § 4.0, 8-6-2019; Ord. No. 94-B, § 4.0, 11-17-2020)

Sec. 22-22. Specific prohibitions.

The following specific acts and noises are hereby declared to be an unnecessary or unreasonable interference with the peace and good order of the Township and/or its residents and are hereby deemed a breach of the peace in violation of this article:

- (1) No person shall operate any power lawn equipment, including, but not limited to, lawn mowers, leaf blowers, power edgers, power sheers/trimmers or power saws within 500 feet of a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- (2) No person shall engage in any type of construction, repair, remodeling, drilling, woodcutting or excavating within 500 feet of a residential dwelling between the hours of 10:00 p.m. and 7:00 a.m.
- (3) No person shall use or operate or permit to be used or operated any radio, television, phonograph, musical instrument, speaker, amplifier or other machine or device for the producing, reproducing or amplification of sound with louder volume than is necessary for convenient hearing for the person or persons who are voluntary listeners thereto. It shall be prima facie evidence of a violation of this article if sound emanating from such machine or device is:
 - a. Plainly audible beyond the property line of the location where the machine or device is being used between the hours of 10:00 p.m. and 7:00 a.m.
 - b. Plainly audible at a distance of 100 feet beyond the property line of where the machine or device is being used or is plainly audible within a residential dwelling between the hours of 7:00 a.m. and 10:00 p.m.
 - c. Plainly audible at a distance of 100 feet from such machine or device if operated from a motor vehicle on a public street or parking lot open to the public.
 - d. Plainly audible at a distance of 100 feet from such machine or device when operated in a public park or other place open to the public.
- (4) Pursuant to Public Act No. 256 of 2011, as amended (specifically, MCL 28.457), a.k.a. the Michigan Fireworks Safety Act, no person shall ignite, discharge, or use any consumer fireworks anywhere in the Township:
 - a. Before 11:00 a.m. or after 11:45 p.m. June 29 through July 5, inclusive, excepting July 5, if that date is a Friday or Saturday, until 11:45 p.m.;
 - b. Before 11:00 a.m. or after 11:45 p.m. on the Saturday and Sunday immediately preceding Labor Day and Memorial Day;
 - c. Before 11:00 a.m. on December 31 or after 1:00 a.m. on January 1;

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- d. Before 11:00 a.m. or after 10:00 p.m. on any other day of the year not specifically cited in this article.
- (5) No person shall yell, shout, whistle, sing or otherwise communicate in a manner or at a volume:
- a. Where such communication is plainly audible at a distance of 100 feet from the person on a residential street between the hours of 10:00 p.m. and 7:00 a.m.
 - b. In a Township building if it interferes with the public's use of said building or interferes with the ability of a Township employee to effectively carry out the business of the Township.
 - c. In a public park if would cause a reasonable person to feel intimidated, threatened or harassed.
 - d. In or near any commercial, retail or other place of business open to the general public if it interferes with the rights of others.
 - e. In or near any commercial, retail or other place of business open to the general public if it would cause an employee or patron of such business to reasonably feel intimidated, threatened or harassed.
- (6) No person shall engage or participate in a residential disturbance, as that term is defined herein. The person exercising dominion or control over the residential property where said disturbance is occurring shall be held responsible for violation of this section.
- (7) A person shall not operate a motor vehicle with unnecessary noise and shall not start, move or turn a motor vehicle or apply the brakes or the power on a motor vehicle or in any manner operate the vehicle so as to cause the tires to squeal or the tires or vehicle to make any noise not usually connected with the operation of the motor vehicle, except in case of an emergency.
- (8) No person shall sound any horn or signaling device on any vehicle, motorcycle or vessel anywhere in the Township, except as a danger warning or in compliance with state law.
- (9) No person shall unnecessarily jostle, shove, push or crowd another person in a place open to the general public.
- (10) No person shall be in a state of intoxication, either by the consumption of alcohol, drugs or combination of both, in a public place and either:
- a. Endanger the safety of another person or of property; or
 - b. Act in a manner that causes a public disturbance or alarm. The summoning of the police by a member of the public due to the actions of the intoxicated person is deemed prima facie evidence that a public disturbance or alarm was created by the intoxicated person.
- (11) No person shall engage in any fight or other physical altercation with any other person in a place open to the public. A law enforcement officer having jurisdiction to enforce this article may initiate prosecution under this article whether or not any person involved in the fight or physical altercation pursues a criminal complaint against the other person involved.
- (12) No person shall engage in any conduct which shall interfere with or interrupt an organized athletic or recreational event being held at any Township athletic field or park which has been authorized by the Township Board; nor shall any person act in a manner which would cause a participant, coach, sports official or spectator of such event to reasonably feel intimidated, threatened or harassed.

Nothing in this section shall be construed as to prevent a law enforcement officer from taking enforcement action against any person engaged in conduct not specifically prohibited by this section if such conduct is in violation of section 22-21.

(Ord. No. 94-A, § 5.0, 8-6-2019; Ord. No. 94-B, § 5.0, 11-17-2020)

Sec. 22-23. Exemptions.

The following activities are exempted from the prohibitions and limitations of this article:

- (1) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster.
- (2) Emergency work necessary to restore public utilities or to protect persons or property from imminent danger.
- (3) Sound made to alert persons to the existence of an emergency, danger or attempted crime.
- (4) Activities of police, fire or emergency medical service personnel engaged in the lawful performance of their duties.
- (5) Activities or operations of Township personnel or of other governmental units or agencies engaged in official government business.
- (6) Parades, concerts, festivals or other similar activities approved by the Township Board, subject to any limitations on sound or conduct contained in the Township Board's approval.
- (7) The use of speakers, amplifiers or other machines or devices for the producing, reproducing or amplification of sound in connection with any otherwise lawful religious or political activity held in any public place within the Township between the hours of 7:00 a.m. and 10:00 p.m.
- (8) The use of sound producing instruments or equipment, musical instruments, speakers, amplifiers or other machines or devices for the producing, reproducing or amplification of sound in connection with an organized athletic or recreational event on any Township athletic field or park which has been authorized by the Township Board.

(Ord. No. 94-A, § 6.0, 8-6-2019; Ord. No. 94-B, § 6.0, 11-17-2020)

Sec. 22-24. Enforcement.

- (a) A law enforcement officer having jurisdiction to enforce this article is hereby authorized to the extent permitted by state and federal law to stop, detain, pursue and obtain identification from any person for which the officer has probable cause to believe the person is in violation of this article.
- (b) Any person notified, warned or cited for a violation of this article by a law enforcement officer having jurisdiction to enforce this article shall immediately cease the noise or conduct which resulted in the warning or citation.
- (c) Any person who fails to immediately cease the noise or conduct in violation of this article upon receiving a warning, order or citation from a law enforcement officer shall be subject to custodial arrest in accordance with appropriate state statutes.

(Ord. No. 94-A, § 7.0, 8-6-2019; Ord. No. 94-B, § 7.0, 11-17-2020)

Sec. 22-25. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this article shall be classified as a Class C municipal civil infraction.

(Ord. No. 94-A, § 8.0, 8-6-2019; Ord. No. 94-B, § 8.0, 11-17-2020)

Secs. 22-26—22-55. Reserved.

ARTICLE III. OPEN PARTY

Sec. 22-56. Purpose.

The purpose of this article is to promote the public health, safety, comfort and general welfare of the community through the proper regulation of activities at open parties which promote the possession and consumption of alcoholic beverages and drugs by underage persons.

(Ord. No. 39-B, § 2.0, 8-15-2017)

Sec. 22-57. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means any spirituous, malted or fermented liquor, liquid or compound containing 0.05 percent or more alcohol by volume fit for consumption as a beverage. The percentage of alcohol by volume shall be determined in accordance with the provisions of Michigan the Michigan Liquor Control Code of 1998 being Public Act No. 58 of 1998 (MCL 436.1101 et seq.), as the same may be amended from time to time.

Control means asserting dominion over or having actual possession of real property or a vessel.

Drug means a controlled substance as defined now or hereafter by the Public Acts of the state. Currently, such controlled substances are defined by Public Act. No. 368 of 1978, as amended, being MCL 333.7101 to 333.7544.

Immediate family member means any person related to a responsible person who exercises control over a residence, rental premises or vessel in any of the following ways:

- (1) The person is married to the responsible person who exercises control over the residence, rental premises or vessel;
- (2) The person is of the first degree of kindred by blood or adoption to the responsible person who exercises control over the residence, rental premises or vessel.

Open party means a gathering of persons at a residence, rental premises or on a vessel other than a responsible person who exercises control over the residence, rental premises, vessel or their immediate family members.

Rental premises means a hotel room, motel room, or hall which is rented on a short-term basis.

Residence means a home, apartment, condominium or other dwelling unit whether rented or owned and includes the curtilage of such dwelling unit.

Responsible person means a person 18 years of age or older.

Underage person means a person not legally permitted by reason of age to possess or consume alcoholic beverages pursuant to the Michigan Liquor Control Code of 1998, being Public Act No. 58 of 1998 (MCL 436.1101 et seq.), as the same may be amended from time to time.

Vessel means every description of watercraft used or capable of being used as a means of transportation on water.

(Ord. No. 39-B, § 3.0, 8-15-2017)

Sec. 22-58. Person exercising control over residence, rental premises or vessel.

No responsible person exercising control over any residence, rental premises or vessel shall allow an open party to take place at said residence, rental premises or vessel if any underage person possesses or consumes any drug or alcoholic beverage where:

- (1) The responsible person knew or reasonably should have known, that an underage person at said residence, rental premises or vessel possessed or consumed a drug or an alcoholic beverage; and
- (2) The responsible person failed to take reasonable steps to prevent the possession or consumption of the drug or alcoholic beverage at said residence, rental premises or vessel where such reasonable steps would have prevented the possession or consumption of the drug or alcoholic beverage by the underage person.

(Ord. No. 39-B, § 4.0, 8-15-2017)

Sec. 22-59. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 39-B, § 5.0, 8-15-2017)

Secs. 22-60—22-76. Reserved.

ARTICLE IV. SUBSTANCE ABUSE

Sec. 22-77. Purpose.

The purpose of this article is to promote the public health, safety, comfort, and general welfare of the community through the proper regulation of activities that are associated with and that foster the unlawful possession, use and distribution of controlled substances.

(Ord. No. 89-B, § 2.0, 8-6-2019)

Sec. 22-78. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Act means the Michigan Public Health Code, Public Act No. 368 of 1978 (MCL 333.1101 et seq.), as amended.

Controlled substance means any drug, substance or immediate precursor as defined or enumerated in the Michigan Public Health Code, Public Act No. 368 of 1978 (MCL 333.1101 et seq.), as amended.

Deliver or delivery means the actual, constructive or attempted transfer from one person to another of a controlled substance or drug paraphernalia.

Drug means the same as the term "controlled substance" as defined in this article.

Drug paraphernalia.

- (1) The term "drug paraphernalia" means any equipment, product, material, or combination of equipment, products or materials, which is specifically designed for use in planting, propagating, cultivating, growing, harvesting (legal now to grow up to 12 plants), manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance, including, but not limited to, all of the following:
 - a. An isomerization device used, intended for use, or designed for use in increasing the potency of any species of plant which plant is a controlled substance.
 - b. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of a controlled substance.
 - c. A diluent or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use with a controlled substance.
 - d. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
 - e. A device commonly known as "cocaine kit" used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.
 - f. A device commonly known as a "bullet," that is used, intended for use, or designed for use in delivering a measured amount of controlled substances to the user's body.
 - g. A device commonly known as a "snorter," that is used, intended for use, or designed for use in introducing a small amount of controlled substance to the user's body.
 - h. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.
 - i. Capsules, balloons, envelopes, and other containers used, intended for use, or designed for use in packaging controlled substances.
 - j. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
 - k. A spoon, with or without chain attached, that is used, intended for use, or designed for use in ingesting, inhaling or otherwise introducing controlled substances into the human body.
 - l. Hypodermic syringes, needles, and other objects used, intended for use, or designed for use in injecting controlled substances into the human body in violation of the Act.
 - m. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or other controlled substances into the human body.
 - n. Water pipes.

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- o. Miniature straws, cocaine spoons, and cocaine vials.
 - (2) Except with respect to persons under 21 years of age, the term "drug paraphernalia" does not include:
 - a. Any marijuana accessories as defined in the Michigan Regulation and Taxation of Marihuana Act.
 - b. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness, or purity of controlled substances.

Michigan Medical Marijuana Act means Initiated Law 1 of 2008 (MCL 333.26441 et seq.), as amended.

Michigan Regulation and Taxation of Marihuana Act means Initiated Law 1 of 2018 (MCL 333.27951 et seq.), as amended.

(Ord. No. 89-B, § 3.0, 8-6-2019)

Sec. 22-79. Drug paraphernalia.

- (a) No person shall possess, deliver, dispense, give away, furnish, or supply any drug paraphernalia as specifically defined in this article, or any other instrument, implement, device or contrivance which is primarily adapted or designed for the administration or use of any controlled substance.
- (b) The prohibition contained in this section shall not apply to any of the following:
 - (1) Manufacturers, wholesalers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, veterinarians, pharmacists or embalmers in the normal lawful course of their respective businesses or professions.
 - (2) Common carriers or warehouses or their employees engaged in the lawful transportation of such paraphernalia.
 - (3) Police officers, firefighters, emergency medical service employees and licensed emergency medical technicians during the lawful performance of their duties.
 - (4) Persons suffering from diabetes, asthma, or any other medical condition requiring self-injection or self-administration of a controlled substance.
 - (5) Persons possessing a valid medical marijuana registry identification card or a person who is a registered primary caregiver pursuant to the Michigan Medical Marijuana Act.
 - (6) Persons 21 years or older possessing marijuana accessories pursuant to the Michigan Regulation and Taxation of Marihuana Act.
- (c) Any duly authorized police officer having lawful jurisdiction to enforce this article shall be empowered to confiscate and legally dispose of any drug paraphernalia when a violation of this article occurs.

(Ord. No. 89-B, § 4.0, 8-6-2019)

Sec. 22-80. Loitering where drug kept, stored or used.

No person shall knowingly loiter about, frequent or be present in any building, house, apartment, trailer, tent, garage, store, barn, automobile, boat, boathouse or any other vehicle or structure of any description whatsoever where controlled substances or drug paraphernalia are being used, possessed, manufactured, delivered, kept, or stored unlawfully.

(Ord. No. 89-B, § 5.0, 8-6-2019)

Sec. 22-81. Transportation of controlled substances.

All persons lawfully obtaining a controlled substance under the Act pursuant to a prescription issued by a duly licensed medical doctor, osteopathic physician, dentist, veterinarian, or other person authorized to prescribe such controlled substance shall keep said controlled substance in the original package or container in which they received it when possessing or transporting the controlled substance outside of their place of residence.

(Ord. No. 89-B, § 6.0, 8-6-2019)

Sec. 22-82. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 89-B, § 8.0, 8-6-2019)

Secs. 22-83—22-107. Reserved.

ARTICLE V. YOUTH TOBACCO AND VAPOR PRODUCTS

Sec. 22-108. Purpose.

The purpose of this article is to promote the public health, safety, comfort and general welfare of the community through the proper regulation of the use and possession of tobacco and vapor products by minors, the sale and purchase of tobacco and vapor products by minors, and the use of tobacco and vapor products by all persons on school property.

(Ord. No. 100, § 2.0, 6-4-2019)

Sec. 22-109. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative nicotine delivery product means a noncombustible product containing nicotine that is intended for human consumption whether chewed, absorbed, dissolved or ingested by any other means.

Minor means an individual under 18 years of age.

Nicotine product means the highly toxic alkaloid found in tobacco, presented in tobacco, or in some other form for ingestion, including, but not limited to, water soluble nicotine containing substances, and devices which deliver nicotine through vapor or other means for ingestion such as electronic cigarettes, hookah pens, or other similar devices.

Public property means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

School district means a school district, local act school district or intermediate school district, as defined in the school code of 1976, Public Act No. 451 of 1976 as amended, or a charter school, consortium or cooperative arrangement consisting of any combination thereof.

School property means a building, facility or structure and other real estate owned, leased or otherwise controlled by a school district.

Tobacco product means a product that contains tobacco and is intended for human consumption to be smoked, vaporized, chewed, or inhaled, including, but not limited to, cigarettes, hookah, non-cigarette smoking tobacco, or smokeless tobacco as those terms are defined in section 2 of the Tobacco Products Tax Act, Public Act No. 327 of 1993 (MCL 205.422), and cigars.

Use of a tobacco product means any of the following:

- (1) The carrying by a person of a lighted cigar, cigarette, pipe or other lighted smoking device.
- (2) The inhaling or chewing of a tobacco product.
- (3) The placing of a tobacco product in one's mouth.

Vapor product means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electric, chemical or mechanical means, regardless of shape or size that can be used to produce vapor from nicotine or other form that contains nicotine. Vapor products include an electronic cigarette (E-cigarette), electronic cigar, electronic cigarillo, electronic pipe, hookah pen, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette (E-cigarette), electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(Ord. No. 100, § 3.0, 6-4-2019)

Sec. 22-110. Prohibited use and possession on public property.

No person under 18 years of age shall possess or use tobacco products, vapor products or alternative nicotine delivery products on a public highway, street, alley, park, other lands used for public purposes, lands open to the public or in a public place of business or amusement within the Township.

(Ord. No. 100, § 4.0, 6-4-2019)

Sec. 22-111. Prohibited use and possession on school property.

- (a) No person shall use a tobacco product, a nicotine product, a vaporizer, a vapor product or an alternative nicotine product on school property located within the Township.
- (b) No person under 18 years of age shall possess a tobacco product, a nicotine product, a vaporizer, a vapor product or an alternative nicotine product on school property located within the Township.

(Ord. No. 100, § 5.0, 6-4-2019)

Sec. 22-112. Prohibited sale/furnish to minor.

No person shall sell, furnish, procure for or give away to any minor under the age of 18 years any tobacco products, nicotine products, vaporizer, vapor products or alternative nicotine delivery products.

(Ord. No. 100, § 6.0, 6-4-2019)

Sec. 22-113. Prohibited purchase by minor.

- (a) No minor under 18 years of age shall purchase or attempt to purchase tobacco products, nicotine products, vapor products or alternative nicotine delivery products.
- (b) No minor under 18 years of age shall misrepresent his age, either verbally or through the use of fake or fraudulent identification, in order to purchase tobacco products, nicotine products, vapor products or alternative nicotine delivery products.

(Ord. No. 100, § 7.0, 6-4-2019)

Sec. 22-114. Exceptions.

This article does not apply to the following:

- (1) An undercover operation in which the minor purchases or receives a tobacco product, nicotine product or vapor product under the direction of a state, county or local police agency as part of an enforcement action, unless the initial or contemporaneous purchase or receipt of the tobacco product or vapor product by the minor was not under the direction of the state, county or local police agency and was not part of the undercover operation.
- (2) Compliance checks in which the minor attempts to purchase tobacco products for the purpose of satisfying federal substance abuse block grant youth tobacco access requirements, if the compliance checks are conducted under the direction of a community mental health services program substance abuse coordinating agency as defined in section 6103 of the Public Health Code, Public Act No. 368 of 1978 (MCL 333.6103), and with the prior approval of a state, county or local policy agency.
- (3) The handling or transportation of a tobacco product or vapor product by a minor under the terms of that minor's employment.

(Ord. No. 100, § 8.0, 6-4-2019)

Sec. 22-115. Interference with rights of parent or guardian.

This article shall not interfere with the right of a parent or legal guardian in the rearing and management of his minor children or wards within the bounds of his own private premises.

(Ord. No. 100, § 9.0, 6-4-2019)

Sec. 22-116. State law prosecution.

Nothing in this article shall be construed as prohibiting criminal prosecution under state law for acts or omissions which are also in violation of this article.

(Ord. No. 100, § 10.0, 6-4-2019)

Sec. 22-117. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.

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- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 100, § 11.0, 6-4-2019)

Chapter 24 PARKS AND RECREATION

Sec. 24-1. Purpose.

The purpose of this chapter is to promote the public health, safety, comfort, and general welfare of the community through the proper regulation of activities in parks owned or operated by the Township, and to repeal Ordinance No. 88-A.

(Ord. No. 88-B, § 2.0, 8-15-2017)

Sec. 24-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means any spirituous, malted or fermented liquor, liquid or compound containing 0.05 percent or more alcohol by volume fit for consumption as a beverage.

Motorized vehicle refers to any self-propelled vehicle, specifically including, but not limited to, snowmobiles, all-terrain vehicles (ATVs) and golf carts. Motorized wheelchairs are exempted for the purpose of this chapter.

Obstructing public passage means for one or more persons to engage in any act which causes a physical obstruction or interference to the free and uninterrupted use of or passage on the Lakelands Trail by any other person.

Paint means any paint, varnish, lacquer, stain or similar solvent or substance applied to surfaces to coat, cover, protect or alter.

Public disturbance means any conduct which disturbs or disrupts the peace and good order of the Township, unreasonably interferes with another person's use and enjoyment of a Township park or which would cause a reasonable person to feel intimidated, threatened or harassed.

Township park means all parks and recreational facilities owned, operated or maintained by the Township specifically, including, but not limited to, Manly W. Bennett Memorial Park and the Lakelands Trail.

(Ord. No. 88-B, § 3.0, 8-15-2017)

Sec. 24-3. Public use.

- (a) All parks and recreational facilities owned or operated by the Township are open for use by the general public for recreational activities consistent with the provisions of this chapter and the Township park facility use policy.
- (b) The Township may designate from time to time portions of Township parks and recreational facilities for specific uses. Certain facilities within Township parks, such as baseball fields, football fields, soccer fields, pavilions, etc., may be reserved by individuals or organizations by permit from the Township Board consistent with the Township park facility use policy.

(Ord. No. 88-B, § 4.0, 8-15-2017)

Sec. 24-4. Hours of usage.

Township parks are open daily for use by the public, consistent with this chapter and the Hamburg Township park facility use policy, except during hours as determined by the Township Board. Hours that a specific Township park is closed shall be conspicuously posted at the park. The Township Board may authorize the temporary closing of a Township park, or portion of a park, to meet specific needs of the Township or for maintenance purposes. Persons 16 years or younger are not permitted in any Township park between the hours of 10:00 p.m. and 5:00 a.m. unless accompanied by a parent or guardian.

(Ord. No. 88-B, § 5.0, 8-15-2017)

Sec. 24-5. Vehicle and traffic control.

- (a) No unauthorized motorized vehicle shall be driven in a Township park except upon roads or areas allowed by the Township Board for those purposes.
- (b) Motorized vehicles are prohibited on the Lakelands Trail except as authorized by this article.
- (c) Snowmobiles and off-road vehicles are prohibited in Township parks.
- (d) No person shall drive, propel or cause to be driven, along or over any designated road or approved area within a Township park, any vehicle at a rate of speed greater than 15 mph.
- (e) No vehicle shall be driven in a reckless or careless manner or in a manner which endangers the life, limb or property of pedestrians, the operator or occupants of other vehicles, or any other person.
- (f) Parking of vehicles shall be in designated parking areas only.
- (g) Commercial vehicles not consistent with use as outlined in the Township park facility use policy and who have not been given prior written permission by the Township Board are prohibited from parking within any Township park.
- (h) There shall be no parking of any vehicles in any Township park between the hours of 12:00 midnight and 5:00 a.m. without the express permission of the Township Board.
- (i) Vehicles parked in violation of this chapter are subject to being ticketed and/or towed at the owner's expense.
- (j) The vehicle and traffic control provisions of this chapter are not applicable to vehicles in use by public safety personnel, Township personnel and public utilities personnel lawfully engaged in the performance of official business within a Township park.

(Ord. No. 88-B, § 6.0, 8-15-2017)

Sec. 24-6. Alcohol.

The consumption or possession of alcoholic beverages is prohibited within all Township parks without express written permission of the Township Board.

(Ord. No. 88-B, § 7.0, 8-15-2017)

Sec. 24-7. Disorderly conduct.

The following conduct is strictly prohibited and it shall be deemed a violation of this chapter for any person to engage in any of the following within the boundaries of a Township park:

- (1) Causing or engaging in a public disturbance;
- (2) Obstructing public passage;
- (3) Jumping or diving off any bridge or overpass;
- (4) Discharging any slingshot, bow air rifle, pellet gun, firearm of any description, firework or other explosive substance without written authorization from the Township Board;
- (5) Golfing in any area of a Township park unless in a posted designated area;
- (6) Flying, launching or otherwise operating any type of radio-controlled airplane, self-propelled rocket or other device in any area of a Township park that is not specifically designated for such use;
- (7) Interfering with any person, group or organization in the use of a designated portion of any Township park reserved through the permit process outlined in the Township park facility use policy and authorized by the Township Board.

(Ord. No. 88-B, § 8.0, 8-15-2017)

Sec. 24-8. Preservation of property and natural features.

- (a) No person shall injure, deface, or disturb any part of a Township park nor any building, sign, equipment or other property found therein; nor shall any tree, shrub, rock or other mineral be removed, injured or destroyed.
- (b) No person shall deposit, or permit to be deposited, any park use related garbage on park premises in anything other than receptacles provided for such purposes. Any other garbage, sewage, household refuse, waste or other noxious material dumping or depositing on any Township property is strictly prohibited.
- (c) No person shall set or cause to be set on fire any tree, woodland, brush land, grassland or meadow within or upon any Township park or recreational facility without written approval of the Township Board.
- (d) No person shall build any fire upon Township park property except within receptacles provided and designated by the Township for such purposes.
- (e) No person shall drop, throw or otherwise scatter lighted matches, burning cigars, cigarettes, tobacco paper or other flammable materials within or upon any Township park property. Burning material or hot ashes may not be dumped into any trash containers or elsewhere within the boundaries of a Township park unless such container or locality is marked as a receptacle for such material.
- (f) No person shall possess any type of paint with the intent to commit an unlawful act within a Township park.

(Ord. No. 88-B, § 9.0, 8-15-2017)

Sec. 24-9. Protection of wildlife and pet care.

- (a) No person within the confines of any Township park shall hunt, pursue with dogs, trap or in any other way molest any wild bird or animal found in a park unless specifically authorized by the Township Board.
- (b) No person shall molest any bird nest or take the eggs of any bird found within any Township park.

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- (c) Horses are not permitted in any Township park except on areas along the Lakelands Trail so designated, or as otherwise approved by the Township Board.
 - (d) Domestic animals are permitted in Township parks, provided that they are properly restrained and controlled consistent with the provisions of the Township Domestic Animal Control Ordinance and the Township park facility use policy.

(Ord. No. 88-B, § 10.0, 8-15-2017)

Sec. 24-10. Business, vending and concessions.

No person or organization shall, within the boundaries of any Township park, advertise, offer for hire, vend or sell any service, food, beverage, merchandise or other personal property or advertise, carry on or conduct any other business, commercial or fundraising activity without the written authorization of the Township Board.

(Ord. No. 88-B, § 11.0, 8-15-2017)

Sec. 24-11. Signs and handbills.

- (a) No person shall post, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree or automobile within any Township park, except that temporary directional signs for group picnics or events may be placed on signposts designated for such purposes and must be removed at the conclusion of the event.
- (b) Handbills, newspapers or other circulars may be offered or distributed within Township parks only by passing them out hand-to-hand.

(Ord. No. 88-B, § 12.0, 8-15-2017)

Sec. 24-12. Public safety exception.

The prohibitions outlined in this article are not applicable to any law enforcement officer, firefighter or medical service personnel engaged in the lawful exercise of their duties.

(Ord. No. 88-B, § 13.0, 8-15-2017)

Sec. 24-13. Removal.

- (a) Any person found in violation of this article by a law enforcement officer having jurisdiction to enforce this article shall immediately be ordered to leave the Township park.
- (b) Any person given a lawful order to leave any Township park by a law enforcement officer shall immediately comply with the order or be subject to custodial arrest in accordance with appropriate state statutes.
- (c) The order to leave a Township park shall in no way diminish a law enforcement officer's ability or authority to take any other appropriate or authorized enforcement action.

(Ord. No. 88-B, § 14.0, 8-15-2017)

Sec. 24-14. Penalties.

- (a) Any person who shall violate any of the provisions of this chapter shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 88-B, § 16.0, 8-15-2017)

Chapter 26 ROADS AND BRIDGES

ARTICLE I. IN GENERAL

Secs. 26-1—26-18. Reserved.

ARTICLE II. PRIVATE ROADS

DIVISION 1. GENERALLY

Sec. 26-19. Purpose.

The purpose of this article is to regulate the construction, maintenance and use of private roads in the Township, and to promote and protect the public health, safety, and welfare.

(Ord. No. 28-F, § 1.1, 4-7-2020)

Sec. 26-20. Legal authorization.

This article is enacted pursuant to the statutory authority granted by MCL 41.181.

(Ord. No. 28-F, § 1.2, 4-7-2020)

Sec. 26-21. Applicability.

The provisions of this article shall apply to the creation, construction, extension, and/or the alteration of private roads.

(Ord. No. 28-F, § 1.3, 4-7-2020)

Sec. 26-22. Fees.

The Township Board shall establish by resolution a schedule of fees to be charged to proprietors with respect to the administration, review and inspection of private roads. Proprietors making application for the creation, construction, extension and/or the alteration of private roads shall be required to post either a performance or

cash bond in an amount deemed appropriate by the Township Engineer to be sufficient for completion of the road, said bond to be discharged upon final approval of the private road and payment of all fees.

(Ord. No. 28-F, § 1.4, 4-7-2020)

Sec. 26-23. Violations.

- (a) Any person who shall violate any of the terms of this article shall be responsible for a municipal civil infraction.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.
- (c) The fines and penalties in section 1-45 are incorporated herein by reference.

(Ord. No. 28-F, § 1.5, 4-7-2020)

Sec. 26-24. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Private driveway means any piece of privately owned and maintained property, which is used for vehicular traffic servicing up to two parcels.

Private road means a privately owned and maintained road allowing access to more than one parcel.

Proprietors means those constructing or desiring to construct a private road and all those property owners whose property is being or is intended to be served by a private road.

(Ord. No. 28-F, § 1.6, 4-7-2020)

Secs. 26-25—26-51. Reserved.

DIVISION 2. PROCEDURES AND REQUIREMENTS

Sec. 26-52. Filing.

A proprietor shall submit an application for a private road permit with the zoning administrator. Accompanying the application shall be four copies of a road plan containing the information required under section 26-53.

(Ord. No. 28-F, § 2.0, 4-7-2020)

Sec. 26-53. Required information.

The application shall be accompanied by four copies of a road plan prepared by a registered land surveyor or registered engineer drawn at a scale of not greater than 200 feet to the inch. The following information shall be contained in the road plan:

- (1) A legal description and survey of the lots or parcels and the names and addresses of the lot or parcel owners to be served by the private road.

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- (2) A legal description of the road easement and related utility and drainage easements.
 - (3) Plans, profile drawings, and cross sections of the proposed private road easements showing all materials, grades, dimensions, and bearings in compliance with the standards set forth in section 26-54.
 - (4) Existing topography at two-foot contour intervals, soils, and drainage characteristics of the subject site.
 - (5) Location of existing buildings on the lots or parcels being served or intended to be served by the private road as well as any existing building or structures in or adjacent to any proposed easement.

(Ord. No. 28-F, § 2.1, 4-7-2020)

Sec. 26-54. Standards.

- (a) The design and construction of all private roads shall comply with the most currently published American Society of Highway Traffic Officials (ASHTO) standards for the criteria applicable to the private road, subject to the approval of the Township Engineer (see article IV of this chapter). If the private road provides direct access to a county road, approval of the road connection placement and design must be approved by the county road commission prior to Township Approval.
- (b) Notwithstanding any other provisions of the article, private roads in subdivisions platted prior to the enactment of this article, and private roads or easements which are contained in land divisions approved by the Township prior to the enactment of this article, shall continue to meet the specifications approved at the time of application. Upon expansion, reconstruction, or major alteration of the existing private road, new construction shall comply with the most currently published American Society of Highway Traffic Officials (ASHTO) standards for the criteria applicable to the private road. The Township Engineer shall determine if this provision is met.
- (c) Section 36-229 shall apply to all private roads in the Township.
- (d) The location of all newly created private roads and placement of required easements shall be consistent with approvals granted according to the site plan review requirements of article III of the Township zoning ordinance.

(Ord. No. 28-F, § 2.2, 4-7-2020)

Sec. 26-55. Private driveways.

Private driveways may serve up to two parcels and shall not be considered a private road. If two lots are to be served by one private driveway, both lots must have the required frontage on an improved public or private road. Approval of the approach to a public road is required from the county road commission. If at any time more than two parcels are to have access using the existing private driveway, it shall be brought into compliance with the standards contained in this article.

(Ord. No. 28-F, § 2.3, 4-7-2020)

Sec. 26-56. Review and inspection.

The proprietor shall submit one copy of the application and road plans to the county road commission for approval of any approaches to public road and two copies to the designated Township Engineer for review.

- (1) *Testing and inspections.* During construction of the private road, the petitioner must perform the following testing and inspections:

a. *Underground utilities.*

1. The petitioner's engineer shall have a representative on site, as necessary, during the installation of the underground utilities (culvert and sewer) to observe the underground utility installation and verify the use of proper construction methods with the exception of those utilities to be owned and operated by the Township. The results of these inspections and observations should be documented in the petitioner's engineer's daily reports.
2. A gradation analysis (or mechanical analysis) shall be performed on the granular backfill material to confirm that the material meets the gradation requirements called for in the approval construction plans. Gradation analysis tests shall be performed at a frequency of not less than once per 1,000 cubic yards or once per project, whichever is more.
3. When the utility pipe is under or within the influence of the roadbed, compaction (or density) testing shall be performed once every 250 feet per lift of trench backfill or once per lift on pipe runs less than 250 feet with more if failing tests warrant.
4. The backfill of catch basins, inlets, manholes, valve boxes, etc., within the influence of the roadbed shall be placed in accordance with the requirements for structural backfill as called for in the current Michigan Department of Transportation Standard Specifications for Construction.

b. *Subgrade.*

1. The proposed location of the road shall be identified by placement of surveying stakes. The stakes shall indicate the horizontal location and grade of the proposed road.
2. The road subgrade shall be inspected by the petitioner's engineer to verify that the road is in the correct location and the subgrade is trimmed to the proper grade and slope. The subgrade inspection should also confirm that the subgrade is free from rutting and soft spots before placing any subbase material. The inspection shall consist of proof-rolling the subgrade. The results of this inspection shall be documented in the petitioner's engineer's daily reports.

c. *Subbase.*

1. A gradation analysis shall be performed on the subbase material to confirm that the material meets the gradation requirements for the approved subbase material. Gradation analysis tests shall be performed at a frequency of not less than once every 1,500 cubic yards of subbase material.
2. Compaction (or density) testing of the subbase material shall be performed at a frequency of not less than once for every 200 feet of roadway with more if failing tests warrant.
3. The grading and slope of the subbase material shall be checked and documented with a frequency of not less than every 100 feet of roadway.
4. The bottom grade and width of the roadside ditches (if provided) shall be checked and documented with a frequency of not less than 100 feet of ditch. The locations and elevations of the culvert inverts shall be documented.
5. A visual inspection of the subbase material shall be performed and documented to verify that the subbase is free from rutting and soft spots before placing any base material.

d. *Aggregate base.*

1. A gradation analysis shall be performed on the aggregate base material to confirm that the material meets the gradation requirements for the approved aggregate base material.

Gradation analysis tests shall be performed at a frequency of not less than once every 1,500 cubic yards of aggregate base material.

2. Compaction (or density) testing of the aggregate base material shall be performed at a frequency of not less than once for every 100 feet of roadway with more if failing tests warrant.
3. The grading and slope of the aggregate base material shall be checked and documented with a frequency of not less than every 100 feet of roadway.

e. *Bituminous pavement.*

1. The petitioner's engineer shall issue a written permit to place for each section of aggregate base material suitable to place the bituminous pavement material. The permit to place shall verify that the bituminous pavement will not be placed on any frozen aggregate base material or frost when cold weather is a concern. The petitioner's engineers shall have a representative on site at all times during the bituminous paving operations.
2. The petitioner's engineer shall verify and document that the bituminous mix design meets the approved construction plan requirements.
3. For roads with concrete curb and gutters, the petitioner's engineer shall verify and document that the concrete mix design for the curb and gutters meets the approved construction plan requirements. Tests for slump, air entertainment, temperature (for both concrete and ambient air) and compressive strength (for seven-day and 28-day) shall be performed at a rate of one set of tests for 1,500 feet of curb and gutter or one set of tests per day for each day that the curb and gutter is installed.
4. Extraction tests shall be performed on the bituminous material at a minimum frequency of once every 1,000 tons of bituminous material placed but not less than once a day or once per mixture type. The extraction test may be replaced by visual inspection and submittal of plant extraction test results for small projects with less than 400 tons of bituminous material per project.
5. Density tests shall be performed on each lift of bituminous pavement. The control density for each bituminous mixture shall be determined.
6. The ambient air temperature shall be documented for each day that bituminous material is placed. The temperature of the bituminous mixture shall be documented for each truckload.
7. The final grade of the road centerline and the concrete curb and gutters or edges of pavement (in roads with gravel shoulders) shall be documented at a frequency of not less than once every 100 feet of roadway. The transverse slope of the final pavement shall be documented every 100 feet of roadway.

(2) *Items for final review.* At the completion of the private road construction (including final restoration and sign installation), the following items shall be submitted to the Township for final review:

- a. One set of reproducible "Conforming to Construction Records" (or as-built) drawings of the completed private road. The sewer locations, materials, sizes, invert elevations and slopes shall be indicated. This manhole and catch basins or inlets should be shown. The grades and slopes of the road shall be shown. Each set of Conforming to Construction Records drawings shall have the original stamp and signature of the petitioner's registered professional engineer.

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- b. Copies of all the inspection reports (including the daily reports), the test results, the engineer's permit to place the bituminous pavement material, and the engineer's certifications of the mix designs and the suitability of the road subgrade and subbase material shall be submitted.
 - c. The petitioner's engineer shall submit written certification with their original stamp and signature stating that the private road construction is complete and that the construction activities, testing and documentation were carried out under their supervision and that the private road was properly constructed in substantial compliance with the approved construction plans and the Township private road requirements. The petitioner's engineer shall identify any deviations in the road construction from the approval construction plans and provide a justification for such deviations. The justifications shall be made using reasonable engineering judgements. A written certification from a registered land surveyor or a registered professional engineer shall be submitted stating that the private road was located in accordance with the approved construction plans.
- (3) *Final site visit and acknowledgement.* The Township Engineer shall review the information and perform a final site visit to visually confirm the documentation submitted by the petitioner's engineer for the Township's final acknowledgement that the private road construction was completed in substantial compliance with the Township ordinance requirements. The Township Engineer shall make a recommendation to the Township on whether all the required documentation has been submitted and the private road construction has been properly completed. The petitioner's engineer shall be informed of any review comments preventing the final acknowledgement of the private road.
- (4) *Performance guarantee.* If the petitioner has submitted a performance guarantee, the Township shall release or return the performance guarantee to the petitioner once the Township acknowledges that all the documentation has been submitted and that the construction of the private road was properly completed in substantial compliance with the Township ordinance requirements.

(Ord. No. 28-F, § 2.4, 4-7-2020)

Sec. 26-57. Street names and signs.

Private roads shall be named by the proprietors subject to the review and approval of the Township Planning Commission and the county road commission. The proprietors shall be responsible for the erection and maintenance of the street signs and all traffic signs required by the Township, the county, and the state.

(Ord. No. 28-F, § 2.5, 4-7-2020)

Sec. 26-58. Disclosure.

The legal description of the private road and related utility and drainage easements shall be recorded with the county register of deeds at the time of land division. The seller and/or proprietor shall give written notice to each new owner of record served by the private road that initial construction of the road is the responsibility of the seller, but that maintenance and future improvements of private roads are the sole responsibility of all record owners served by the road. Said notice shall be attached to and recorded with each transmitting instrument of interest. In addition, each platted subdivision, subdivision of land into four parcels or less, or condominium project shall provide a duly recorded maintenance agreement within its definition of easement, subdivision regulations, master deed, or bylaws which shall be subject to review and approval by the Township Attorney. At a minimum, the maintenance agreement shall contain the following:

- (1) A method of apportioning and collecting all maintenance costs.

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- (2) A statement holding the Township harmless as to liability for design and maintenance of the private road.
 - (3) An acknowledgement that it is the collective responsibility of the property owners benefiting from the private road to maintain the following: surface grading and resurfacing at regular intervals; snow and ice removal; repair of potholes; maintenance of road drainage systems; regular cutting of weeds and grass within the easement; and, replacement or construction of the roadway and all related improvements, such as road base, road surfaces, culverts, bridges, catch basins, drains, and traffic signs.
 - (4) A statement that the obligation to maintain the private road and related easements shall be an obligation attached to the land parcels to be served by the private road and shall be binding upon the owner of such land and their heirs, successors, and assigns.

(Ord. No. 28-F, § 2.6, 4-7-2020)

Sec. 26-59. Issuance of land use permits.

No land use permit shall be issued for any parcel until the private road, as defined in section 26-24, has been constructed and approved in accordance with the standards established in this article.

(Ord. No. 28-F, § 2.7, 4-7-2020)

Sec. 26-60. Issuance of private road certificate of compliance.

A private road certificate of compliance shall be used by the zoning administrator upon receiving certification from the designated Township Engineer that construction has been completed in conformance with the standards set forth in section 26-54.

(Ord. No. 28-F, § 2.8, 4-7-2020)

Sec. 26-61. Appeals.

Any decision regarding the administration or standards of this article may be appealed to the Township Board upon written request of the proprietor made within 60 days of said decisions. Prior to consideration of such appeal, the Township Board shall request the written opinion of the planning commission, which may further request the opinion of the designated Township Engineer. In hearing such appeals, the procedures, fees, and administrative process shall be the same as those established for appeals of general ordinance decisions.

- (1) Variances may only be granted by the Township Board on the finding that both of the following conditions have been met:
 - a. That there are such special circumstances or conditions affecting said property that strict application of the provisions of this article would clearly be impractical or unreasonable.
 - b. That the variance or exemption is necessary for the preservation and enjoyment of a substantial property right of a proprietor and is not intended primarily for that economic gain of any proprietor.
- (2) In order to grant a variance, the Township Board shall also find:
 - a. That the granting of the variance will not be unduly detrimental to the public welfare or injurious to other property in the area in which said property is situated.

- b. That such variance or exemption will not have the effect of nullifying the intent and purpose of this article, the adopted master plan or the Township zoning ordinance.
- (3) In the event an exemption is granted under this section, said variance or exemption shall be recorded with the county register of deeds by the seller and/or proprietor.

(Ord. No. 28-F, § 2.9, 4-7-2020)

Secs. 26-62—26-80. Reserved.

ARTICLE III. MINIMUM PRIVATE ROAD STANDARDS

Sec. 26-81. Minimum standards.

The following minimum standard shall apply to private roads, according to Ordinance No. 28-F of the Hamburg Township Code of Ordinances. These standards may be modified from time to time by the Township Board.

<i>Description</i>	<i>Minimum Standard</i>
Average daily traffic volumes (ADT)	9.5 vehicles per day per single family detached dwelling; 8 vehicles per day per each attached dwelling unit.
Design speed	20 mph
Stopping sight distance	125 feet
Vertical alignment	0.5% minimum, 10.0% maximum
Horizontal alignment	100-ft. minimum radius
Right-of-way width	With ditches: 60 feet, 100-ft. diameter at cul-de-sacs; with curb and gutter: 50 feet, 100-ft. diameter at cul-de-sacs
Road width (width of pavement, edge to edge)	ADT less than 250: 18 feet ADT over 400: 20 feet
Shoulder width (graded slope)	Shoulders not required with curb and gutter; otherwise: ADT less than 400: 2 feet (each side) ADT over 400: 4 feet (each side)
Curb and gutter	Concrete curb and gutter permitted
Cul-de-sacs	66-foot diameter minimum: -to edge of pavement, not including shoulders or curb and gutter -islands permitted when road is paved -islands must include curb and gutter
Intersection offsets	Private road intersections shall be directly aligned with other streets or roads, or offset at least 250 feet from a public road or offset at least 125 feet

	from a private road (measurement from centerline to centerline)
Road surface	Less than 5 houses: 7 inches compacted thickness of 21AA, 22A or 23A gravel Five or more houses: 3 inches of bituminous surface, placed in two courses over a 7-inch gravel base or 6 inches of concrete.
Sub-base	Six inches of compacted Class II sand. On-site material may be used in laboratory analysis indicates that it meets specification requirements Sub-base not required for concrete pavement.
Drainage	Ditches: 2'-0" minimum depth from centerline, IV; 3H front and back slopes; 2' bottom width Culverts/storm sewers: pipe must comply with MDOT Standard Specifications. Provide minimum 2-foot of cover over pipe at road crossings. End sections must be provided at culvert ends.
Horizontal clearance to obstructions	All trees and other objects must be removed from the roadway to the back slope of the ditch 1' above the ditch bottom.
Erosion control/restoration	All areas disturbed by construction must be top soiled, seeded and mulched. Steep slopes may require sod or riprap. Temporary erosion control measures must be utilized.
Private road sign	Each private road shall be identified with a sign at each intersection. These signs shall be distinguishable from public street signs.
Traffic control devices	Private stop signs and street signs at entrance and interior intersections (comply with MMUTCD Manual) Provide a speed limit sign (5 MPH less than the design speed) following each intersection, located 100' to 200' from the intersection Provide pedestrian crossing signs at all trail/walkway crossings.
Livingston County Road Commission approval	If the private road intersects a county road, a permit for the approach must be obtained from the Livingston County Road Commission prior to Township review. A copy of the permit shall be attached with the application.

(Ord. No. 28-F, att. 1, 4-7-2020)

Chapter 28 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES¹²

ARTICLE I. IN GENERAL

Secs. 28-1—28-18. Reserved.

ARTICLE II. PARKING

Sec. 28-19. Applicability.

The provisions of this article shall apply to parking on all properties owned, operated, or maintained by the Township.

(Ord. No. 48-D, § 2.0, 8-15-2017)

Sec. 28-20. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business means all activities conducted in or on Township property.

Commercial vehicle shall include, but not be limited to, truck tractors, bulldozers, earth carriers, earth movers, drag lines, cranes, backhoes, dump trucks, stake trucks, flatbed trucks, cube vans, wreckers, septic tank pumpers, semi tractors, tanker trucks, well-drilling rigs, welding trucks, semi-trailers, buses, and any other type of commercial or construction equipment or vehicle, as well as any other motor vehicle not customarily used for passenger transport, and/or having a pay load of three tons or greater. Commercial vehicles shall not be construed as a motor vehicle customarily used for passenger transport, i.e., sedans, coupes, hatchbacks, station wagons, minivans, vans, pickup trucks, sport utility vehicles, etc.

Motor vehicle means every vehicle which is self-propelled.

Parking means stopping a motor vehicle and leaving it unattended.

Township property means any all properties owned, operated, or maintained by Hamburg Township.

(Ord. No. 48-D, § 3.0, 8-15-2017)

¹²State law reference(s)—Township roads generally, MCL 41.271 et seq., 41.411 et seq., 247.351 et seq.; obstructions and encroachments on public highways, MCL 247.171 et seq.; closing of highway for repairs, MCL 247.291 et seq.; driveways, banners, events and parades, MCL 247.321 et seq.; liability of local government for injury from the result of not keeping highway in reasonable repair, MCL 691.1402; MISS DIG underground facility damage prevention and safety act, MCL 460.721 et seq.

Sec. 28-21. Prohibited parking.

No parking shall be permitted on property owned, operated and maintained by the Township, unless such parking is in conformity with the terms and provisions of this article.

(Ord. No. 48-D, § 4.0, 8-15-2017)

Sec. 28-22. Regulations.

- (a) Parking of any motor vehicle is prohibited on Township property between the hours of 12:00 midnight and 5:00 a.m.
- (b) The parking of any motor vehicle with signs, in, or near it for the purpose of selling, marketing, or advertising, the vehicle on property owned, operated, or maintained by the Township is prohibited.

(Ord. No. 48-D, § 5.0, 8-15-2017)

Sec. 28-23. Exceptions to parking prohibitions.

- (a) This article shall not apply to any emergency, police, or fire motor vehicle, or any motor vehicle used or owned by an elected Township official or Township employees during the performances of their duties.
- (b) This article shall not apply to any personal motor vehicle owned or driven by any officer, police officer, or firefighter while performing his official duties.
- (c) This article shall not apply to parking of vehicles on Township property that are parked in conjunction with Township authorized activities or events.

(Ord. No. 48-D, § 6.0, 8-15-2017)

Sec. 28-24. Official signs.

The Hamburg Township police chief or any officer designated by the chief is hereby authorized to post official signs to Township property identifying the ordinance and its applicable provisions.

(Ord. No. 48-D, § 7.0, 8-15-2017)

Sec. 28-25. Sanctions, fines, penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this article shall be classified as a Class E municipal civil infraction.

(Ord. No. 48-D, § 8.0, 8-15-2017)

Secs. 28-26—28-53. Reserved.

ARTICLE III. WIRELESS FACILITIES IN RIGHT-OF-WAY

Sec. 28-54. Purpose.

This article is adopted in response to new and differing state and federal regulations, including Michigan Public Act No. 365 of 2018 (MCL 460.1301—460.1339), 47 USC 1455, Rules adopted by the Federal Communications Commission (FCC) as 47 CFR 1.40001 (now 47 CFR 1.6100) and 47 CFR 1.6001—1.6003, and the FCC's Declaratory Ruling and Third Report and Order in FCC 18-133, that infringe on the Township's constitutional and proprietary rights and interests in its public right-of-way and the reasonable control thereof under ordinance VII, section 29 of the Michigan Constitution of 1963, Michigan Statutes, and other applicable laws, which would allow the Township to require public right-of-way users to obtain a franchise or license from the Township. Without waiving those Township rights, this article is adopted for the purpose of complying with those state and federal regulations by providing for and regulating access to and ongoing use of public rights-of-way for wireless facilities that are not considered to be telecommunications facilities covered by the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act No. 48 of 2002).

(Ord. No. 99, § 2.0, 4-10-2019)

Sec. 28-55. Definitions.

The following words, terms, and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collocation or collocate means to place, replace, modify, mount, or install wireless facilities on or adjacent to a wireless support structure or utility pole, but does not include make-ready work or the installation of a new wireless support structure or utility pole.

Eligible facilities request means a request for modification of a lawfully existing wireless tower or lawfully existing wireless base station in a public right-of-way that involves collocation, removal, or replacement of wireless facilities that will not substantially change the physical dimensions of the wireless tower or based station support structure, with wireless tower, wireless base station, and substantial change defined in 47 CFR 1.6100.

Micro wireless facility means a small wireless that is not more than 24 inches in length, 15 inches in width, and 12 inches in height that does not have an exterior antenna more than 11 inches in length.

Public right-of-way means the area on, above, or below a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses, whether owned or controlled by, or under the jurisdiction of, the Township or county, state, or federal government but does not include a private right-of-way, limited access highway, land owned or controlled by a railroad, and railroad infrastructure.

Small wireless facility means a wireless facility that meets each of the following requirements:

- (1) Each antenna is enclosed or would fit within an enclosure of not more than six cubic feet in volume.
- (2) All other wireless facilities associated with all antennas at a single location are not more than 28 cubic feet in volume, with electric meters, telecommunications demarcation boxes, grounding equipment, power transfer and cut-off switches, vertical cable runs, and concealment elements required by the Township excluded from that calculation.

Utility pole means a pole or similar structure other than a wireless support structure, that is or may be fully or partially used for cable or wireline communications, electric distribution, lighting, traffic control, signage if the pole is at least 15 feet in height above ground level, or a similar function, or that is designed to support small wireless facilities.

Wireless facility or facilities means equipment and components at a fixed location that enable or facilitate the provision of wireless services, including antennas, transmitters, receivers, coaxial or fiber-optic cable,

equipment shelters or cabinets, power supplies, comparable equipment, and miscellaneous hardware, but excluding structures or improvements on, under, or within which the equipment is collocated, telecommunication facilities and a wireline backhaul facility.

Wireless provider means a person or entity that provides wireless services and a person or entity that builds wireless facilities or support structures for a disclosed provider of wireless services.

Wireless service means a wireless communication service that is permitted or authorized by the Federal Communications Commission, which includes but is broader than personal wireless services as defined in 47 USC 332.

Wireless service provider means a person or entity that provides wireless services.

Wireless support structure means a freestanding structure designed to support or capable of supporting small wireless facilities but does not include a utility pole.

(Ord. No. 99, § 3.0, 4-10-2019)

Sec. 28-56. Ordinance compliance required.

- (a) Wireless facilities, wireless support structures, and utility poles shall only be installed, used, operated, or maintained in a public right-of-way in compliance with requirements, standards, and regulations in this article, with all wireless providers and other persons that install, use, operate, maintain, or own such facilities, structures or poles responsible for compliance.
- (b) To the extent applicable and allowed under existing franchises, permits, and applicable law, the requirements, regulations, and standards in this article shall apply to all new installations in the public right-of-way by electric and gas public utilities, incumbent or competitive local exchange carriers, fiber providers, and cable television video services providers.

(Ord. No. 99, § 4.0, 4-10-2019)

Sec. 28-57. Required permits and approvals.

- (a) Wireless facilities, wireless support structures, and utility poles shall not be installed, used, operated, or maintained in a public right-of-way without complying with the applicable regulations in this article and first obtaining and thereafter complying with the terms and conditions of all of the following permits or approvals:
 - (1) A construction permit issued by the road commission for the county for county roads or Michigan Department of Transportation for state highways.
 - (2) Required building, electrical, and other construction code permits from the Township Building Official and any approvals or permits required to be applied for, reviewed, and issued or denied under the Township Zoning Ordinance.
- (b) A Township Zoning Ordinance permit or approval shall not be required, and fees or rates shall not be payable for:
 - (1) Replacement of a small wireless facility with a small wireless facility that is not larger or heavier and complies with applicable codes.
 - (2) Routine maintenance of small wireless facilities, wireless support structures, or utility poles.

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- (3) The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is suspended on cables strung between utility poles or wireless support structures in compliance with applicable codes.
 - (c) Any construction code and zoning ordinance permits or approvals for wireless facilities, wireless support structures, or utility poles shall be conditioned on compliance with the standards, terms, and conditions in this article.
 - (d) The time period for the Township to act on a wireless provider permit or approval application for wireless facilities, support structures, or utility poles under this article shall not commence until the Township has complete applications for all of the required Township permits listed in subsection (a)(2) of this section.
 - (e) Obtaining a permit for wireless facilities, wireless support structures, or utility poles from the road commission for the county (road commission) or Michigan Department of Transportation (MDOT) who shares the public right-of-way with the Township does not relieve a wireless provider from the need to comply with the standards, terms, and conditions in this article.
- (Ord. No. 99, § 5.0, 4-10-2019)

Sec. 28-58. Pre-construction fee and document filing requirements.

Before commencing construction of wireless facilities, wireless support structures, or utility poles in a public right-of-way, the annual fee established by Township Board Resolution shall be paid and the following documentation shall be filed with the Township Clerk:

- (1) Copies of construction permits from the road commission or MDOT.
- (2) Copies of the plans submitted to and approved by the road commission or MDOT.
- (3) Copies of any bonds provided to the road commission or MDOT.
- (4) Identification of contractors who will be working in the public right-of-way and contact persons and information for those contractors.
- (5) A construction schedule indicating the period of time for the work from commencement to completion and restoration of all public right-of-way disturbed by the work.
- (6) A certificate of compliance with FCC rules related to radio frequency emissions from the proposed wireless facilities.
- (7) The following information for the owner of and each wireless provider that will construct or use the wireless facilities, wireless support structures, and utility poles:
 - a. Legal and any assumed names, and resident agent name, if any.
 - b. Local, mailing, and registered office addresses.
 - c. Name, title, and authority of signatory for that entity.
 - d. Contact person name, address, telephone numbers and email address.

(Ord. No. 99, § 6.0, 4-10-2019)

Sec. 28-59. Allowed wireless facilities, support structures and utility poles.

The only wireless facilities, wireless support structures, and new or replacement utility poles allowed in a public right-of-way, as required by the state and federal laws identified in section 28-54, are those identified in this section subject to the stated standards:

- (1) Collocation of a small wireless facility on an existing wireless support structure or utility pole where wireless facilities do not extend more than five feet above the height of the wireless support structure or utility pole they are collocated on and the collocation will not result in a height that exceeds the greater of the following overall heights of the structure or pole and collocated wireless facilities:
 - a. 50 feet.
 - b. A height that is ten percent more than the height of the existing structure or pole.
 - c. A height that is ten percent more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.
- (2) Collocation of a small wireless facility on a new or replacement wireless support structure or utility pole where wireless facilities do not extend more than five feet above the height of the wireless support structure or utility pole and the new or replacement wireless support structure or utility pole used for collocation:
 - a. Does not exceed 40 feet in height above ground level; or
 - b. The collocation will not result in a height that exceeds the greater of the following overall heights of the new or replacement structure or pole and collocated wireless facilities:
 1. 50 feet.
 2. For a replacement structure or pole, a height that is ten percent more than the height of the structure or pole being replaced.
 3. A height that is ten percent more than the height of immediately adjacent wireless support structures or utility poles in the public right-of-way.
- (3) An eligible facilities request as defined in section 28-55.
- (4) Collocation of wireless facilities other than small wireless facilities and eligible facilities requests as described in section 28-57(a) through (c) that comply with all standards in this section and section 28-58, and the wireless facilities do not extend more than five feet above the height of the wireless support structure or utility pole they are collocated on.
- (5) Replacement and new wireless support structures or utility poles not involving collocation of small wireless facilities or eligible facilities requests described in section 28-57(a) through (c) that comply with all standards in this section and section 28-58, the wireless support structure or utility pole height does not exceed 40 feet above ground level, and wireless facilities do not extend more than five feet above the height of the wireless support structure or utility pole.

(Ord. No. 99, § 7.0, 4-10-2019)

Sec. 28-60. Public, utility, traffic, and pedestrian safety protection standards.

Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to avoid material interference with the safe operation of traffic equipment, sight lines and clear vision areas, Americans with

Disabilities Act (ADA) compliance regarding pedestrian access or movement, and the maintenance and full unobstructed use of public utility and drainage infrastructure:

- (1) Shall have a separation distance of at least five feet from a sidewalk and the back of a curb, or if there is no curb, from the edge of the improved public right-of-way used for motor vehicle travel.
- (2) Shall have a separation distance of at least five feet from the edge of any driveway and not be positioned to obstruct the ability to view traffic on the road from a vehicle exiting a driveway.
- (3) Shall be located outside the corner clearance area under the Zoning Ordinance and comply with any other traffic safety clear vision standard under any Township or other governmental ordinance, code, standard, rule, or regulation.
- (4) Shall not cause a physical or visual obstruction or safety hazard to pedestrian or vehicular traffic.
- (5) Shall comply with any setback, separation, or isolation distance requirement from existing or planned public utilities and lawful structures in the public right-of-way under any Township ordinance, code, or design standards.
- (6) The lowest part of wireless facilities shall be located at a height that is at least ten feet above existing grade or higher as necessary to not pose a hazard or obstruction to persons or vehicles and to provide sufficient separation distance from power lines and similar facilities.
- (7) Wireless support structures and utility poles shall not have more collocated wireless facilities than the structure or pole is designed and constructed to safely accommodate as documented by a certified structural analysis.
- (8) Construction and traffic control during construction shall be in accordance with the Michigan Manual of Uniform Traffic Control Devices, Michigan Vehicle Code, and the directives of the Township Public Safety Department.
- (9) Shall not interfere or prevent compliance with Americans with Disabilities Act standards regarding pedestrian access and movement.
- (10) Shall comply with all conditions of any required permits from the road commission or MDOT.

(Ord. No. 99, § 8.0, 4-10-2019)

Sec. 28-61. Aesthetic, spacing, and undergrounding standards.

Wireless facilities, wireless support structures, utility poles, and any related equipment shall be designed, installed, used, and maintained in compliance with the following standards that are intended to conceal such facilities, structures, and poles to the extent technically feasible in an effort to avoid or remedy the tangible and intangible public harm of installations in the public right-of-way that are unsightly, out-of-character with the surrounding area, or could result in the direct or indirect removal of trees and other aesthetically desirable features and appearances:

- (1) Shall be strictly limited to the location and what is shown on the road commission or MDOT approved construction permit plans.
- (2) Wireless facilities shall be treated and colored to be visually compatible with the wireless support structure or utility pole they are collocated on or associated with by painting or other coating. For existing wood utility poles, a finish color of conduit that is zinc, aluminum, or stainless steel is considered visually compatible.

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- (3) Wireless facilities shall be compatible in scale and proportion to the structure or pole upon which they are to be attached, using the smallest and least intrusive technology available, with the diameter of top mounted antennas to not exceed twice the diameter of the top of the structure or pole.
 - (4) Antennas shall be top mounted and aligned with the centerline of wireless support structures or utility poles, or side mounted with the vertical centerline of the antenna parallel with the support structure or utility pole.
 - (5) All cables and wires shall be placed in conduit or otherwise properly secured and concealed on the wireless support structure or utility pole.
 - (6) No more than three antennas may be collocated on a utility pole and only if that number of antennas can be designed and accommodated in a manner that complies with all requirements of this section.
 - (7) Existing trees in the public right-of-way shall not be removed or trimmed to facilitate the installation, use, or maintenance of wireless facilities.
 - (8) Wireless facilities, support structures, and utility poles shall not be located within the drip line (critical root zone) of an existing tree in or adjoining the public right-of-way.
 - (9) Ground-mounted wireless facilities, including equipment cabinets and enclosures, shall be located as close as legal and technically feasible to the wireless support structure or utility pole they are associated with.
 - (10) Ground-mounted wireless facilities, including equipment cabinets and enclosures, shall be concealed to the extent technically feasible by matching color and materials to existing aboveground structures, landscaping, and placement to take advantage of concealment provided by the proposed structure or pole, existing landscaping, or aboveground improvements.
 - (11) Wireless facilities shall not project more than two feet from any side of the utility pole or wireless support structure upon which they are collocated.
 - (12) Wireless facilities shall not be illuminated unless required by law or integral to a concealment design such as appearance as or on a streetlight pole.
 - (13) New and replacement utility poles shall be located in alignment with existing utility poles on either side.
 - (14) New and replacement utility poles shall be located equidistance from existing utility poles on either side.
 - (15) New and replacement utility poles shall be made of the same material and have the same visual appearance as the existing utility poles on either side. If those existing utility poles are different, the new or replacement pole shall be metal or fiber if either existing pole is of that material and shall otherwise be the same material as the newer of the existing poles.
 - (16) Unless a greater height is approved under this article as required by state or federal law, wireless support structures and utility poles shall not be taller than the existing utility poles on either side.
 - (17) In a public right-of-way abutting residentially used or zoned property, new wireless facilities, wireless support structures, and utility poles shall only be located in line with a side lot line.
 - (18) New wireless facilities shall not be collocated on an existing wireless support structure or utility pole that is directly in front of an existing residential dwelling or that is along the frontage of a property containing a building of historic significance under federal, state, or other laws.
 - (19) New wireless facilities, wireless support structures, and utility poles shall not be located in front of an existing residential or commercial structure.

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- (20) In a public right-of-way abutting residentially used or zoned property, wireless facilities that require a cooling system shall use a passive system, or if a motorized system is technologically required, shall use a system and fan with the lowest available noise level.
 - (21) Except for a label containing the name and emergency contact telephone number for the wireless provider responsible for the wireless facilities and wireless support structure or utility pole, information that identifies them and their location, and any information required to be displayed by state or federal law, no signage shall be allowed, with all manufacturer decals that are not needed for safety reasons to be removed or painted over.
 - (22) Regardless of the number of antennas that are collocated on a utility pole or wireless support structure, the other wireless facilities associated with those antennas shall not exceed 28 cubic feet in volume.
 - (23) Collocations on and replacement or new utility poles or wireless support structures in a public right-of-way that has been specifically designated or identified by ordinance or Township Board resolution for a program of improvement, redevelopment, beautification, regulation, or other planning goals, shall be subject to Township review and approval of the design, appearance, and method and height of attachment to ensure consistency, compatibility, and uniformity with the standards, objectives, installations and streetscape appearance planned for that public right-of-way under the program.
 - (24) Aboveground wireless facilities and support structures and utility poles shall not be allowed in an area designated by the Township Board solely for underground or buried cable and utility facilities if all of the following apply:
 - a. The Township has required all cable and utility facilities, other than Township, streetlight, and traffic signal poles and attachments, to be placed underground by a date that is not less than 90 days before the submission of the application.
 - b. The Township does not prohibit the replacement of Township poles by a wireless provider in the designated area.

(Ord. No. 99, § 9.0, 4-10-2019)

Sec. 28-62. Public right-of-way regulations.

The following regulations apply to the installation, use, operation, and maintenance of wireless facilities, wireless support structures, and utility poles in a public right-of-way:

- (1) *Repair.* All wireless providers using the wireless facilities, support structures, or utility poles are responsible for repairing all damage to the public right-of-way caused by the activities of one or more of those providers while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing wireless facilities, wireless support structures, or utility poles, and to restore the public right-of-way to the condition that existed prior to the damage. If the wireless providers fail to perform the repairs and restoration within 60 days of the Township's written notice to do so, the Township may perform the repairs and restoration, with the wireless providers responsible for paying the Township its reasonable and documented costs within 30 days of the Township's invoice or billing for those costs.
- (2) *Electricity.* All wireless providers using the wireless facilities, support structures, or utility poles shall be responsible for arranging and paying for all electricity used for the wireless facilities.
- (3) *Indemnification.* All wireless providers using the wireless facilities, support structures, or utility poles shall defend, indemnify, and hold harmless the Township and its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney

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- fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, wireless support structures, or utility poles to the extent caused by the applicant, wireless providers using the facilities, structures, or poles, and their contractors, subcontractors, and the officers, employees, or agents of any of these. This obligation does not apply to any liabilities or losses due to or caused by the sole negligence of the Township or its officers, agents, or employees.
- (4) *Insurance.* All wireless providers using the wireless facilities, support structures, or utility poles obtain insurance naming the Township and its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney fees in amounts required by the Township. A wireless provider may meet all or a portion of the Township's insurance coverage and limit requirements by self-insurance. To the extent it self-insures, a wireless provider is not required to name additional insureds under this section. To the extent a wireless provider elects to self-insure, the wireless provider shall provide to the Township evidence demonstrating, to the Township's satisfaction, the wireless provider's financial ability to meet the Township's insurance coverage and limit requirements.
 - (5) *No burden on public right-of-way.* Wireless facilities, support structures, and utility poles shall not unduly burden or interfere with the present or future use of any of the public right-of-way and shall be installed and maintained so as to not endanger or injure persons or property in or about the public right-of-way. If the Township reasonably determines that any portion of such facilities, structures, or poles constitutes an undue burden or interference, due to changed circumstances, they shall be modified to remove or alleviate the burden within a reasonable time period by the owner and wireless providers using the facilities, structures, or poles, at their expense.
 - (6) *No priority.* The installation of wireless facilities, support structures, or utility poles does not establish any priority of use of the public right-of-way over any present or future lawful user of the public right-of-way. In the event of any dispute as to the priority of use of the public right-of-way, the first priority shall be to the public generally, the second priority to Township, the third priority to the state and its political subdivisions in the performance of their various functions, and thereafter as between other lawful users.
 - (7) *Marking.* Wireless facilities, structures, and utility poles shall be marked in compliance with applicable federal and state law requirements, with each location at which wireless facilities, structures, and poles are located to have a written sign that is readable from ground level that at a minimum states the name and a toll-free telephone number of the entity responsible for the facilities, structures, and poles, and, if underground, a statement that there is buried equipment at the site.
 - (8) *Installation and maintenance.* The construction and installation of the wireless facilities, structures, and poles shall be performed pursuant to construction permit plans approved by the road commission or MDOT, and together with the maintenance of the wireless facilities, structures, and poles, shall be done in a clean, good, and workmanlike manner. Installations and maintenance shall be performed to provide a reasonably safe condition, free from workmanship and product defects. Maintenance on the wireless facilities, structures, and poles may be performed provided any required road commission or MDOT permits to disturb or block vehicular traffic are obtained.
 - (9) *Compliance with laws.* Wireless facilities, structures, and utility poles shall comply with all current and future governmental laws, statutes, ordinances, rules, resolutions, tariffs, administrative orders, certificates, permits, orders, regulations, and other legal requirements regarding the construction, installation, use, and maintenance, including zoning and historic preservation ordinances.
 - (10) *Street vacation.* If the Township vacates or consents to the vacation of public right-of-way within its jurisdiction, and such vacation necessitates the removal and relocation of wireless facilities, structures, those shall be removed at the owner's cost and expense when and within the reasonable time ordered by the Township or a court of competent jurisdiction. Upon a failure to comply with this obligation, the

Township may take all reasonable actions it deems necessary to secure timely completion of the required work.

- (11) *Relocation.* The owner and wireless providers using wireless facilities, support structures, or utility poles shall relocate, protect, support, disconnect, or remove them for street or utility work, or other public projects, at their cost and expense, including where necessary, to such alternate location as designated by and agreed to with the Township, applying reasonable engineering standards. The work shall be completed within a reasonable time period. Upon a failure to comply with this obligation, the Township may take all reasonable actions it deems necessary to secure timely completion of the required work.
- (12) *Public emergency.* The Township shall have the right to sever, disrupt, dig-up or otherwise destroy wireless facilities, support structures, and utility poles if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, the Township shall attempt to provide notice to the owner and wireless providers using the facilities, structures, or poles. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or manmade disaster, including, but not limited to, storms, floods, fire, accidents, explosions, water main breaks, hazardous material spills, and similar events. Permittee shall be responsible for repair at its cost and expense of any of its wireless facilities, structures, and poles damaged pursuant to any such action taken by the Township.
- (13) *MISS DIG.* If eligible to join, owners and wireless providers using wireless facilities, support structures, or utility poles shall subscribe to and be a member of MISS DIG, the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended (MCL 460.721 et seq.), and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- (14) *Underground relocation.* Wireless facilities on poles of a utility or telecommunications provider that relocates its system underground shall be removed from those poles by the owner and wireless providers using the facilities, at their expense, within a reasonable time period specified by the Township in a written notice. Upon a failure to comply with this obligation, the Township may take all reasonable actions it deems necessary to secure timely completion of the required work.
- (15) *Identification.* Every service vehicle used in performing work in a public right-of-way shall be clearly identified with the wireless provider's, contractor's, or subcontractor's name and telephone number.

(Ord. No. 99, § 10.0, 4-10-2019)

Sec. 28-63. Fees.

Annual fees shall be payable to the Township for wireless facilities, wireless support structures, and utility poles in a public right-of-way as required in section 28-58 and in a Township Board Resolution that establishes the amounts of the fees.

(Ord. No. 99, § 11.0, 4-10-2019)

Sec. 28-64. Waivers, modification, and variances.

- (a) A wireless provider may request a waiver or modification of one or more of the standards in sections 28-60 and 28-61 by demonstrating in writing that compliance will prevent it from providing personal wireless services in violation of 47 USC 332.

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- (b) A wireless provider may request a variance from one or more of the standards in sections 28-60 and 28-61 by demonstrating in writing that compliance with the standard imposes unreasonable technical problems or significant additional costs.
 - (c) Waiver, modification, and variance requests shall be considered and decided by the Township Board of Trustees, which may grant full or partial relief, with or without conditions, on the grounds specified in subsections (a) and (b) of this section, and for any other reason the board determines appropriate under applicable law.

(Ord. No. 99, § 12.0, 4-10-2019)

Sec. 28-65. Violations.

A violation of this article shall be a Class A municipal civil infraction. Nothing in this section shall be construed to limit the remedies available to the Township by law for such violations.

(Ord. No. 99, § 13.0, 4-10-2019)

Chapter 30 TRAFFIC AND VEHICLES¹³

ARTICLE I. IN GENERAL

Secs. 30-1—30-18. Reserved.

ARTICLE II. COMMERCIAL VEHICLE PARKING AND STORAGE

Sec. 30-19. Purpose.

The purpose of this article is to promote the public health, safety, comfort, and general welfare of the community through regulating the location and number of commercial vehicles that can be parked or stored on residential property in Hamburg Township.

(Ord. No. 90-A, § 2.0, 8-15-2017)

Sec. 30-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial vehicle means a vehicle primarily designed, maintained or used for construction purposes, commercial purposes or the transport of one or more persons or property of any kind for compensation. For the purposes of this section, a motor vehicle customarily used for transport of passengers (i.e., sedans, coupes, hatchbacks, station wagons, minivans, vans, pickup trucks, sport utility vehicles, etc.) shall not be considered a

¹³State law reference(s)—Michigan vehicle code, MCL 257.1 et seq.; powers of local authorities, MCL 257.605, 257.606, 257.610.

commercial vehicle even when used for a commercial purpose if the vehicle has a gross combined vehicle weight of 7,500 pounds and under.

Commercial vehicles or equipment means and includes, but shall not be limited to, tractors (excluding lawn tractors), bulldozers, earth carriers, drag lines, cranes, back hoes, dump trucks, stake trucks, flatbed trucks, panel trucks, cube vans, wreckers, septic tank pumpers, seal coating trucks, semi-tractors, tanker trucks, well-drilling rigs, welding trucks, repair vehicles, semi-trailers, and any other type of commercial or construction equipment as well as any other motor vehicles not customarily used for passenger transport. Specifically excluded from the definition of the term "commercial vehicles or equipment" are any and all tractors or equipment used or customarily used in farming operation.

(Ord. No. 90-A, § 3.0, 8-15-2017)

Sec. 30-21. Regulations.

- (a) Commercial vehicles and/or equipment parked or stored on a residential property shall be owned or leased by the current owner or occupant of the subject property and shall be properly licensed.
- (b) Commercial vehicles that are parked and stored on a residential property shall only be used by the property owner or occupant of the subject property. This includes the driving of the vehicles to and from the subject property.
- (c) Commercial vehicles are not allowed to be parked or stored on vacant residential properties.
- (d) Indoor parking of commercial vehicles and/or indoor storage of equipment is allowed on residentially zoned or used properties, provided the following standards are met:
 - (1) On lots less than one acre in size, no more than one commercial vehicle is allowed to be parked or stored indoors.
 - (2) On lots that are between one acre to five acres in size, no more than two commercial vehicles are allowed to be so parked or stored indoors.
 - (3) On lots that are greater than five acres in size, no more than four commercial vehicles are to be so parked or stored indoors.
- (e) Outdoor parking and storage of commercial vehicles and equipment on residentially zoned or used properties in the Township shall be prohibited, with the following exceptions: the outdoor parking and storage of pickup trucks, panel trucks, cube vans, and/or trailers is permitted provided that the following standards of the vehicles so stored are met:
 - (1) Pickup trucks, panel trucks and cube vans shall not exceed 28 feet in length, nor have more than two axles (one steering and one drive).
 - (2) Trailers shall not exceed 20 feet in bed length, exclusive of the tongue, nor have more than two axles (tandem).
 - (3) On lots less than one acre, no more than one pickup truck, panel truck, cube van, or trailer shall be stored or parked outdoors.
 - (4) On lots greater than one acre and less than five acres, no more than one trailer and one pickup truck, panel truck or cube van shall be stored or parked outdoors.
 - (5) On lots greater than five acres, no more than two trailers and two pickup trucks, panel trucks, or cube vans shall be stored or parked outdoors provided they are parked or stored at least 100 feet from the closet property line and are sufficiently screened from off-site view as determined by the zoning administrator.

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- (6) Any commercial vehicles or equipment so parked or stored must be located on a paved surface.
 - (7) Any commercial vehicle or equipment so parked or stored must be located outside of the required setbacks for the principal building as described in the Hamburg Township zoning ordinance.
 - (8) Notwithstanding anything in this article to the contrary, outdoor parking of commercial vehicles, and/or equipment is allowed in any zoning district where such parking or storage is limited to the vehicles or equipment engaged in the performance of a service on the said property or the adjoining property, for the period of time reasonably necessary to complete the service for which the commercial vehicle and/or equipment are being used.

(Ord. No. 90-A, § 4.0, 8-15-2017)

Sec. 30-22. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties, as set forth in section 1-45, are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class C municipal civil infraction.

(Ord. No. 90-A, § 6.0, 8-15-2017)

Secs. 30-23—30-47. Reserved.

ARTICLE III. MOTORCYCLES

Sec. 30-48. Purpose.

By the adoption of this article, the Township Board finds and determines the uncontrolled operation of motorcycles, as defined herein, has become a public nuisance within the Township due to loud and raucous noises, noxious odors and excessive dust. They are dangerous to the health and safety of persons in the Township. The Township Board further finds this article controlling the use of motorcycles, as defined herein, is necessary to prevent nuisance conditions detrimental to the safety, health and general welfare of the citizens of the Township.

(Ord. No. 45-B, § 2.0, 8-15-2017)

Sec. 30-49. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Michigan Vehicle Code means all definitions which appear in the state vehicle code shall be applicable to such terms when used in this article, unless otherwise defined, and then the terms of this article shall control.

Motorcycle means:

- (1) Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground.

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- (2) In addition, the term "motorcycle" shall mean every vehicle not entitled to be licensed for travel upon the public highways of the state which is designed primarily for recreational purposes, including, but not limited to, all-terrain vehicles, go-karts, trail-bikes, or drag bikes.
 - (3) The term "motorcycle" shall not include tractors, motor powered lawn mowers, special mobile equipment as defined in the state vehicle code, or similar vehicles.

(Ord. No. 45-B, § 3.0, 8-15-2017)

Sec. 30-50. Operation restrictions.

- (a) *Motor vehicle travel areas.* No motorcycles shall be operated upon the streets and highways of the Township or other areas open to public motor vehicle travel, except in accordance with the state vehicle code.
- (b) *Parking facilities.* No motorcycles shall be operated in any area open to the public for the parking of motor vehicles except for the sole purpose of normal ingress and egress into such parking facilities.
- (c) *Public or school property.* No motorcycles shall be operated upon property owned by the Township, or by a public body, other than areas designated for the parking of motor vehicles, except in accordance with the rules and regulations established for such property by the public body having jurisdiction.
- (d) *Public and private property.*
 - (1) *Trespassing.* No motorcycles shall be operated upon any private or public property in violation of any state statute prohibiting trespass to land.
 - (2) *Zoning.* No motorcycles shall be operated upon any private property within the Township unless such operation is in accordance with a principal use permitted on such property by the Township zoning ordinance or is an accessory use normally incidental to a permitted principal use then in existence upon said property.
- (e) *Subdivision streets.* No person shall operate a motorcycle on the streets of any subdivision except for the purpose of gaining ingress and egress to premises located within the subdivision or for through traffic through the subdivision. It is the intention of this subsection to regulate, restrict and minimize the use of subdivision streets for the recreational use of motorcycles.

(Ord. No. 45-B, § 4.0, 8-15-2017)

Sec. 30-51. Excessive, unusual or unnecessary noise.

- (a) *Dust defined.* The suspension of particles of earth, dirt, gravel or any other loose road surface material in the air for any period of time.
- (b) *Mandatory equipment.* Every motorcycle so operated shall be equipped with an efficient muffler which will ensure noise levels comparable to that of a private passenger automobile.
- (c) *Causes.*
 - (1) *Racing engines.* Racing motorcycle engines, or repeated acceleration and deceleration of motorcycle engines, except in the course of maintenance of such engines, is hereby deemed to be excessive, unusual and unnecessary noise.
 - (2) *Abrupt or violent acceleration.* Abrupt or violent acceleration of the motorcycle including acceleration which causes the front wheel of the motorcycle to lose contact with the ground, shall be deemed to create excessive, unusual, or unnecessary noise.

(Ord. No. 45-B, § 5.0, 8-15-2017)

Sec. 30-52. Excessive, unusual or unnecessary dust.

- (a) *Dust defined.* The suspension of particles of earth, dirt, gravel or any other loose road surface material in the air for any period of time.
- (b) *Prohibited.* No person shall operate a motorcycle in the Township in such a manner as to create excessive, unusual or unnecessary dust.
- (c) *Causes.*
 - (1) *Excessive speed.* Operating a motorcycle on unpaved roads, in excess of the posted or prima facia speed limit is hereby deemed to create excessive, unusual or unnecessary dust; provided, however, that existing road conditions must allow for the creation of dust.
 - (2) *Abrupt or violent acceleration.* Abrupt or violent acceleration or deceleration of a motorcycle on unpaved roads, including acceleration which causes the front wheel of the motorcycle to lose contact with the ground, shall be deemed to create excessive, unusual, unnecessary dust, provided however, that existing road conditions must allow for the creation of dust.

(Ord. No. 45-B, § 6.0, 8-15-2017)

Sec. 30-53. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 45-B, § 8.0, 8-15-2017)

Secs. 30-54—30-79. Reserved.

ARTICLE IV. MOTOR CARRIERS

Sec. 30-80. Purpose.

The purpose of this article is to promote the public health, safety and general welfare of the community through the proper regulation of motor carriers upon the roadways of the Township.

(Ord. No. 60-B, § 2.0, 8-15-2017)

Sec. 30-81. Adoption of provisions of Michigan Compiled Laws by reference.

The following provisions of the Michigan Compiled Laws (MCL), as amended, are hereby adopted by reference:

- (1) Carrier Fuel Tax, Public Act No. 119 of 1980, being specifically MCL 207.211 through 207.234, inclusively.

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- (2) Motor Carrier Act, Public Act No. 254 of 1933, being specifically:
- a. MCL 475.1 through 475.4, inclusively;
 - b. MCL 476.1 through 476.14, inclusively;
 - c. MCL 477.1 through 477.12, inclusively;
 - d. MCL 478.1 through 478.8, inclusively;
 - e. MCL 479.1 through 479.21, inclusively.
- (3) Motor Carrier Safety Act, Public Act No. 181 of 1963, being specifically MCL 480.11 through 480.25, inclusively.

(Ord. No. 60-B, § 3.0, 8-15-2017)

Sec. 30-82. References in statutes.

All references to the term "government unit" in the state laws adopted herein means the Township of Hamburg.

(Ord. No. 60-B, § 4.0, 8-15-2017)

Sec. 30-83. Penalties.

The penalties provided by the provisions of the state laws herein adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this article. In addition to the fines prescribed in this article, a court having jurisdiction over a matter covered by this article may assess any additional costs, damages, expenses or other sanctions as authorized by state law.

(Ord. No. 60-B, § 5.0, 8-15-2017)

Secs. 30-84—30-109. Reserved.

ARTICLE V. SNOWMOBILES¹⁴

Sec. 30-110. Purpose.

The purpose of this article is to regulate and control the operation and use of snowmobiles within the Township for the protection of the health, safety, and general welfare of the residents, property owners, visitors and others within said Township, and is adopted under the authority of Michigan Public Act No. 246 of 1945 (MCL 41.181 et seq.), and Public Act No. 451 of 1994 (MCL 324.82101 et seq.), as both such acts have been amended to the date of the adoption of the ordinance from which this article is derived.

(Ord. No. 15-B, § 2.0, 8-15-2017)

¹⁴State law reference(s)—Snowmobiles, MCL 324.82101 et seq.

Sec. 30-111. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dealer means any person engaged in the sale, lease or rental of snowmobiles as a regular business.

Highway or *street* means the entire width between the boundary lines of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

Operate means to ride in or on and to be in actual physical control of the operation of the snowmobile.

Operator means any person who operates or is in actual physical control of a snowmobile.

Owner means any of the following:

- (1) A person who holds the legal title to a snowmobile.
- (2) A vendee or lessee of the snowmobile which is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee.
- (3) A person renting a snowmobile or having the exclusive use of a snowmobile for more than 30 days.

Right-of-way means that portion of a highway less the roadway and any shoulder.

Roadway means that portion of a highway improved, designated or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term "roadway" refers to any such roadway separately, but not to all such roadways collectively.

Shoulder means that portion of a highway on either side of the roadway which is normally snow-plowed for the safety and convenience of vehicular traffic.

Snowmobile means any motor-driven vehicle designed for travel primarily on snow or ice of a type which utilizes sled-type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated. It is not a vehicle which must be registered under Public Act No. 300 of 1949, as amended, being MCL 257.1 to 257.923.

(Ord. No. 15-B, § 3.0, 8-15-2017)

Sec. 30-112. Regulations.

No person shall operate and no owner or dealer shall permit the operation of any snowmobile under the following conditions, circumstances or at the following locations:

- (1) Upon a public highway, land used as an airport or street, or on a public or private parking lot not specifically designed for the use of snowmobiles, except under the following conditions and circumstances:
 - a. A person may operate a snowmobile on the right-of-way of a public highway, except a limited access highway, if it is operated at the extreme right of the open portion of the right-of-way and with the flow of traffic on the highway.
 - b. A person may operate a snowmobile on the roadway or shoulder when necessary to cross a bridge or culvert if the snowmobile is brought to a complete stop before entering onto the roadway or shoulder and the driver yields the right-of-way to any approaching vehicle on the highway.

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- c. A person may operate a snowmobile when it is impracticable to gain immediate access to an area adjacent to a public highway, on the right-of-way adjacent and parallel to the roadway for the sole purpose of gaining access to and from the area of operation by the most direct route. Loading or unloading of the snowmobile shall be accomplished with due regard to safety at the nearest possible point to the area of operation.
 - d. A person may operate a snowmobile across a public highway, other than a limited access highway, at right angles to the highway, for the purpose of getting from one area to the other when the operation can be done in safety and another vehicle is not crossing the highway at the same time in the same general area. Such person shall bring his snowmobile to a complete stop before proceeding across any public highway and shall yield the right-of-way to all oncoming traffic.
 - e. A person may operate a snowmobile on a highway in a county road system, which is not normally snowplowed for vehicular traffic, and on any snowplowed highway in the county road system which is designated and marked for snowmobile use by the county road commission having jurisdiction.
 - f. The supervisor, any police officer or ordinance or law enforcement officer may authorize the use of a snowmobile on a public highway or street when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.
 - g. A person may operate a snowmobile on a street or highway for a special event of limited duration, conducted according to a pre-arranged schedule, if he first obtains a permit from the Township Board, which shall only be granted if said board is of the opinion that the same can be operated in a safe, non-destructive manner without thereby creating a nuisance or hazard to persons or property.
- (2) On private property not owned, leased or under the control of the operator unless the operator has the express consent of the owner, lessee, or other person in control of said property, except in case of an emergency when other means of travel are not feasible or possible.
 - (3) On public school grounds, parks, playgrounds, recreational areas, golf courses and other public lands (other than state-owned lands where such operation is authorized by statute) without the express consent of the public authority in charge of such lands or premises, except where such operation is absolutely necessary in an emergency when other means of travel are not feasible or possible.
 - (4) At a speed greater than is reasonable and proper, having due regard for conditions then existing.
 - (5) While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.
 - (6) During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and a lighted taillight.
 - (7) In any forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or as a natural dedicated area.
 - (8) On the frozen surface of public waters within 100 feet of a person, including, but not limited to, a skater, not in or upon a snowmobile, or within 100 feet of a fishing shanty or shelter, except at the minimum speed required to maintain forward movement of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the frozen public water.
 - (9) Unless the snowmobile is equipped with a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not

exceed 86 DBA (decibels on the "A" scale) on a sound meter having characteristics defined by American Standards Association 81, 4-1966 "General Purpose Sound Meter."

- (10) Within 100 feet of a dwelling between 12:00 midnight and 6:00 a.m., at a speed greater than minimum required to maintain forward movement of the snowmobile.
- (11) In or upon premises which are fenced, otherwise enclosed in a manner to exclude intruders, posted in a conspicuous manner or when notice against trespass is personally communicated to the operator by the owner of the premises or other authorized persons.
- (12) In any area on which public hunting is permitted during the season open to the taking of deer with firearms from 7:00 a.m. to 11:00 a.m. and from 2:00 p.m. to 5:00 p.m., except during an emergency, for lawful enforcement purposes, to go to and from a permanent residence of a hunting camp otherwise inaccessible by a conventional wheeled vehicle or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol and timber harvest operations or on the operator's own property or property under his control or as an invited guest of an owner or person in control of said property.
- (13) While transporting thereon a bow, unless unstrung, or a firearm, unless securely encased or equipped with and made inoperative by a manufactured key locked trigger housing mechanism.
- (14) On or across cemetery or burial ground.
- (15) Within 100 feet of a slide, ski or skating area, except for the purpose of servicing the area or for medical emergencies.
- (16) On a railroad or railroad right-of-way, except for railroad, public utility or law enforcement personnel while in the performance of their duties.
- (17) Unless it has at least one headlight, one taillight and adequate brakes capable of stopping the snowmobile on packed snow, carrying an operator weighing 175 pounds or more in not more than 40 feet from an initial steady speed of 20 miles per hour or unless it has operable mechanisms capable of locking the snowmobile's traction belt.
- (18) At any time for use in hunting, pursuing, worrying or killing a wild bird or animal.
- (19) Operators of a snowmobile shall comply with the following conditions, limitations and restrictions with respect to age:
 - a. No person under the age of 12 years shall operate a snowmobile except under the direct supervision of an adult and when on land owned or under the control of such an adult.
 - b. No person between the ages of 12 years and 16 years may operate a snowmobile unless such operator is under the direct supervision of a person who is 18 years of age or older; or unless the operator has in his immediate possession a snowmobile safety certificate issued pursuant to state law; or is operating the same upon land owned or under the control of the operator's parent or legal guardian.
 - c. No person under the age of 12 years shall operate a snowmobile across a highway or street. No person between the ages of 12 years and 16 years shall operate a snowmobile across a highway or street unless the operator has a valid snowmobile safety certificate issued to the operator pursuant to the laws of the state.
 - d. Any person who operates a snowmobile who is less than 16 years of age in violation of this article shall, upon reporting of such violation to the director of natural resources of the state by any judge of a juvenile court (after trial or acceptance of plea of guilty), have his snowmobile safety certificate forthwith suspended by said director.

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- e. No owner of a snowmobile nor parent or legal guardian of a person under the age of 16 years shall permit the use of a snowmobile by such person in violation of this article.

(Ord. No. 15-B, § 4.0, 8-15-2017)

Sec. 30-113. Enforcement.

Any police officer, peace officer or ordinance enforcement officer of the Township is authorized to issue appearance tickets or municipal civil infraction citations for violations of this article. In any proceedings involving a violation of this Act, the registration number displayed on a snowmobile shall constitute prima facie evidence that the owner of the said snowmobile was the person operating the same at the time of the offense.

(Ord. No. 15-B, § 5.0, 8-15-2017)

Sec. 30-114. Penalties.

- (a) Any person who shall violate any of the provisions of this article shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (b) For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.

(Ord. No. 15-B, § 7.0, 8-15-2017)

Secs. 30-115—30-141. Reserved.

ARTICLE VI. VEHICLE CODE

Sec. 30-142. Purpose.

The purpose of this article is to promote the public health, safety and general welfare of the community through the proper regulation of motor vehicle use within the Township.

(Ord. No. 59-D, § 2.0, 12-19-2017)

Sec. 30-143. Adoption of Michigan Vehicle Code by reference.

The following provisions of the Michigan Compiled Laws (MCL), as amended, are hereby adopted by reference: being specifically MCL 257.1 through 257.923, inclusively (a.k.a., the Michigan Motor Vehicle Code, Public Act No. 300 of 1949).

(Ord. No. 59-D, § 3.0, 12-19-2017)

Sec. 30-144. Adoption of Michigan Uniform Traffic Code.

The uniform traffic code for cities, townships, and villages, as promulgated by the director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, Public Act No. 306 of 1969 (MCL 24.201 to 24.328), and made effective October 30, 2002, and all future amendments and revisions to the uniform traffic code, when they are promulgated and effective in this state, are hereby adopted by reference.

(Ord. No. 59-D, § 4.0, 12-19-2017)

Sec. 30-145. Enforcement on private property and private parking lots.

- (a) Pursuant to MCL 257.951, as amended, and this article, the Township Supervisor and Township Clerk may execute a contract on behalf of the Township with any individual, corporation, association, partnership or other legal entity having legal authority to enter into such contract for the enforcement of the state laws adopted by reference in this article on private roads and private parking lots open to the general public.
- (b) Upon execution of a contract, the Township Police Department is responsible for and shall have authority to enforce all state laws adopted by reference herein as well as enforce all Township ordinances on any private road or private parking lot covered by the contract.
- (c) The owner or person in charge of any private road or parking lot covered by a contract executed pursuant to this article and MCL 257.951, as amended, shall be responsible for the posting of all traffic signs. All signs must meet the requirements of the Michigan Manual of Traffic Control Devices in order to be enforceable.
- (d) All contracts for vehicle code enforcement on private roads and parking lots executed prior to the enactment of this article shall remain in full force and effect after adoption of the ordinance from which this article is derived.

(Ord. No. 59-D, § 5.0, 12-19-2017)

Sec. 30-146. References in statutes.

All references to the term "government unit" in the state laws adopted herein mean the Township of Hamburg.

(Ord. No. 59-D, § 6.0, 12-19-2017)

Sec. 30-147. Penalties.

- (a) The penalties provided by the provisions of the state laws herein adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this article.
- (b) If a court of competent jurisdiction declares a penalty provision to exceed the authority of the Township, the penalty shall be construed as the maximum penalty that is determined by the court to be within the authority of the Township to impose.
- (c) In addition to the fines prescribed in this article, a court having jurisdiction over a matter covered by this article may assess any additional costs, damages, expenses or other sanctions as authorized by state law.

(Ord. No. 59-D, § 7.0, 12-19-2017)

Chapter 32 UTILITIES¹⁵

¹⁵State law reference(s)—Authority to provide for water and sewer systems, MCL 41.411; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

ARTICLE I. IN GENERAL

Secs. 32-1—32-18. Reserved.

ARTICLE II. WATER USE AND RATES

Sec. 32-19. Purpose.

The purpose of this article is to establish standards, rules and regulations concerning the use of the Hamburg Township Water System, to provide for the rates and charges for the connection to and use of the system.

(Ord. No. 83, 4-5-2011; Ord. No. 73-A, 9-3-2019)

Sec. 32-20. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

AWWA means the American Water Works Association.

Commercial user means any user of the system other than a residential user, or buildings used primarily as a domicile.

Commodity charge means a variable unit charge payable by a user based on the actual water consumption as determined in this article.

Consumer means the person, or legal entity, served by or using water supplied by the Township.

Consumer's installation means all pipes, valves, stops, plumbing, and contrivances of every kind and nature used in connection with or forming a part of the consumer's installation for using water for any purpose, connected directly or indirectly with the corporation stop.

Corporation stop means a valve which is inserted into the main for the connection of the water supply service pipes in sizes up to and including two inches in diameter.

Cross connection means a connection or arrangement of piping or appurtenances through which water of questionable quality, wastes or other contaminants could possibly flow back into the water distribution system because of a reversal of flow.

Curb box means a box or mental housing which encloses, protects and provides access to the curb stop.

Curb stop means a valve for insertion in the service pipes, in size of three-fourths to two inches in diameter, inclusive, at or near the property line.

Department means the Division of Public Works of the Township of Hamburg.

Director means the director of public works or his authorized representatives. The director is the person designated by the Township to supervise the operation of the Hamburg Township Water System.

Inspector means the Livingston County Plumbing Inspector or his designee.

Lot means any parcel of land whether platted or unplatted, or a condominium occupied or intended to be occupied by a main building. A lot may or may not be specifically designated as such on public records.

Meter box means any approved box or vault for the housing of a water meter.

Permittee means a consumer or his agent receiving a permit from the Township allowing a connection to be made to the water system.

Person means any individual, firm, partnership, association, public or private corporation or public agency or instrumentally or any other entity receiving water service.

Premises means each lot or parcel or land or building having any connection to the water system.

Revenues and net revenues mean the same as those terms are defined in section 3 of Public Act No. 94 of 1933, as amended.

Service cock means a water supply faucet or valve installed in water service pipes, located at or near the main.

Service control valve box means a box or metal housing which encloses, protects and provides access to the service control valve (same as curb box).

Stop and waste valve means a valve installed at the termination of the water service pipe prior to the meter bracket and a valve installed immediately downstream of the meter bracket.

System means water system.

Tap means the drilling and threading of an opening in a main for insertion of a corporation stop.

Water connection means that part of the water distribution system connecting the water main to a point terminating at a curb stop and curb box which will be installed and maintained by the Township.

Water distribution system means the entire system for distribution of potable water in the Township.

Water main means that part of the water distribution system located within easement lines or streets and designed to supply more than one water connection.

Water service pipe means that pipe connecting the curb stop with the premises served which will be installed and maintained by the customer. This includes the connection of the service pipe to the curb stop, the service pipe, stop and waste valves and meter bracket.

Water system means the complete facilities of the Township's Water Supply System including wells, well houses, pumps, water storage facilities, and transmission lines, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired. It shall also consist of all plants, works, instrumentalities, lines and properties now or hereafter existing, used or useful in the obtaining of a water supply, its treatment, distribution, and all other necessary functions, whether such installation is owned outright or used under lease or otherwise, by the consumer. The system may be comprised of separate facilities located in separate water supply districts.

(Ord. No. 83, § 1.0, 4-5-2011; Ord. No. 73-A, § 1.0, 9-3-2019)

Sec. 32-21. Provisions deemed incorporated in all contracts.

- (a) *Contract service.* All provisions and sections of this article about the Township Water System and sale and use of water and/or amendments or additions which may be subsequently adopted, shall be considered a part of the contract with every person that is supplied with water through the water system of the Township, and every person by taking water shall be considered to express his consent to be bound, and whenever any provision or section of this article about the water system is violated, the water may be cut off from the

building or place of violation at the discretion of the Township Board and shall not be turned on again except on correction of the violation and payment of the expenses of shutting off and turning on.

- (b) *Save harmless clause.* The consumer shall indemnify, save harmless and defend the Township against all claims, demands, cost or expense for loss, damage or injury to persons or property in any manner, directly or indirectly, growing out of the transmission and use of water by the consumer from water service pipes installed by the consumer on the consumer's premises.

(Ord. No. 83, § 2.0, 4-5-2011; Ord. No. 73-A, § 2.0, 9-3-2019)

Sec. 32-22. Administration/management.

- (a) *Establishment of a public utility.* It is hereby determined to be desirable and necessary for the public health, safety and welfare of the Township that the Township's Water System be operated on a public utility rate basis.
- (b) *Supervision and control.* The operation and management of the system shall be under immediate supervision and control of the Township Board.
- (c) *Rights.* The Township has the exclusive right to establish, maintain and collect rates and charges for water supply service from the water system. The Township Board may make such rules, orders or regulations, as it deems advisable and necessary to assure the efficient management and operation of the system. The Township may employ such person or persons in such capacity or capacities, as it deems advisable to carry out the efficient management and operation of the system.
- (d) *Operating year.* The system operation shall be based on an operating fiscal year commencing on July 1 and ending on the last day of June the next following.
- (e) *Compliance with state and federal standards and regulations.* Standards and regulations established in this article or pursuant hereto are deemed to be the minimum standards consistent with the preservation of the public health, safety and welfare and are necessary to fulfill the obligations of the Township concerning state and federal law and the rules and regulations adopted pursuant thereto.
- (f) *Additional regulations.* The Township Board may, by resolution, adopt additional rules and regulations concerning the water distribution system, connections thereto, meter installations and maintenance, hydrants and water mains and appurtenances thereto, which are not inconsistent herewith.
- (g) *Restricting water use.* The Township may regulate, limit or prohibit the use by a consumer of Township supplied water for any purpose. Such regulations may limit use of water by a consumer to the extent deemed necessary to ensure an adequate supply for essential needs and for firefighting.

(Ord. No. 83, § 3.0, 4-5-2011; Ord. No. 73-A, § 3.0, 9-3-2019)

Sec. 32-23. Township liability exemption.

- (a) The Township shall not be responsible for interruptions of service because of natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the consumer that all connected equipment remains in good working order. No claim or cause of action may be asserted against the Township by reason of the breaking away of any pipe, service cock, or for any other interruption of the water supply.
- (b) The Township shall not be liable for any expense incurred by a permittee in locating mains, services, curb stops, and water records.

(Ord. No. 83, § 4.0, 4-5-2011; Ord. No. 73-A, § 4.0, 9-3-2019)

Sec. 32-24. Access.

- (a) The director and other duly authorized representatives of the Township bearing proper credentials and identification shall be permitted to enter upon all properties served by the water system at reasonable times for the purpose of inspection, observation, measurement, sampling and testing to determine compliance with the provisions of this article. Any person who requests water supply and/or receives water from the water system under this article shall be deemed to have consented to inspections pursuant to this section, including entrance upon such person's property at reasonable times to make inspections.
- (b) Meter reader access. Any duly authorized agent or employee of the Township shall have access to the consumer's premises at all reasonable hours for the purpose of reading meters, inspections, doing repairs or installing or removing any or all Township-owned apparatus used for providing service to the consumer.

(Ord. No. 83, § 5.0, 4-5-2011; Ord. No. 73-A, § 5.0, 9-3-2019)

Sec. 32-25. Use; consumers use of the water system.

Any person owning property within a water supply district established by the Township and conforming to the standards, rules and regulations established in or under terms of this article shall be permitted to receive water from the water system provided necessary water supply lines are in existence and abutting the consumer's property.

- (1) *Required connection.* Each residential, commercial, or industrial premises and or each new structure built, other than sheds, residential garages, and/or additions to existing structures, abutting the system or contained within a Township Water District within the Township, shall be required to connect to the system within 60 days of delivery of notice to do so.
- (2) *Turning on water service.* No person other than an authorized employee or agent of the Township shall connect or disconnect to any water service, except that a Township authorized licensed plumber may connect to a water service upon which he is working for testing his work (upon completion of testing it shall be immediately turned off), or upon receiving a written order to operate the curb stop from the Township,
- (3) *Turning off service.* The Township reserves the right to terminate service to a consumer, after due notice has been given where payment for water supply has not been timely received, and/or for violation of article or any rules and regulations adopted pursuant thereto. The Township may shut off the water in any main to make repairs or extensions, or for any other necessary purpose at any time without notice to consumers.
- (4) *Leaks.* The consumer shall maintain all service pipes free from leaks at all times. Whenever a leak appears in a consumer's installation, which allows water to escape without registering upon the meter, the Township shall give the consumer written notice thereof and the consumer shall immediately proceed to repair such service pipe. If such repairs have not been completed within 48 hours after notice has been given, the Township may stop the service by shutting off the water at the curb stop or by excavating to and closing or by the corporation stop. The costs incurred by the Township of excavating and shutting off such service shall be paid by the consumer or by the owner of the property before service is restored. If, in the determination of the Township, any leak on the consumer's installation is of such nature that endangers public safety or constitutes a nuisance or a source of waste, the Township may immediately shut off or stop such service until such leak is repaired.
 - a. *Change of consumer.* When premises are to be vacated or there is a change of owner, occupant or agent, prompt written notice shall be given to the clerk's office. The consumer may

discontinue service by giving not less than 24 hours written notice to the clerk's office during its regular office hours.

- b. *Outside service connections.* Water main extensions, and domestic water connections to premises outside of water districts are prohibited, except where approved by the Township Board.
- c. *Water extensions.* The total expense of extending water mains shall be borne by the benefited property owners in accordance with provisions of a contract, Township ordinances or by special assessments levied by the Township in accordance with state law.

(Ord. No. 83, § 6.0, 4-5-2011; Ord. No. 73-A, § 6.0, 9-3-2019)

Sec. 32-26. Connection permits required: applications; deposits; contents.

- (a) *Application.* Any person desiring to connect to the water system shall file a written application to the Township Clerk and pay the water connection fee established by resolution of the Township Board.
- (b) *Permits required.*
 - (1) *Occupants and owners.* No person in the Township shall connect to the water system unless the proposed connection has been approved by the Township or its designated representative. Such application shall be made on forms provided by the Township and shall contain the street name, house number, parcel ID, the name of the plumber or contractor, the names of the applicant and the owner, the size of the service pipe required by the consumer, and any other pertinent information which may be required by the Township at least 72 hours before the time a tap is to be made.
 - (2) *Builders.* Connection permits will be issued to builders if the prospective lessee or owner consents in writing to the obtaining of such permit by the builder.
- (c) *Installation.* Water service pipe and Township-provided water meter brackets shall be installed in accordance with the applicable building code and the regulations of this article and upon the payment of the required charges and fees.
- (d) *Installation of bracket at consumer's expense.* The consumer shall install the water meter bracket ready for the Township to install water meter at his own expense.
- (e) *Expense paid by applicant.* The expense of the water connection installation shall be paid by the applicant.

(Ord. No. 83, § 6.2, 4-5-2011; Ord. No. 73-A, § 6.2, 9-3-2019)

Sec. 32-27. Use on one connection; limitation.

- (a) Unless written approval is granted by the Township, separate premises shall have separate curb stops, service pipe installations, and shall be separately metered.
- (b) Whenever water is to be supplied to more than one consumer located in a single building and supplied through one service, the property owner shall be ultimately responsible for the payment of water bills.
- (c) In no event, shall a consumer extend service pipes or plumbing across any public way, or to an adjacent property in order to furnish service thereto, even though such adjacent property is owned by him.

(Ord. No. 83, § 6.3, 4-5-2011; Ord. No. 73-A, § 6.3, 9-3-2019)

Sec. 32-28. Existing private wells.

- (a) Construction of private domestic water wells in established water service districts is prohibited except for special use wells, such as irrigation wells, which may be allowed subject to approval by the Township and other governing agencies.
- (b) Private water wells that are located within a water supply district and are in operation prior in time to the establishment of the water supply district shall be permanently disconnected from the domestic water supply system by the property owner in accordance with procedures established by the Livingston County Health Department prior to connection to the Township Water System.

(Ord. No. 83, § 6.4, 4-5-2011; Ord. No. 73-A, § 6.4, 9-3-2019)

Sec. 32-29. System prohibitions.

No person in the Township shall:

- (1) Willfully, negligently or maliciously break, damage, destroy, uncover, deface or tamper with or alter, any structure, property, appurtenance, equipment or any other item which is part of the water system.
- (2) Remove any water meter, water pipe, other water equipment or tools.
- (3) Prevent or circumvent a water meter from measuring water supplied by the water system.
- (4) Fraudulently obtain water from the water system, or to wastewater from the water system.

(Ord. No. 83, § 7.0, 4-5-2011; Ord. No. 73-A, § 7.0, 9-3-2019)

Sec. 32-30. Establishment of rates.

- (a) *Purpose, establishment, publication.*

- (1) *Purpose of charges.* Charges for installation and use of the water system are hereby established to recover the costs of administration, construction, reconstruction necessary, maintenance of said system to preserve the same in good working order, operation and replacement of the system, and to provide for the payment of any debt service obligations of the Township as the same becomes due. Such charges shall be made in accordance with the provisions hereinafter set forth and shall be made against all premises which use the system.
- (2) *Water service charges.* The rates for water service charges are to be established by resolution of the Township Board and may be established separately from time to time as necessary to ensure sufficiency of revenues in meeting the expenses of the water system. Rates need to be uniform for separate water supply districts.
- (3) *Publication.* Following approval by the Township Board of the rates to be charged for the water service under this article, the rate schedule shall be published. Said notice is to be published in a newspaper of general circulation in the Township within 30 days following approval by the Township Board.

- (b) *Types of water supply rates.*

- (1) *Commodity charge.* At the water use of residential, commercial, industrial, and other consumers connected to the system shall be measured by meter and the consumers shall be charged a commodity charge for water usage.

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- (2) *Readiness to service charge.* Consumers of the water system shall be charged a readiness to service charge. All consumers of the water system, whether residential or nonresidential, shall be charged a flat rate based on anticipated water supply demand as determined from time to time by the Township Board.
 - (3) *Connection charge.* The Township shall charge and the consumer shall pay, as a precondition to connecting to the water mains of the system, a connection charge. The connection charge shall include the cost of a water meter provided and installed by the Township. Said charge shall be paid at the time that an application for permission to connect to the water mains of the system is requested, unless otherwise agreed upon by the Township Board.
 - (4) *Special service charges.* The Township may charge its customers and the customers shall pay for special services for which a rate shall be established.
 - (5) *The cost of turn on/off charges.* The Township may establish a charge to the customer, and the customer shall pay the charge, whenever the Township is requested to turn water services on or off; provided, however, that whenever the Township is requested to provide turn on or off service at times other than the regular business hours of the Township, the charge will be made on time and material basis. The established fee to turn water on shall be charged to a customer whose service has been disconnected because of nonpayment of a charge or fee due the Township.

(Ord. No. 83, § 9.0, 4-5-2011; Ord. No. 73-A, § 8.0, 9-3-2019)

Sec. 32-31. Payment for use of the system.

- (a) *Responsibility for payment.* When a single water service pipe serves two or more consumer units, the property owner of the premises shall be ultimately responsible for payment of water used on the premises.
- (b) *Billing, collections and customers payments.*
 - (1) *Meter reading.* Meters shall be read quarterly and annually as deemed necessary.
 - (2) *Bills.* The Township shall render bills for water service and all other charges in connection therewith. Bills for water service shall be sent to consumers by first class mail.
 - (3) *Quarterly bills.* Quarterly water bills for users of the system shall be based on metered water consumption as set forth in the rate resolution.
 - (4) *Due date of charges.* All bills shall be payable by the due date specified on the bills and shall be paid at the office of the Township in person or by mail.
 - (5) *Collections.* The Township Treasurer shall collect all moneys due for water service and all other charges in connection with the water system.
 - (6) *Late charges.* If any charge for the services of the water which has been billed to a customer of the water system, shall not be paid on or before the due date specified on the bill, a delayed payment charge of ten percent of the amount of the bill shall be added thereto and collected therewith.
 - (7) *Unpaid bills.* If any bills for the service of the system shall remain unpaid after 30 days following the due date specified on the bill therefor, the water supply for the lot, parcel of land, or premises affected may be cut off and if cut off shall not be turned on again except on payment in full of the delinquent charges, and the fee charged for resumption of service. The Township shall send a notice to its customers of intent to terminate service. If payment is not received, or satisfactory arrangements have not been made within seven days after the shut off notice is sent to the customer, the water service shall be shut off. No water service that has been discontinued because of nonpayment shall be restored until all past due bills are paid or satisfactory arrangements for such payment are made.

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- (8) *Non-receipt of bill.* Failure of the consumer to receive any bill shall not relieve him of the liability for the charges incurred, and the consumer shall notify the Township Clerk if a bill has not been received by the 15th day after the end of a billing period.
 - (9) *Charges to become a lien upon premises.* The Township shall have as security for the collection of water supply rates, assessments or charges due or to become due for the use and installation, repair or maintenance to any house, building or premises, a lien upon the building or premises, lot or lots, upon which the water system service was supplied. This lien shall become effective immediately upon the providing of the water system service to the premises or property supplied.

Charges for water services which are under the provisions of Section 21 of Public Act No. 94 of 1933 (MCL 141.121), as amended, shall be made a lien on all premises served thereby. The charges for water furnished to any premises are hereby recognized to constitute such lien and whenever any such charge against any piece of property or premises shall be delinquent for six months, or more, that fact shall be certified on March 1 of each year, to the tax assessing officer of the Township. Such charge shall be entered upon the next tax roll as a charge against such piece of property or premises and the charges shall be collected and the lien thereof enforced in the same manner as general Township taxes against such premises.

(Ord. No. 83, § 10.0, 4-5-2011; Ord. No. 73-A, § 9.0, 9-3-2019)

Sec. 32-32. Meters.

(a) *Meters required, use.*

- (1) All Township water used on any premises must pass through a water meter. Any bypass between the meter and the main is prohibited.
- (2) All premises using Township water shall be metered and shall pay for water at the rates specified.
- (3) Water meter brackets shall be obtained from the Township. Water meters shall be provided and installed by the Township at the customer's expense.
- (4) All water meters existing and installed before the adoption of the ordinance from which this article is derived shall be maintained at the expense of the property owner and/or tenant.
- (5) Each water meter shall be served by its own water connection and water service pipe unless another system incorporating exterior valves to control water flow to each meter is approved by the Township.

(b) *Water meters, type, size determination.*

- (1) Unless otherwise authorized by the Township Board, all water meters shall be of common manufacture.
- (2) All the meters shall be under the ownership and control of the Township and shall be equipped with an instrument capable of being remotely connected and read away from the meter itself. Such instrument shall be installed on the exterior of the building by the Township.
- (3) All new inside meters will require remote registers.
- (4) Size. When requesting connection to the water system, the consumer shall furnish information about the amount of contemplated water supply demand and the Township shall determine the size and type of meter to be installed.
 - a. For usual single-family domestic use and consumption of water, a three-fourths-inch meter shall be installed by the Township.
 - b. For multiple dwellings, the water meter size shall be one inch for two to four dwellings and 1½ inch for five to ten dwellings.

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- c. Except as stated above, where an application is made for a meter larger than three-fourths-inch, the Township shall determine whether a meter of such size is required or authorized.
 - d. The use of meters larger than one inch—1½ inches will be permitted only upon specific written approval by the Township after due consideration of pertinent factors, such as the probable effect of their demand on the capacity of water mains and water supply and the means of sewage disposal.
- (c) *Water meters; installation; location; regulations.*
- (1) Water meter brackets shall be installed in a readily accessible location and in a manner satisfactory to the Township.
 - (2) A meter will not be installed in a place where it cannot be readily reached by the meter reader.
 - (3) All meters shall be installed horizontally in dry, clean, sanitary location and in such places, that small leaks and the spilling of water will do no damage.
 - (4) All meters shall be in a suitable location to prevent the pipes and meters from freezing in cold weather.
 - (5) If a suitable and readily accessible location is provided in a dry basement sufficiently well heated to prevent freezing of the meter during the winter, the meter may be placed in the basement.
 - (6) Where the premises contains no basements or cellar, the meter shall be installed in a location which shall be approved by the director.
- (d) *Failure to register; water usage, amount.*
- (1) Estimated consumption. If any meter or metering system fails to register properly or if a meter is inaccessible for reading, the department shall estimate consumption based on former consumption.
 - (2) Should a meter become defective or fail to register correctly, the quantity of water used shall be determined by the amount used during the corresponding period of the preceding year, or at the option of the Township, by averaging the amount for the period immediately preceding and subsequent to the period wherein the meter registered quantities of water usage.
 - (3) Should remote type water meter readers be utilized by the Township and the remote reading deviates from the reading on the water meter, the reading on the water meter shall govern.
- (e) *Water meters; tests, inspections.* The accuracy of the meter on any premises will be tested by the Township upon written request of the owner and/or user who shall pay in advance a fee to cover the cost of the test. If on such test, the meter shall be found to register over three percent more water than passes through it, another meter will be substituted therefor, and the fee will be refunded, and the water bill will be adjusted for the preceding and current billing periods.
- (f) *Meter repairs.* The expense of maintaining meters will be borne by the Township.
- (g) *Meters, seals; tampering, etc., prohibitions.* Meters shall be sealed by the Township and no person except an authorized employee of the Township shall break such seals. No unauthorized person shall change the location of, alter or interfere in any way with any meter.

(Ord. No. 83, § 11.0, 4-5-2011; Ord. No. 73-A, § 10.0, 9-3-2019)

Sec. 32-33. Connections.

- (a) *Water connections.* Water connections shall not be made unless the water main extends across the total frontage of a lot to be served, or across the total frontage of the lot facing one street in the case of a corner lot.

(b) *Tapping mains; applications requisites.*

- (1) All taps shall be made after proper application for service by consumers or their authorized agents has occurred.
- (2) All connections to the system shall be made by the Township or by an authorized agent with the proper tools and equipment for performing connections to the system's mains. All taps and connections to the water main shall be installed at the main.
- (3) Location. Before an owner, user, or contractor installs a water service pipe, he shall obtain from the Township the location for the making or connection of the water service. The terminus of the water service pipe shall be located such that the water service pipe is installed to the water main in a straight line perpendicular to the main, and there are no obstructions such as driveways, manholes, trees, fire hydrants, or any other obstacles.
- (4) Single corporation stops, or pipe saddles, will be used to supply services or private mains.
 - a. Connection of service up to 1¼ inch to the Township main shall be through a corporation stop with branch connections making an angle of 45 degrees to the water main service proper.
 - b. 1½ inch and two-inch services, a saddle will be required.
 - c. On approved three-inch services, a four-inch connection at the main and a four-inch valve shall be required. Approved services four inches and over shall have the same size connection as the service.
- (5) No permittee shall turn water off or on at the corporation or stop cock to any service pipe, except to make repairs and test work, after which he shall leave it off or on as he found it. No unauthorized person shall turn the water off or on at the corporation or stop cock.
- (6) Pipe from the main to the curb stop shall be of minimum grade Type K soft temper copper not less than three-fourths inch in diameter.
- (7) All holes or trenches excavated in the public and private streets or roads shall be backfilled to a minimum of 95 percent density by thoroughly tamping dry sand in layers not to exceed six inches. All excavated material shall be entirely removed from the street. Excavated material that is wet, or otherwise unfit to backfill, shall be entirely removed and the backfilling done with suitable dry sand hauled in for that purpose.
 - a. Tunneling under public or private streets will be prohibited except by special permission of the county road commission and the director. Open cuts may be allowed in graveled streets with prior road commission and Township approval.
 - b. Connections under hard surfaced paving shall be made only by boring or jetting with the prior approval of the county road commission and the director.

(c) *Service control valves and curb boxes.*

- (1) Location. The customer will provide and install a shut off valve in the form of a curb stop and curb box one foot beyond the inside sidewalk line, or as near the right-of-way line as may be convenient.
- (2) An approved bronze curb stop shall be installed on all three-fourths-inch, one-inch, 1½-inch, and two-inch service lines at a point as near the road right-of-way line as practical and permissible.
- (3) Valves of non-rising stem gate valves or plug type valves may be used for the larger size connections. They shall be of approved standard manufacture and housed in approved type service or roadway valve boxes.

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- (4) A cast iron extension curb box of an approved pattern shall be centered over the curb stop so that it is readily accessible for turning on and off by Township representatives. Curb stop boxes shall be Buffalo type, with 2½-inch shaft, 4½-foot to six-foot long, in two sections with a lid. The top of the curb box shall be so placed that it is never below the grade nor over three inches above grade and must be set on a brick or concrete foundation to prevent settlement.
 - (5) Unless otherwise authorized in writing, only the Township is permitted to turn water on or off at the curb stop.
- (d) *Water service pipe; installation, requirements.*
- (1) Water service connections shall be installed in accordance with state and local building regulations. Water service connections shall also be installed in compliance with the specifications set forth in this section.
 - (2) The connection of the Type K copper service pipe to the corporation stop shall be made by using an approved adapter fitting.
 - (3) Water connections and water service pipes shall be installed in a separate trench from the sewer service. The water service pipe may not be placed in the same trench with the building drain. The water service pipe and the building sewer must be ten feet apart.
 - (4) All water service pipe on either private or public property shall be laid on a solid bottom not less than 4½ feet underground or below the established grade.
 - (5) The consumer shall continue the water service pipe connection from the curb stop to the riser pipe, stop and waste valve, meter bracket and stop and waste valve downstream of the meter inside the building entirely at his expense.
 - (6) The service line from the main to the premises shall have an inside diameter no smaller than three-fourth inch. All service pipes of two inches or less, in diameter shall be of U.S. Government specification Type K copper tubing; other service pipe materials must be approved by AWWA. Those over two inches in diameter may be of ductile iron.
 - (7) The service pipe shall be laid to provide for earth settlement and for contraction and expansion through arching or bending to form an expansion loop in the form of a half "S" bend and shall contain at least six inches of excess material to provide for settlement and flexibility.
 - (8) There shall be no joints between the curb stop and the meter unless commercial lengths are not available to allow for this provision (say, because of excessive building setbacks). Only three-part flared unions shall be used for connections in copper pipes and all other types of flared unions are prohibited.
 - (9) Plugged tees, or other accessible outlets between the meter and the main, are prohibited. No connections or outlets shall be made on this line other than for emergency fire sprinkler heads or fire fittings. All make up water for sprinkler systems shall be metered. It shall be unlawful for the customer, or any employee or agent of the customer, to make any connections on or use said sprinkler system for any other purpose or purposes than for fire protection; and any other use thereof shall be and constitute a violation of this article and also the general ordinances of the Township.
 - (10) Any repairs to any water service pipe shall be made at the expense of the owner whose premises are served by the water service pipe.
- (e) *Completion of work; inspection required.*
- (1) Upon completion of any new service pipe installation or repairs, it shall be the duty of the permittee to obtain approval by the county plumbing inspector and the Township before covering the same.

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- (2) The service trench shall not be covered, back filled, or floored until the tap has been completed and the county plumbing inspector has approved the installation. Clean earth or same shall be carefully tamped every two feet above the top of the service line. This material shall be carefully and solidly rammed with proper tools. The use of clay for such purpose is prohibited.
 - (3) If any building drainage or plumbing system or part thereof, which is installed, altered or repaired, is covered, it shall be uncovered for inspection after notice to the plumber, contractor, owner, or other person to uncover the work has been issued either by the Township or the county plumbing inspector.
 - (4) A separate stop valve with waste cock must be placed on the water service pipe just inside the building wall and a similar stop and waste valve shall be placed upstream of the water meter which may be turned off and drained from the pipe in the event of accident or in order to make repairs. Such stop shall be equal in quality to the curb stop.

(f) *Repair.*

- (1) Water service pipe from the curb stop to the meter shall be the responsibility of the owner of the premises.
- (2) Any plumber called upon to shut off water and drain pipes in any premises shall do so inside the building only.
- (3) Damage to pipes and meter. Persons taking water must keep their service pipe and their meter protected from frost and hot water at their own expense. Where the service pipe or meter is damaged by frost or hot water, the service pipe shall be repaired by a licensed plumber, to be employed and paid by the customer. The water meter shall be repaired by the Township at the customer's expense.

(Ord. No. 83, § 12.0, 4-5-2011; Ord. No. 73-A, § 11.0, 9-3-2019)

Sec. 32-34. Hydrants and use.

All water mains on private property, six inches or larger with fire hydrants, shall be installed at the property owner's expense and shall be conveyed to the Township by the property owner, and at his expense the property owner shall provide a recorded easement sufficient for maintenance and repair of the same.

(Ord. No. 83, § 13.0, 4-5-2011; Ord. No. 73-A, § 12.0, 9-3-2019)

Sec. 32-35. Cross connections rules adopted.

(a) *Cross connections; prohibition.*

- (1) Cross connections shall be prohibited. It shall be unlawful for any person to make, permit to be made, or permit to exist, any cross connection on any lot or parcel of land owned or occupied by him.
- (2) The Township adopts by reference the Water Supply Cross Connection Rules of the Michigan Department of Public Health, being Mich. Admin. Code R325.11401 to 325.11407, as amended.

(b) *Inspections.* It shall be the duty of the Township to cause inspections to be made of all properties served by the public water supply where a cross connection with the public water supply is deemed probable. The frequency of inspections and reinspection based on potential health hazards involved shall be established by the Township.

(c) *Entry rights.* The director, or his designee, shall have the right to enter at any reasonable time any property served by a connection to the public water supply of the Township, for the purposes of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessees or occupants of any

property so served shall furnish to the inspection agency any pertinent information regarding the piping systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross connections.

- (d) *Cross connection shutoff.* Where contamination of any water main is an immediate possibility or where contamination of any main occurs and a cross connection is found, the Township may order the water to be immediately shut off without giving notice to the owner or occupant of land as prescribed therein.
- (e) *Correction required.* Water service to such property shall not be restored until the cross connection have been eliminated in compliance with the provisions of this article.
- (f) *Protection and notification.* The potable water supply made available on the properties served by the water supply system shall be protected from possible contamination as specified by this article and by the state and the county plumbing code as adopted by the county. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

* WATER UNSAFE FOR DRINKING *

- (g) *Supplemental.* This article does not supersede any state or county plumbing code or ordinance, and it shall be supplementary to such other lawful regulations as may from time to time be adopted.
- (h) *Precautionary measures.* The Township is authorized and directed to take such other precautionary measures as may be deemed necessary to eliminate any danger of contamination of the water system. Water service to land in question shall not be restored until either the cross connection has been eliminated or evidence furnished and access permitted to enable the Township to determine that no cross connection prohibited by this chapter exists.

(Ord. No. 83, § 14.0, 4-5-2011; Ord. No. 73-A, § 13.0, 9-3-2019)

Sec. 32-36. Sanctions, fines, penalties and fees.

- (a) The fines and penalties as set forth in the Hamburg Township Civil Infraction Ordinance (CIO) are incorporated herein by reference.
- (b) Any person found to be violating any provision of this article shall be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. Any person found in violation of any provision of this article, shall receive a Class C municipal civil infraction fine for the first offense. Any subsequent violation will result in a Class B municipal civil infraction fine.
- (c) The fees are in accordance with a fee schedule established by a resolution of the Hamburg Township Board of Trustees.

(Ord. No. 73-A, § 14.0, 9-3-2019)

Sec. 32-37. Severability.

If any section, paragraph, clause or provision of this article shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this article.

(Ord. No. 83, § 16.0, 4-5-2011; Ord. No. 73-A, § 15.0, 9-3-2019)

Sec. 32-38. Conflicts or repealer.

- (a) *Conflicts.* All ordinances, or parts thereof, in conflict with the provisions of this article are, to the extent of such conflict, hereby repealed.
- (b) *Repealer.* This article shall, upon the effective date of the ordinance from which it was derived, specifically repeal all provisions contained within Hamburg Township Ordinance No. 73. All other ordinances and parts of ordinances in conflict or inconsistent with the provisions of this article are also hereby repealed.

(Ord. No. 83, § 17.0, 4-5-2011; Ord. No. 73-A, § 16.0, 9-3-2019)

Sec. 32-39. Publication.

The ordinance codified herein shall be published once, in full, in a newspaper of general circulation within the boundaries of the Township, promptly after its adoption, and the same shall be recorded in the ordinance book of the Township and filed with the county clerk, and such recording authenticated by the signatures of the Township Supervisor and the Township Clerk.

(Ord. No. 83, § 18.0, 4-5-2011; Ord. No. 73-A, § 17.0, 9-3-2019)

Sec. 32-40. Effective date.

This article shall become effective upon publication of the ordinance codified herein.

(Ord. No. 83, § 18.0, 4-5-2011; Ord. No. 73-A, § 18.0, 9-3-2019)

Secs. 32-41—32-107. Reserved.

ARTICLE III. CURRENT RATES AND CHARGES FOR THE RESPECTIVE SEWER DISTRICTS IN THE SYSTEM (RESERVED)

Secs. 32-108—32-133. Reserved.

ARTICLE IV. WATER SOFTENING APPLIANCES

Sec. 32-134. Purpose.

The purpose of this article is to protect the health, safety and welfare of the citizens of the Township and its waterways through the regulation of the discharge of sodium products into the Township sanitary sewer system (HTSSS) and the Township wastewater treatment plant (WWTP); to impose regulations regarding to compliance with requirements of EGLE; Waste Management Division and other State of Michigan regulatory agencies; to reduce the expenditure of public funds and mitigate rate increases for users of the HTSSS; to regulate the use of self-generating water softeners and appliances using sodium based products in as much as such systems represent the most significant controllable source of sodium ultimately entering into the HTSSS and WWTP; to regulate residential and nonresidential discharges into the HTSSS and WWTP resulting from cooking, toilets, sinks, faucets, showers and other uses and to otherwise specify conditions under which such uses including existing and future

brine discharging water softening appliances and systems or other alternative non-brine discharging water systems; to otherwise avoid the excessive costs associated with the advance treatment for sodium removal from the WWTP as a result of regulations established by the Waste Management Office of EGLE.

(Ord. No. 82-A, § 2.0, 3-5-2019)

Sec. 32-135. Definitions and abbreviations.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized officer means the Township Supervisor, the Township Clerk, the Township Treasurer, the Township Utilities Director or any person designated by the Township Board resolution.

Brine means a heavily concentrated solution containing sodium.

Commercial user means any user of the public sewer other than a residential user or a person lawfully using a building or structure as a residence.

Community sewer system means the network of facilities owned and operated by the Township that convey wastewater from within the Township's service area to the wastewater treatment plant.

EGLE means the Michigan Department of Environment, Great Lakes, and Energy or its successive agency.

HTSSS means the Hamburg Township Sanitary Sewer System; may also be referred to as the community sewer system.

MUC means the Hamburg Township Municipal Utilities Committee.

Nonresidential means any structure which is not included in the definition of a residence as provided in this article.

Nonresidential brine discharging water softening appliance means a water softening device located within or adjacent to a nonresidential structure located in the Township which discharges into the community sewer system owned and operated by the Township, whereby the capacity of the appliance to remove hardness from water is renewed by the on-site application of a sodium-containing brine solution to the active softening or conditioning material contained therein, followed by a subsequent rinsing of the active softening or conditioning material.

Residence means a structure which is or is intended to be, in whole or in part, a place of dwelling, whether occupied or not, whether fully constructed or not, and includes, without limitation, homes whether attached to another structure or not, apartments, condominiums and mobile homes.

Residential brine discharging water softener and/or appliance means residential water softening or conditioning appliances that discharge brine into the HTSSS, including residential self-regenerating water softeners more commonly known as automatic water softeners. Residential self-regenerating water softeners include water softening or conditioning devices that renew that capability to remove hardness from water by the on-site application of a sodium-based solution to the active softening or conditioning material contained therein, followed by a subsequent rinsing of the active softening or conditioning material.

Structure means a building used or available for use for household, commercial, industrial, or other purposes that discharges into the HTSSS.

Township means the Township of Hamburg, located in Livingston County, Michigan, and/or its duly authorized agent or representative. The Township owns and operates the sanitary sewer system that conveys wastewater to the Hamburg Township Wastewater Treatment Plant.

User class means the kind of user connected to the HTSSS and WWTP, including, but not limited to, residential, industrial, commercial, institutional and governmental.

Commercial user means an establishment listed in the office of the Management and Budgets Standard Industrial Classification Manual (SICM), involved in a commercial enterprise, business or service which, based on a determination by the Township, discharges primarily segregated domestic wastewaters or wastewaters from sanitary conveniences, and which is not a residential user or an industrial user.

Governmental user means any federal, state or local government user of the wastewater treatment works.

Industrial user means a user of the HTSSS or the WWTP which discharges wastewater from industrial, manufacturing, trade or business processes or from any structure with these characteristics, and distinct from their employee's domestic wastewaters or wastewaters from sanitary conveniences.

Institutional user means any establishment listed in the SICM involved in a social, charitable, religious, or educational function that, based on a determination by the Township, discharges primarily segregated domestic wastes or wastewaters from sanitary conveniences.

Residential user means a user of the HTSSS or the WWTP whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semi-detached and row houses, mobile homes, apartments, or permanent multifamily dwellings.

Utilities director means the person designated by the applicable local government to supervise the operation of the publicly owned treatment works, who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

(Ord. No. 82-A, § 3.0, 3-5-2019)

Sec. 32-136. Regulations.

- (a) All users are prohibited from using a brine discharging system that utilizes sodium-based products that contribute sodium to the discharge.
- (b) New water softening devices installed for all users or structures shall be of a type and style as selected by the user at their expense; provided, however, that any such appliances or devices must comply with the terms and conditions of this article. Use of non-brine discharging water softening devices is encouraged by the Township.
- (c) Any user proposing to install a new brine discharging water softener appliance and/or device, must exercise a hold harmless agreement approved by the Township Board to hold and save the Township harmless from any and all damages, costs or expenses resulting from the violation of the terms and conditions of this article, as may be amended, by any user. This agreement shall be in recordable form and shall be recorded with the county register of deeds.

(Ord. No. 82-A, § 4.0, 3-5-2019)

Sec. 32-137. Installation of new water softening appliances.

- (a) *Application.* Any person desiring to install a new water softening appliance and/or device for any residential and nonresidential structure located within the Hamburg Township sanitary sewer service area shall submit a land use permit (LUP) application to the Township and pay any applicable permit and inspection fees as may be established by resolution of the Township Board. Such application shall be addressed to the Township and shall be made on forms provided by the Township and shall contain the following: street name, house number, lot number, name of the plumber or contractor installing the device, the names of the applicant and the owner, and any other pertinent information as may be required by the Township. If a brine discharging water softener will be installed, the property owner must sign a hold harmless agreement prior to the

issuance and approval of the land use permit as required in section 32-136. LUP applications must be signed by the property owner or its representative acting with written authorization.

- (b) *Permit required.* No person located within the Township sanitary sewer service area shall install a water softening appliance and/or device the HTSSS or WWTP unless the proposed installation has first been approved by the Township or its designated representative through the land use permit application process, and all applicable fees have been paid. A complete application must be made, the applicable fees paid, and approval obtained from the Township at least 72 hours before the time the installation is to be made.
- (c) *Installation standards.* All water softening appliances and/or devices shall be installed in accordance with the provisions of this article as well as any and all other provisions imposed by state, county or other governmental agencies.
- (d) *Installation and maintenance costs.* The owner of any building or premises, or his authorized representative, shall be responsible, at their own cost, for the installation, connection and maintenance of any water softening appliance and/or device up to and including its connection with the HTSSS.

(Ord. No. 82-A, § 5.0, 3-5-2019)

Sec. 32-138. Water softening appliance backwash.

No backwash of any nature, or at any time, shall be introduced into the HTSSS or the WWTP. The property owner, or an approved contractor hired by the owner, must disconnect all backwash discharge lines, including, but not limited to, water softeners, air conditioning units, water processing or conditioning equipment, storm drains, etc., from the HTSSS. The following are some (not all) methods of disposing of water softener discharge backwash.

- (1) Run the discharge line to the outside and let the water run onto the ground.
- (2) Install a below-ground infiltration basin (drywell): Bury a container in the ground, fill it with stone or sand, and run the discharge line to the container. Drill holes in the container to allow the water to seep into the surrounding soil. A sump pump tub, which ranges in size from 15 to 24 inches in diameter to two to four feet in depth, is an example of a container that could be used.
- (3) Convert an existing septic tank: Pump out and clean your existing septic tank, break holes in the bottom of the tank and fill the tank with stone. Disconnect and plug the outlet pipe to the tile field to prevent groundwater from flowing back into the tank.

(Ord. No. 82-A, § 6.0, 3-5-2019)

Sec. 32-139. Medical exemption.

- (a) The Township Utilities Director shall have the authority to allow medical exemptions from compliance with the terms of this article and may permit individual residential brine discharging water softeners utilizing sodium products provided the medical need for soft water is verified in writing by a physician.
- (b) The Township Utilities Director, or other person designated by the Township Board, shall have the authority to rescind such medical exemptions if the Township is found to be in violation of state sodium and chloride discharge limits and in the opinion of the utilities director it is essential that the medical exemption be terminated. Such termination shall become effective 60 days after written notice from the Township to the subject resident. All decisions by the utilities director regarding this matter may be appealed to the Hamburg Township municipal utilities committee (MUC) for reconsideration. Any recommendations made by MUC shall then be referred to the Township Board for final determination.

(Ord. No. 82-A, § 7.0, 3-5-2019)

Sec. 32-140. Administrative enforcement.

The Township Utilities Director, DPW field superintendent or any other person designated by the Township Board, shall administer, implement and enforce the provisions of this article. Enforcement personnel may enforce this article by:

- (1) Performing public outreach to inform residential and nonresidential users of the Township sanitary sewer system (HTSSS) of the terms of this article and to encourage voluntary compliance;
- (2) Withholding administrative enforcement actions until 60 days after the effective date of the ordinance from which this article is derived have passed to allow all affected property owners adequate time to convert to potassium chloride water softener salt or to remove their non-compliant self-regenerating water softeners;
- (3) Monitoring flows within the HTSSS to determine the locations of residential and nonresidential self-regenerating water softeners;
- (4) Conducting inspections upon reasonable notice of any residential or nonresidential user that discharges to the sanitary sewer system;
- (5) Sampling post softener water or grinder pumps to determine the amount of sodium and/or chloride entering the sewer system from a specific user.

(Ord. No. 82-A, § 8.0, 3-5-2019)

Sec. 32-141. Violation.

- (a) The utilities director, DPW field superintendent or any other person designated by the Township Board, may issue a notice of violation to any person who fails to comply with any conditions of this article. A notice of violation shall allow a period of 30 days to correct the violation and/or to remove and dispose of the non-compliant self-regenerating water softener. Any person violating this article after issuance of a notice of violation and the subsequent 30-day period shall pay a Class E Municipal infraction fine to the Township in the amount of \$75.00 per REU per quarterly operation and maintenance (O&M) billing cycle, and each subsequent O&M billing period until two sampling tests, conducted 15 days apart, show that sodium is no longer being used as a regenerate in the water softening appliance. Fines for property owners found in violation exceeding two quarterly O&M billing cycles shall be elevated to a Class C municipal civil infraction, which is equal to \$250.00 per REU for each quarterly billing period thereafter until such time as the violation has ceased.
- (b) Any person who has received a notice of violation may, within 30 days, request a hearing and review by the Township municipal utilities committee. The hearing shall be held within 30 days of the request. Any recommendations of MUC will be referred to the Township Board for a final determination.
- (c) Any use or activity in violation of the terms of this article is declared to be a nuisance per se and may be abated by order of any court of competent jurisdiction. The Township Board, in addition to other remedies, may institute any appropriate action or proceedings 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.

(Ord. No. 82-A, § 9.0, 3-5-2019)

Chapter 34 WATERWAYS¹⁶

ARTICLE I. IN GENERAL

Secs. 34-1—34-18. Reserved.

ARTICLE II. SPECIAL LOCAL WATERCRAFT CONTROLS

DIVISION 1. GENERALLY

Sec. 34-19. Purpose.

The purpose of this article is to promote the public health, safety, comfort and general welfare of the community through the proper regulation of watercraft activities on the waterways of the Township by confirming the establishment of certain special local watercraft control ordinances passed under the authority of Public Act No. 303 of 1967 and to adopt by reference certain provisions of Public Act No. 451 of 1994, as amended.

(Ord. No. 92, § 2.0, 8-15-2017)

Sec. 34-20. Confirmation.

- (a) The following Township watercraft control ordinances, promulgated under the authority and procedures of Public Act No. 303 of 1967 prior to March 17, 1986, shall remain in full force and effect pursuant to Public Act No. 451 of 1994, as amended, specifically being MCL 324.80113(2):
 - (1) Ordinance No. 14: Watercraft Control: Tamarack Channel.
 - (2) Ordinance No. No. 17: Watercraft Control: Shang-Gri-La/Bass Lake Canals.
 - (3) Ordinance No. 18: Watercraft Control: Little Ore Lake.
 - (4) Ordinance No. 21: Watercraft Control: Huron River.
 - (5) Ordinance No. 33: Watercraft Control: Bishop Lake.
 - (6) Ordinance No. 49: Watercraft Control: Tamarack Lake.
- (b) The following Township watercraft control ordinances, promulgated and becoming effective after the enactment of Public Act No. 451 of 1994, are hereby confirmed and shall remain in full force and effect:
 - (1) Ordinance No. 61: Watercraft Control: Cordley Lake.
 - (2) Ordinance No. 67A: Watercraft Control: Gill/Gut Lake.
 - (3) Ordinance No. 72A: Watercraft Control: Appleton Lake.

¹⁶State law reference(s)—Watercraft and marine safety, MCL 324.80101 et seq.; local rules, MCL 324.80110 et seq.

(Ord. No. 92, § 3.0, 8-15-2017)

Sec. 34-21. Words and definitions.

All words and phrases used in any Township special local watercraft control ordinances passed under the authority of Public Act No. 303 of 1967 and confirmed by this article shall be construed and have the same meanings as those words and phrases in Public Act No. 451 of 1994, as amended (MCL 324.101 et seq.).

(Ord. No. 92, § 4.0, 8-15-2017)

Sec. 34-22. Statutory adoption by reference.

The following provisions of the Natural Resources and Environmental Protection Act, being Public Act No. 451 of 1994, as amended, are hereby adopted by reference:

- (1) MCL 324.80101 through 324.80104, inclusively;
- (2) MCL 324.80112 through 324.80124, inclusively;
- (3) MCL 324.80126;
- (4) MCL 324.80140;
- (5) MCL 324.80141;
- (6) MCL 324.80144 through 324.80153, inclusively;
- (7) MCL 324.80155;
- (8) MCL 324.80164;
- (9) MCL 324.80165;
- (10) MCL 324.80166 through 324.80173, inclusively.

(Ord. No. 92, § 5.0, 8-15-2017)

Sec. 34-23. Enforcement.

Any state, county or local law enforcement officer having jurisdiction within the Township may enforce the provisions of this article.

(Ord. No. 92, § 6.0, 8-15-2017)

Sec. 34-24. Penalties.

- (a) Any person who shall violate any of the provisions of any of the watercraft control ordinances confirmed as remaining in full force and effect in section 34-20 shall be responsible for a municipal civil infraction. The fines and penalties as set forth in section 1-45 are incorporated herein by reference. For purposes of assessing fines and penalties only, a violation under this section shall be classified as a Class D municipal civil infraction.
- (b) The penalties provided by the provisions of the state laws herein adopted by reference in section 34-22 are hereby adopted as the penalties for violations of the corresponding provisions of this article.

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- (c) In addition to the fines prescribed in this article, a court having jurisdiction over a matter covered by this article may assess any additional costs, damages, expenses or other sanctions as authorized by state law.

(Ord. No. 92, § 7.0, 8-15-2017)

Secs. 34-25—34-51. Reserved.

DIVISION 2. LOCAL WATERCRAFT CONTROLS

Sec. 34-52. Definitions.

All words and phrases used in this article shall be construed and have the same meaning as those words and phrases defined in Public Act No. 303 of 1967 (MCL 281.1191(8)).

(Ord. No. 18, § 1.0, 7-23-1973; Ord. No. 21, § I, 6-27-1977; Ord. No. 14, § 1.0, 7-25-2000; Ord. No. 17, § 1.0, 7-20-2020)

Sec. 34-53. Sanctions/fines/penalties for violations of Hamburg Township ordinance no. 14-A.

- (a) Fines and penalties in section 1-45 are incorporated herein by reference.
- (b) Violations of this article are a misdemeanor and may be punished by a fine not to exceed \$100.00, together with costs of prosecution or imprisonment in the county jail or such other place of detention as the court may prescribe, for a period not to exceed 90 days, or said fine, costs of prosecution, and imprisonment, at the discretion of the court.

(Ord. No. 18, § 4.0, 7-23-1973; Ord. No. 21, § IV, 6-27-1977; Ord. No. 14, § 4.0, 7-25-2000; Ord. No. 17, § 3.0, 7-25-2000)

Sec. 34-54. Watercraft control; Tamarack Channel.

On the waters of the channel connecting Tamarack Lake and the Huron River, section 31, T1N, R5E, Hamburg Township, Livingston County, it is unlawful for the operator of a vessel to exceed a slow-no-wake speed.

(Ord. No. 14, § 2.0, 7-25-2000)

Sec. 34-55. Watercraft control; Shang-Gri-La/Bass Lake Canals.

- (a) *Lake Shan-Gri-La; slow-no-wake speed (R 281.747.4).* On the waters of the lake locally known as Lake Shan-Gri-La, in the west one-half of the southeast one-quarter of section 21, T1N, R5E, Hamburg Township, Livingston County, it shall be unlawful for an operator of a vessel to exceed a slow-no-wake speed.
- (b) *Bass Lake canals in Hamburg Township; slow-no wake speed (R 281.747.5).* On the waters of the canals connected to Bass Lake, sections 21 and 28, T1N, R5E, Hamburg Township, Livingston County, it shall be unlawful for an operator of a vessel to exceed a slow-no-wake speed.
- (c) *Bass Lake; high-speed boating and water skiing prohibited (R 281.747.6).* On the waters of Bass Lake, sections 21, 28 and 29, T1N, R5E, Hamburg Township, Livingston County, it shall be unlawful to:
- (1) Operate a vessel at high speed; or

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- (2) Have in tow or otherwise assist in the propulsion of a person on water skis, water sled, surfboard or other similar contrivance.

These rules take effect 15 days after filing with the secretary of state (by authority conferred on the commission of natural resources by section 12 of Public Act No. 303 of 1967 and section 350 of Public Act No. 380 of 1965, being MCL 281.1012 and 16.350). All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

(Ord. No. 17, § 2.0, 7-25-2000)

Sec. 34-56. Watercraft control; Little Ore Lake.

Ore Lake, south part; slow-no wake speed (R 281.747.14). On the waters of Ore Lake, section 13, T1N, R5E, Hamburg Township, and section 18, T1N, R6E, Green Oak Township, enclosed by a line from the easternmost point of land in Ore Lake View subdivision, easterly to the westernmost point of lot 32, E.J. Reive's Lakewood subdivision and the bridge connecting E.J. Reive's Lakewood subdivision to Ore Lake Little Farms subdivision, it is unlawful for the operator of a vessel to exceed a slow-no-wake speed.

(Ord. No. 18, § 2.0, 7-23-1973)

Sec. 34-57. Watercraft control; Huron River.

R281.747.15. On the waters of the Huron River in sections 13, 22, 23, 24, 27, 28, 29, 32, and 33, T1N, R5E, Hamburg Township, Livingston County, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.

Sec. 34-58. Watercraft control; Bishop Lake.

R281.747.22. On the waters of Bishop Lake, sections 3, 4, 9, and 10, T1N, R5E, Hamburg Township, Livingston County, it is unlawful for the operator of a vessel to exceed a slow-no-wake speed.

Sec. 34-59. Watercraft control; Tamarack Lake.

WC-47-91-001. On the waters of Tamarack Lake, sections 31 and 32, T1N, R5E, Hamburg Township, Livingston County, it is unlawful for the operator of a vessel to exceed a slow-no-wake speed.

Sec. 34-60. Channel Connecting Tamarack Lake to Huron River.

R281.747.8. Slow-no wake speed.

On the waters of the channel connecting Tamarack lake and the Huron river, section 31, T1N, R5E, Hamburg Township, Livingston county, it is unlawful for the operator of a vessel to exceed a slow-no wake speed.

Sec. 34-61. Watercraft control; Cordley Lake.

- (a) Regulation No. 47; Livingston County WC-47-95-001 Cordley Lake: slow-no-wake speed.
- (b) On the waters of Cordley Lake, all within section 29, T1N, R5E, Hamburg Township, Livingston County, it is unlawful for the operator of a vessel to exceed a slow-no-wake speed.
- (c) The boundaries of the area described immediately above shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the state uniform waterway marking system.

(Ord. No. 67-A, § 2.0, 7-25-2000; Ord. No. 33, § 2.0, 7-25-2000; Ord. No. 49, § 2.0, 7-25-2000; Ord. No. 61, § 2.0, 7-25-2000; Ord. No. 72-A, § 2.0, 2-19-2002)

Sec. 34-62. Watercraft control; Gill/Gut Lake; prohibition.

Regulation No. 147, Livingston County, R 317.147.8 Hamburg Township; Gill/Gut Lake: Rule 8. Hunting with, or the discharge of, a firearm is unlawful on or over the waters of Gut Lake, lying in sections 14, 15, 22, and 23, T1N, R5E, Hamburg Township, Livingston County.

(Ord. No. 29-B, § 2.0, 8-15-2017)

Sec. 34-63. Watercraft control; Appleton Lake.

- (a) (WC-47-01-001). On the waters of Appleton Lake, in sections 2 and 3, T1N, R5E, Hamburg Township, Livingston County, State of Michigan, it is unlawful between the hours of 6:30 p.m. to 10:00 a.m. of the following day to:
- (1) Operate a vessel at high speed.
 - (2) Have in tow, or shall otherwise assist in the propulsion of, a person on water skis, water sled, surfboard or other similar contrivance.
- (b) The hours should be 7:30 p.m. to 11:00 a.m. of the following day when Eastern Daylight Savings Time is in effect. The term "high speed boating" means a speed at or above which a motorboat reaches a planning condition.
- (c) The boundaries of the area described immediately above shall be marked with signs and with buoys. All buoys must be placed as provided in a permit issued by the Department of Natural Resources and be in conformance with the state uniform waterway marking system.

(Ord. No. 72-A, § 2.0, 2-19-2002)

Sec. 34-64. Watercraft control; Chilson Creek and Chilson Pond.

Chilson Creek and Chilson Pond; operation of vessel powered by motor (R281.747.18). On the waters of Chilson Creek and Chilson Pond (impoundment) in Brighton Recreation Area, section 33, T2N, R5E, Genoa Township and section 4, T1N, R5E, Hamburg Township, Livingston County, it is unlawful to operate a vessel powered by a motor except an electric motor.

(Ord. No. 21, § II, 6-27-1977)

Chapter 36 ZONING

***ARTICLE I. TITLE, PURPOSE, RULES APPLYING TO TEXT, AND ENABLING
AUTHORITY***

Sec. 36-1. Purpose.

- (a) The purpose of this chapter is to provide for the regulation of land development and the establishment of districts in the portions of the Township outside the limits of cities and villages which regulate the use of land and structures, to meet the needs of citizens for food, fiber, energy and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to ensure that use of the land shall be situated in appropriate locations and relationships; to limit the inappropriate overcrowding of land and congestion of population, transportation systems, and other public facilities; to facilitate adequate and efficient provision for transportation systems, sewage disposal, water, energy, education, recreation, and other public services and facility requirements; and to promote the public health, safety, and welfare of the residents of the Township by imposing certain regulations and restrictions.
- (b) In order to more efficiently protect and promote the general welfare and to accomplish the aims and purposes of the Township master plan, the Township is divided into districts of each number, boundaries, shape and area, and of such common unity of purpose, adaptability of use, that are deemed most suitable to provide the best civic use, protect the common rights and interests of all, and to promote improved wholesome, harmonious, aesthetic development of said Township; and by further regulations and restrictions, to limit the location, height, bulk, number of stories, and size of dwellings, the uses and stories occupancy of dwellings, structures, and land for residential, agricultural, commercial, industrial or other purposes; to regulate the size of front, rear and side yard, courts, or other open spaces; to promote a board of appeals, defining and limiting the power and duties of said Board, and providing the means for enforcing said ordinance.

(Zoning Ord. 2020, § 1.2, 1-5-2021)

Sec. 36-2. Rules applying to text.

The following rules shall apply to the text and language of this chapter:

- (1) The particular shall control the general.
- (2) In case of any difference of meaning or implication between the text of this chapter and any caption, the text shall control.
- (3) The term "shall" is always mandatory and not discretionary. The term "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 shall include the singular, unless the context clearly indicates the contrary.
- (5) The term "building" includes the term "structure."
- (6) The term "building" or "structure" includes any part thereof.
- (7) The term "person" includes a corporation as well as an individual.
- (8) The term "used" or "occupied," as applied to any land or building, shall be construed to include the terms "intended, arranged, or designed to be used or occupied."
- (9) Any word or term not defined herein shall be used with a meaning of common or standard utilization.

(Zoning Ord. 2020, § 1.3, 1-5-2021)

Sec. 36-3. Validity and severability clause.

- (a) If any court of competent jurisdiction shall declare any part of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in said ruling.
- (b) If any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular land, parcel, lot, district, use, building, or structure, such ruling shall not affect the application of said provision to any other land, parcel, lot, district, use, building, or structure not specifically included in said ruling.

(Zoning Ord. 2020, § 1.4, 1-5-2021)

Sec. 36-4. Conflict with other laws.

- (a) Where any condition imposed by any provision of this chapter upon the use of any lot, building, or structure is either more restrictive or less restrictive than any comparable condition imposed by any other provision of the ordinance, or by the provision of an ordinance adopted under any other law, the provision which is more restrictive or which imposes a higher standard or requirement shall govern.
- (b) This section is not intended to abrogate or annul any easement, covenant, or other private agreement provided that where any provision of this chapter is more restrictive or imposes a higher standard or requirement than such easement, covenant, or other private agreement, the provision of this chapter shall govern.

(Zoning Ord. 2020, § 1.5, 1-5-2021)

Sec. 36-5. Enabling authority.

This chapter is adopted pursuant to the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended, of the state. Said Enabling Act covering Township rural zoning, is hereby made a part of this chapter just as if said Act were repeated word-for-word herein.

(Zoning Ord. 2020, § 1.6, 1-5-2021)

Sec. 36-6. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory dwelling unit means a detached or attached, self-contained dwelling unit located on the same premises as an existing single-family residence.

Dwelling, principal, means the unconverted portion of an existing single-family residence.

Owner, principal means the owner of not less than 50 percent interest in the residence.

Accessory use means a use subordinate to the main use on a lot and used for purposes customarily incidental to those of the main use.

Adult foster care facility means a home or facility that provides foster care to adults. Subject to MCL 400.726a, the term "adult foster care facility" includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis

but who do not require continuous nursing care. The term "adult foster care facility" does not include any of the following:

- (1) A nursing home licensed under part 217 of the public health code, Public Act No. 368 of 1978, MCL 333.21701 to 333.21799e.
- (2) A home for the aged licensed under part 213 of the public health code, Public Act No. 368 of 1978, MCL 333.21301 to 333.21335.
- (3) A hospital licensed under part 215 of the public health code, Public Act No. 368 of 1978, MCL 333.21501 to 333.21571.
- (4) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of health and human services under the mental health code, Public Act No. 258 of 1974, MCL 330.1001 to 330.2106.
- (5) A county infirmary operated by a county department of health and human services under section 55 of the social welfare act, Public Act No. 280 of 1939, MCL 400.55.
- (6) A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under Public Act No. 116 of 1973, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:
 - a. Two, if the total number of residents is ten or fewer.
 - b. Three, if the total number of residents is not less than 11 and not more than 14.
 - c. Four, if the total number of residents is not less than 15 and not more than 20.
 - d. Five, if the total number of residents is 21 or more.
- (7) A foster family home licensed or approved under Public Act No. 116 of 1973, MCL 722.111 to 722.128, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of Public Act No. 116 of 1973, MCL 722.115(7).
- (8) An establishment commonly described as an alcohol or a substance use disorder rehabilitation center, except if licensed as both a substance use disorder program and an adult foster care facility and approved as a co-occurring enhanced crisis residential program, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or roominghouse that does not provide or offer to provide foster care.
- (9) A facility created by Public Act No. 152 of 1885, MCL 36.1 to 36.12.
- (10) An area excluded from the definition of the term "adult foster care facility" under section 17(3) of the continuing care community disclosure act, Public Act No. 448 of 2014, MCL 554.917(3).
- (11) A private residence with the capacity to receive at least one, but not more than four, adults who all receive benefits from a community mental health services program if the local community mental health services program monitors the services being delivered in the residential setting.

Adult foster care family home means a private residence with the approved capacity to receive at least three, but not more than six, adults to be provided with foster care. The adult foster care family home licensee must be a member of the household and an occupant of the residence.

Adult foster care large group homes means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

Adult foster care small group homes means an adult foster care facility with the approved capacity to receive at least three but not more than 12 adults to be provided with foster care.

Agricultural products means and includes, but is not limited to, crops (corn, wheat, hay, potatoes); fruit (apples, peaches, grapes, cherries, berries, etc.); cider; vegetables (sweet corn, pumpkins, tomatoes, etc.); floriculture; herbs; forestry; husbandry; livestock and livestock products (cattle, sheep, hogs, horses, poultry, ostriches, emus, farmed deer, farmed buffalo, milk, eggs, and fur, etc.); aquaculture products (fish, fish products, water plants and shellfish); horticultural specialties (nursery stock, ornamental shrubs, flowers and Christmas trees); maple sap, etc.

Agriculturally-related products means items sold at a farm market to attract customers and promote sales of agricultural product. Such items include, but are not limited to, all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream-based desserts and beverages, jams, honey, gift items, food stuffs, clothing and other items promoting the farms and agriculture in the state and value-added agricultural products and production on site.

Alley means any dedicated public way other than a street, providing a secondary means of access to a property and not intended for general traffic circulation.

Alternative analysis report means written report included with the NFIS which displays and discusses the alternative approaches and designs that were considered in arriving at the design proposed, in an effort to minimize disturbance of natural features on the site.

Animated signs means any sign having a conspicuous and intermittent variation in the illumination or physical position of any part of the sign; provided, however, that a slow rotation of a sign shall not be considered animation.

Apartment means an attached dwelling unit with party or common walls, contained in a building with other dwelling units or sharing the occupancy of a building with other than a residential use. Apartments are commonly accessed by a common stair landing or walkway. Apartments are typically rented by the occupants. Apartment buildings often may have a central heating system and other central utility connections. Apartments typically do not have their own yard space. Apartments are also commonly known as garden apartments or flats.

Efficiency unit or studio apartment means a type of multiple-family or apartment unit consisting of one principal room, plus bathroom and kitchen facilities, hallways, closets, and/or a dining alcove located directly off the principal room.

Balcony means a platform elevated over 24 inches in height, no part of which is roofed, which is five feet or less in any horizontal direction and which is commonly projecting from the wall of a building. A balcony may be cantilevered from the building or attached to the ground.

Base flood means the flood having a one-percent chance of being equaled or exceeded in any given year.

Base floodplain means the area of lands adjacent to and including a river, stream, lake or other body of water that will be inundated by the base flood.

Basement means that portion of a building, which is partly or wholly below grade. A basement is counted as a story for the purpose of height regulations if the vertical distance between the ceiling and the average level of the adjoining ground is more than five feet or is subdivided and used for business or dwelling purposes.

Bed and breakfast inn means a structure which was originally constructed for single-family residential use and is currently the private residence of the innkeeper, but which is used for renting bedrooms, on a nightly basis to transient tenants and serves a continental breakfast at no extra cost to the transient tenants consisting of non-potentially hazardous food such as a roll, pastry or doughnut, fruit juice, hot beverage, or individual portions of milk, and items incidental to such foods.

Bluff means the top of a steep bank rising from the water's edge.

Boardinghouse means a building other than a hotel, where for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided for three or more persons.

Buffer zones means an area adjacent to a wetland, stream, pond, woods, or other sensitive area that is established and managed to protect sensitive natural resources from human disturbance. In instances that involve a wetland, stream, lake or pond, the buffer zone will include all or a portion of the riparian area.

Building means a structure either temporary or permanent, having a roof supported by columns or walls.

Building, height of, means the vertical distance measured from the established grade to the highest point of the roof surface if a flat roof; to the deck line of mansard roofs; and to the mean height level, measured at the gable end, between eaves and ridge for gable, hip and gambrel roofs. For buildings, which have roof dormers covering 75 percent or less of the roof area, the dormers shall not be included in the height measurement. The height of buildings that have roof dormers covering more than 75 percent of the roof area shall be measured as the vertical distance between the established grade, and the mean height level between eaves on the dormers and the highest ridge of the roof. For buildings set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building provided its distance from the street line is not less than the height of such grade above the established curb level (see illustrations).

Building, principal, means a building in which is conducted the main or principal use of the lot on which said building is situated.

Family childcare home means a private home in which one but fewer than seven minor children are received for care and supervision for compensation for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. Family childcare home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year. A family childcare home does not include an individual providing babysitting services for another individual. As used in this definition, the term "providing babysitting services" means caring for a child on behalf of the child's parent or guardian if the annual compensation for providing those services does not equal or exceed \$600.00 or an amount that would according to the Internal Revenue Code of 1986 obligate the child's parent or guardian to provide a form 1099-MISC to the individual for compensation paid during the calendar year for those services.

Group childcare home means a private home in which more than six but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the household by blood, marriage, or adoption. Group childcare home includes a home in which care is given to an unrelated minor child for more than four weeks during a calendar year.

Building construction means the construction, reconstruction, renovation, repair, extension, expansion, alteration or relocation of a new or existing building or structure, including the placement of a mobile home, or homes that were manufactured off the premises.

Building line means a line extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the building.

Childcare center means a facility, other than a private residence, receiving one or more children under 13 years of age for care for periods of less than 24 hours a day, where the parents or guardians are not immediately available to the child. The term "childcare center" includes a facility that provides care for not less than two consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a childcare center, day nursery, nursery school, parent cooperative preschool, play group, before- or after-school program, or drop-in center. The term "childcare center" does not include any of the following:

- (1) A Sunday school, a vacation bible school, or a religious instructional class that is conducted by a religious organization where children are attending for not more than three hours per day for an indefinite period or for not more than eight hours per day for a period not to exceed four weeks during a 12-month period.

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- (2) A facility operated by a religious organization where children are in the religious organization's care for not more than three hours while persons responsible for the children are attending religious services.
 - (3) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.
 - (4) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.
 - (5) A program that primarily provides therapeutic services to a child.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Clinic means any establishment where human patients are examined and treated by doctors or dentists, but not hospitalized overnight.

Club means 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, and open only to members and not the general public.

Collection bins means any container, receptacle, or similar object that is located on any parcel or lot of record within the Township and that is used for soliciting and/or collecting the receipt of clothing, household items, or other personal property. The term "collection bins" applies to all such containers regardless of whether the solicitation of property is made by a for-profit or a non-profit entity. The term "collection bins" does not include recycle bins for the collection of recyclable material, any rubbish or garbage receptacle, or any collection box located within an enclosed building.

Community supported agriculture or CSA means a marketing strategy in which a farm produces farm products for a group of farm members or subscribers who pay in advance for their share of the harvest. Typically, the farm members receive their share once a week, sometimes coming to the farm to pick up their share; other farms deliver to a central point.

Condominium, as used in this chapter, conforms to the definition of the same term used in the Condominium Act, Public Act No. 59 of 1978, MCL 559.101 et seq.

Condominium project means a plan or project consisting of not less than two condominium units if established and approved in conformance with the Condominium Act.

Condominium unit means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed, regardless of whether it is intended for residential, office, industrial, business, recreational, or any other type of use as approved by the administrator of the Condominium Act.

Construction activity means an activity used in the process of improving, developing, redeveloping, enhancing, or maintaining land, including, but limited to, land disturbance, building construction, paving and surfacing, storage and disposal of construction-related materials.

Construction-related materials means materials that are used or created during construction activities, including, but not limited to, off-site deposits of sediments by vehicles (e.g., tracking, spilling); building material wastes (e.g., scrap metals, rubber, plastic, glass, masonry, wood, paints and thinners, packaging materials,

insulation, plaster grout); hazardous substances (e.g., cleaning solvents, chemical additives, concrete curing compounds, acids for cleaning masonry surfaces, paints, thinners); and concrete wash-out.

Convalescent and nursing homes means a building wherein infirm, aged, or incapacitated persons are accepted and furnished shelter, care, food, and lodging and needed attention, or nursing for compensation.

Deck means a platform 24 inches in height or less above grade at any point, no part of which is roofed, which is more than five feet in any horizontal direction. A deck may be cantilevered from the building or attached to the ground.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

District means a portion of the Township within which certain uses of land and/or buildings are permitted and within which certain regulations and requirements apply under the provisions of this chapter.

Dog kennel means an establishment wherein or whereon three or more dogs are confined and kept for sale, boarding, breeding, training, or sporting purposes, for remuneration.

Drive-in establishment means a business establishment so designed that all or a portion of its operation involves providing goods or services to patrons while they are in a motor vehicle (e.g., drive-in restaurants, drive-in theaters, drive-through establishments).

Drive-through establishment means a business establishment so designed that its operation involves providing goods or services to patrons while they are in a motor vehicle, typically through a drive-through window (e.g., drive-through banks, drive-through cleaners, or drive-through restaurants).

Dwelling means any building, or part thereof, containing sleeping, kitchen, and bathroom facilities designed for and occupied by one family. In no case shall a travel trailer, motor home, automobile, tent or other portable building not defined as a recreational vehicle be considered a dwelling. In the case of mixed occupancy where a building is occupied in part as a dwelling unit, the part so occupied shall be deemed a dwelling unit for the purposes of this chapter.

Dwelling, multiple-family, means a building designed for and occupied by three or more families living independently, with separate housekeeping, cooking, and bathroom facilities for each. Multiple-family dwelling units may also be known as apartments.

Dwelling, one-family or single-family, means an independent, detached residential dwelling designed for and used or held ready for use by one family only.

Dwelling, two-family or duplex, means a detached building, designed exclusively for and occupied by two families living independently of each other, with separate housekeeping, cooking, and bathroom facilities for each. Also known as a duplex dwelling.

Dwelling unit means one or more rooms, along with bathroom and kitchen facilities, designed as a self-contained unit for occupancy by one family for living, cooking, and sleeping purposes.

Dwelling unit, single-family attached, means a self-contained single-family dwelling unit attached to a similar single-family dwelling unit with party or common walls, designed as part of a series of three or more dwelling units, each with:

- (1) A separate entryway with direct access to the outdoors at ground level;
- (2) A separate basement, if applicable;
- (3) Separate utility connections; and
- (4) Defined and rear yards.

Single-family attached dwelling units may also be known as townhouses, row houses, or clustered single-family dwellings.

Easement means a grant by the property owner of the uses of a strip of land by the public, a corporation, or private person or persons for a specific purpose or purposes.

Elevated deck means a platform elevated over 24 inches in height above grade at any point, no part of which is roofed, which is more than five feet in any horizontal direction. An elevated deck may be cantilevered from the building or attached to the ground.

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

Family means:

- (1) *A domestic family.* An individual, or two or more persons related by blood, marriage, or adoption, together with not more than two additional unrelated persons, occupying the premises and living as single non-profit housekeeping unit with single culinary facilities. The usual domestic servants residing in the premises shall be considered as a part of the family.
- (2) *The functional equivalent of the domestic family.* A maximum of four persons living together in a dwelling unit whose relationship is of a permanent and distinct character and is the functional equivalent of a domestic family with a demonstrable and recognizable bond which constitutes the functional equivalent of the bonds which render the domestic family a cohesive unit. All persons of the functional equivalent of the domestic family must be cooking and otherwise operating as a single housekeeping unit. The definition of the term "family" excludes a group occupying a boardinghouse, lodginghouse, hotel, any society, club, fraternity, sorority, association, organization or similar dwelling for group use where the common living arrangement and/or the basis for the establishment of the functional equivalency of the domestic family is likely or contemplated to exist for a limited or temporary duration.

Farm means any parcel of land containing at least ten acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits, and the storage of equipment used.

Farm markets means sale of agricultural products or value-added agricultural products, directly to the consumer from a site on a working farm or any agricultural, horticultural or agribusiness operation or agricultural land.

Fence means an unroofed manmade structure designed as a barrier. It may be made of wood, metal or other material. It may be ornamental or intended for or capable of enclosing a piece of land, preventing ingress and egress, dividing, bounding or simply marking a line.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land area from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

Floodproofing means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water, and sanitary facilities, structures, and their contents.

Floodway means the channel of the watercourse and those portions of the adjoining floodplains that are designated to be reserved to carry and discharge the base flood.

Footprint means the outline of a building on the ground surface as shown from plan view, including all structural projections which extend outward from the building's foundation.

Foster care family group home means a private home in which more than four but less than seven minor children, who are not related to an adult member of the household by blood, marriage, or adoption are provided care for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Foster care family home means a private home in which one but not more than four minor children, who are not related to an adult member of the household by blood, marriage, or adoption, are given care and supervision for 24 hours a day, for four or more days a week, for two or more consecutive weeks, unattended by a parent or legal guardian.

Garage, private, means an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles owned and used by the occupants of the building to which it is accessory.

Gasoline service station means any building or premises used for the dispensation, sale, or offering for sale, at retail of any motor fuels, oils, or lubricants. When the dispensing, sale, or offering for sale is incidental to the conduct of automobile repair, the premises shall not be considered a gasoline service station.

Gazebo means a freestanding roofed platform structure, usually open on the sides. A belvedere is the same as a gazebo.

Grade, finished, means the completed surfaces of lawns, walks, and roads brought to grades as shown on official plans or designs relating thereto.

Groundwater outflow means the process by which groundwater seeps from the ground. Seepage is usually found along the lower parts of slopes and in areas where the water table is high.

Groundwater recharge means the replenishment of groundwater with water from the surface. Gravity water supplied to a body of groundwater from surface sources such as wetlands and lakes.

Groundwater recharge areas (zones). Groundwater recharge can occur at nonspecific and specific surface areas. Specific surface areas may be places where:

- (1) Surface water accumulates such as in a wetland or a topographic depression;
- (2) Where there is highly permeable soil or rock formation at the surface; or
- (3) Where an aquifer is exposed at or near the surface.

Home occupation means an occupation or profession carried on as a subordinate use by a member of a family residing on the premises and conducted entirely within the dwelling and which is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof. The use by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence shall be permitted.

Hotel means a building occupied as the temporary abiding place of individuals who are lodged with or without meals in which there are more than ten sleeping rooms usually occupied singly, with no provisions made for cooking in any individual room or apartment.

Human occupancy means the use of any structure or portion thereof, by one or more persons for any residential purpose, to include sleeping and eating.

Indoor commercial space means the area where the commercial transactions take place, including seating, counter and display areas used by the public, separate from other aspects of the use.

Keyholing means the use of a waterfront lot to provide access to the water by owners of property not located on the water.

Land use permit means a permit for proceeding with excavation, construction, alteration or moving, issued in accordance with a plan that complies with all of the provisions of this chapter.

Landscape buffer strip (also greenbelt and planting screen) means a strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen in carrying out the requirements of this chapter.

Line, street, means the dividing line between the street and a lot.

Living space means that area within a structure intended, designed, erected, or used for human occupancy.

Locally grown produce means produce grown within the state or between zero and 150 miles of the place of sale.

Lodginghouse means a building where lodging only is provided for compensation to three or more persons, as opposed to hotels open to transients.

Lot means land occupied or to be occupied by a building and its accessory buildings, or by any other single activity permitted herein, together with such open spaces as are required under this chapter and having its principal frontage upon a street.

Lot, corner, means a lot at the junction of and fronting on two or more intersecting street rights-of-way.

Lot, double frontage, means an interior lot having frontages on two more or less parallel streets as distinguished from a corner lot.

Lot, flag, means a lot which is located behind parcels and/or lots fronting on a public street, but which has a narrow extension to provide access to the public street.

Lot, waterfront, means a lot which abuts, adjoins or is contiguous to a private or public body of water or live stream.

Lot area means the total horizontal area within the lot lines of a lot. The term "lot area" means that area within the lot lines not including any portion of a public or private ROW.

Lot coverage means:

Building means the percent of a lot, excluding water bodies and wetlands, occupied by a building or structure including accessory buildings and structures.

Impermeable surface means the percent of a lot, excluding water bodies and wetlands, occupied by buildings, parking, paved and gravel storage yards, driveways, streets, roads, and sidewalks

Lot depth means the mean horizontal distance from the front lot line to the rear lot line.

Lot lines means the property lines bounding a lot.

Front lot line, in the case of a lot not located on a corner, means the line separating said lot from the public or private road right-of-way. In the case of a corner lot or double frontage lot, the front lot line shall be that line that separates said lot from the right-of-way for the road which is designated on the plat as the front, or which is designated as the front on the site plan review application or building permit application,

subject to approval by the planning commission or zoning administrator. On a flag lot, the front lot line shall be the interior lot line most parallel to and nearest the public street from which access is obtained.

Rear lot line means ordinarily that lot line which is opposite and most distant from the front lot line. In the case of triangular, wedge-shaped, or irregular lots that are pointed at the rear, the rear lot line shall be imaginary line parallel to the front lot line, not less than ten feet in length, lying farthest from the front line and wholly within the lot. In cases in which the rear lot line definition cannot be easily applied, the zoning administrator shall designate the rear lot line.

Side lot line means any lot line other than the front or rear lot lines. A side lot line separating a lot from a street right-of-way is a side street lot line. A side lot line separating a lot from another lot is an interior side lot line. In cases in which the side lot line definition cannot be easily applied, the zoning administrator shall designate the side lot line.

Lot of record means a lot which is a part of a subdivision, the map of which has been recorded in the office of the register of deeds, or a lot described by metes and bounds, the deed to which has been recorded in the office of the register of deeds at the time this chapter is passed.

Lot width means the straight line distance between the side lot lines, measured at the two points where the minimum front yard setback line intersects the side lot lines.

Major automobile repair means general repair, rebuilding, or reconditioning of engines, motor vehicles, trailers, including collision work (bodywork, framework, or fender straightening or repair, welding, and major painting service) and vehicle steam cleaning.

Marina means a facility which extends into or over waterways in the Township and provides docking for four or more boats or offers service to the general public or members of the marina for docking, storing and loading of boats.

Master plan means the comprehensive plan currently in effect for the Township illustrating the general location of streets, parks, public buildings, and all physical development within the Township.

Mechanical equipment means all electrical, heating, ventilation, plumbing, generators, and air conditioning equipment and other service facilities.

Minor automobile repair means the minor repair or maintenance of motor vehicles which does not require the removal of the engine head or pan, engine, transmission, or differential. Minor repairs include brake, muffler, upholstery work, tire repair and change, lubrication, tune ups, transmission work, and incidental body and fender work and minor painting. Above stated is applied to passenger automobiles, motorcycles, snowmobiles, small engines, and trucks not to exceed 9,000 pounds rated capacity.

Mitigation plan means the use of any or all of the following actions:

- (1) Avoiding the impact altogether by not taking a certain action or parts of an action.
- (2) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.
- (3) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.
- (4) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term "mobile home" does not include a recreational vehicle.

Mobile home park means a parcel or tract of land under the control of a person upon which three 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 therefor, together with any building, structure, enclosure, street, equipment, or facility used or intended for use incidental to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Motel means a combination or group of two or more detached, semi-detached, or connected permanent buildings occupying a building site integrally owned and used as a unit to furnish living accommodations for transients only and providing for accessory off-street parking facilities. The term "motel" includes buildings designated as tourist courts, motor courts, motels and similar appellations which are designed as integrated units of individual rooms, or cabins under common ownership.

Natural features means naturally occurring features, including, but not limited to, topography, soils, geology, groundwater, wetlands, watercourses, plants and animals (including aquatic species), habitat, and scenery. The regulation of specific natural features is set forth in article VIII of this chapter.

Natural features protection plan means a map required with the natural features impact statement. The plan must delineate natural features to be retained on the site or excluded from the development. Delineation shall show the limits of soil disturbance expected on the site. Protective measures such as barrier fencing, soil erosion control measures, etc., are also to be shown.

Nonconforming building or structure means any lawful building or other structure which does not comply with the applicable bulk regulations for the district, either at the effective date of the ordinance from which this chapter is derived or as a result of a subsequent amendment thereto.

Nonconforming lot of record means any lot of record which does not comply with the applicable lot dimension regulations for the district, either at the effective date of the ordinance from which this chapter is derived or as a result of a subsequent amendment thereto.

Nonconforming site means any site containing a conforming use and building which does not meet all of the various site improvement related regulations of this zoning ordinance for landscaping, paving and other non safety site related items, either at the effective date of the ordinance from which this chapter is derived or as a result of a subsequent amendment thereto.

Nonconforming use means any lawful use, whether of a building or other structure or a tract of land, which does not conform to the applicable use regulations for the district, either at the effective date of the ordinance from which this chapter is derived or as a result of a subsequent amendment thereto.

Non-regulated wetlands means land characterized by the presence of water at a frequency and duration sufficient to support and that under normal circumstances does support wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, fen or marsh and is not regulated by the state (EGLE or MDNR) due to size, proximity to a body of water or otherwise deemed essential for the purposes of the state's objective to protect natural resources.

Non-riparian means those who own property not on the water.

Open space means an unoccupied space open to the sky.

Ordinary high water mark means 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 marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Owner means a person holding any legal, equitable, option, or contract interest in land.

Parcel. See definition of the term *Lot*.

Parking space means a land area of not less than ten by 20 feet, exclusive of driveways and aisles, and adjacent to driveways and aisles, and so prepared as to be usable for the parking of a motor vehicle, and so located as to be readily accessible to a public street or alley.

Patio means an improved recreation area which is commonly made of pavement or pavers, no part of which is roofed.

Persons means and includes any individual, political subdivision, estate, trust or body of persons, whether incorporated or not, acting as a unit.

Planning commission means the planning commission of the Township of Hamburg, Livingston County.

Pole barn means a structure used for storage having a metal roof and metal sides.

Porch means a structure, which may be a covered, partially enclosed and is projecting out from a building. A porch may be cantilevered or attached to the ground.

Poultry means domestic fowl, such as, but not limited to, chickens, turkeys, ducks, or geese.

Principal building means a building in which is conducted the main use of the lot upon which it is situated.

Principal use means the main use to which the premises are devoted and the main purpose for which the premises exist.

Public park means any park, playground, beach, outdoor swimming pool, parkway, within the jurisdiction and control of a governmental agency authorized by state statutes to own and maintain parks.

Public sewer system means a public sewer system shall be defined as a central or community sewage system of pipes and structures including pipes, channel conduits, manholes, pumping stations, sewage and waste treatment works, diversion and regulatory devices, outfall structures, and appurtenances, collectively or severally, actually used or intended for use by the general public or a segment thereof, for the purpose of collecting, conveying, transporting, treating or otherwise handling sanitary sewage or industrial liquid wastes of such a nature as to be capable of adversely affecting the public health; operated and maintained by the general public, residential district or area, firm, or corporation.

Public utility means any person, firm, corporation, county, township, municipality or department or board thereof, fully authorized to furnish and furnishing under state, county, township or municipal regulation to the public, electricity, gas, sewage disposal, steam, communication services, transportation, or water.

Restaurant means any establishment whose business is the sale of food and beverages to the customer in a ready-to-consume state, and whose method of operation is characteristic of a carry-out, drive-in, drive-through, fast food, a standard restaurant, or bar/lounge or a combination thereof, as defined below:

Bar/lounge means a type of restaurant which is operated primarily for the dispensing of alcoholic beverages, although the sale of prepared food or snack may also be permitted. If a bar or lounge is part of a larger dining facility, it shall be defined as that part of the structure so designated or operated.

Restaurant, carryout, means a restaurant whose method of operation involves sale of food, beverages, and/or frozen deserts in disposable or edible containers or wrappers in a ready-to-consume state for consumption off the premises.

Restaurant, drive-in, means a restaurant whose method of operation involves delivery of prepared food so as to allow its consumption in a motor vehicle on the premises.

Restaurant, drive-through, means a restaurant whose method of operation involves the delivery of the prepared food to the customer in a motor vehicle, typically through a drive-through window, for consumption off the premises.

Restaurant, fast-food, means a restaurant whose method of operation involves the minimum waiting for delivery of ready-to-consume food to the customer at a counter or cafeteria line for consumption at the counter where it is being served, or at tables or booths, or stands inside the structure or out, or for consumption off the premises, but not in a motor vehicle at the site.

Restaurant, standard, means a restaurant whose method of operation involves either:

- a. The delivery of prepared food by waiters and waitresses to customer seated at tables within a completely enclosed building; or
- b. The prepared food is acquired by customers at a cafeteria line and is subsequently consumed by the customers at tables within a completely enclosed building.

Right-of-way means a street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicles.

Riparian means those who own property located on the water. This shall not include owners of a lot used as access for more than one dwelling unit.

Riparian area means the area immediately adjacent to streams, ponds, lakes, and wetlands that directly contributes to the water quality and habitat components of the water body. This may include areas that have high water tables and vegetation that exhibit characteristics of wetness, as well upland areas immediately adjacent to the water body that directly contribute shade, nutrients, cover, or debris, or that directly enhance water quality within the body of water.

Sensitive plant species means plants that are:

- (1) Endemic to Hamburg Township and the vicinity;
- (2) Listed as endangered, threatened, sensitive or candidate as such in the Michigan Natural Resources Inventory by the Michigan Department of Natural Resources.

Sensitive wildlife species means animals species that are:

- (1) Endemic to Hamburg Township and the vicinity;
- (2) Listed as endangered or threatened pursuant to federal or state endangered species acts; or
- (3) Listed as endangered, threatened, sensitive or candidate as such in the Michigan Natural Resources Inventory by the Michigan Department of Natural Resources.

Setback line means a line defining the minimum front, side, and rear yard requirements outside of which no building or structure shall be located, except as otherwise permitted herein.

Shed means a type of accessory structure as defined herein which is not greater than 200 square feet in floor area and with a maximum height of ten feet. Sheds must be constructed of solid materials.

Site inventory map means a map required with the natural features impact statement which clearly shows the location and types of existing natural features on the site and extending 50 feet beyond the property lines. The drawing should delineate edges of woodlands, show buffer areas, show watercourse stream banks, ordinary high water marks, floodplains, and slopes exceeding 12 percent in grade.

Slope means an upward or downward degree of slant on the earth's surface usually expressed as a percent expressed as:

Percent Slope	=	$\frac{\text{Change in Elevation}}{\text{Distance}}$	×	100
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Slope classes:

- (1) Very steep (greater than 25 percent).
- (2) Steep (15 - 25 percent).

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- (3) Moderate (5 - 15 percent).
 - (4) Gentle (less than five percent).

Solid waste disposal facility means a facility approved and licensed in accordance with the Solid Waste Management Act, Public Act No. 641 of 1978, as amended by Public Act No. 10 of 1979 (MCL 21.231 et seq.), for the disposal of solid wastes.

Special use means a use, which is subject to the special approval of the planning commission which, may be allowed only when there is specific provision in the ordinance. A special use is not considered to be a nonconforming use.

Stable, private, means an accessory building in which horses are kept for private use and not for hire, remuneration, or sale.

Stables/commercial means a structure used to house horses for commercial purposes. The term "commercial purposes" includes riding stables, riding academies, and the breeding, raising and/or training of horses with the expectation of sale at a profit or for racing. The term "commercial purposes" do not include the housing and training of horses by an individual property owner or member of his immediate family for showing or competition by the individual or member of his immediate family, provided, however, that the requirements in section 36-187 are met.

State-licensed residential facilities means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, Public Act No. 218 of 1979, MCL 400.701 to 400.737, or Public Act No. 116 of 1973, MCL 722.111 to 722.128, and provides residential services for six or fewer individuals under 24-hour supervision or care.

Stoop or steps means a projection from the entrance to a building, five feet or less in any horizontal dimension, which may include a landing, steps, and roof (attached only to the building such as an awning).

Stormwater facility means areas where stormwater is either:

- (1) Absorbed in the ground;
- (2) Stored in depressions; or
- (3) Runs off the surface into streams, lakes, or wetlands.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if no such floor above, the space between such floor and the ceiling next above it.

Story, half, means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (feet above the top floor level, and in which space not more than two-thirds of the floor area is finished off for use. A half-story containing independent apartment or living units shall be counted as a full story.

Streams/watercourse means areas where surface water flow continuously or intermittently produces a defined channel or bed, including bedrock channel, gravel beds, sand and silt beds and defined channel swales. The definition of the term "streams/watercourse" does not include irrigation ditches, canals, storm or surface water runoff structures or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses.

Street means a thoroughfare, which affords a principal means of access to abutting property and which, has been accepted as a public street.

Structural alterations means any change in the supporting members of a building such as bearing walls, columns, beams or girders, or any substantial changes in the roof or exterior walls.

Structure means anything constructed or erected the use of which requires a temporary or permanent location on the ground or is attached to something having a permanent location, in, on, or below the ground. When a structure is divided into separate parts by an unpierced wall, each part shall be deemed a separate structure.

Submerged land means that area located below the ordinary high water mark of any lake, pond, river or stream.

Temporary building means a building that will only be in place for a temporary timeframe and is not permanently attached to the ground.

Temporary shelter means a temporary structure such as a tent or similar structure made of canvas, tarp or plastic or a similar material.

Temporary structure means a structure that will only be in place for a temporary timeframe and is not permanently attached to the ground.

Terrace means an unroofed raised level or platform of earth, paved or unpaved, supported on one or more faces by a wall, a bank of turf or the like.

U-pick operation means a farm that provides the opportunity for retail customers to harvest their own farm products directly from the plant. Also known as pick-your-own or PYO, these are forms of marketing farm products to retail customers who go to farms and pick the products they wish to buy.

Value added agricultural product means the enhancement or improvement of the overall value of an agricultural commodity or of an animal or plant product to a higher value. The enhancement or improvement includes, but is not limited to, marketing, agricultural processing, transforming, or packaging, education presentation, activities and tours.

Variance means a modification of the literal provisions of this chapter granted when strict enforcement would cause undue hardship due to circumstances unique to the individual property for which the variance is granted.

Wetland determination, final, means a formal, scientific inventory and analysis of an EGLE regulated wetland by trained professionals which determines its boundaries, describes its biotic and hydrogeologic setting, and proposes measures or alternatives which avoid, minimize, or mitigate the disruption to the wetland resulting from the proposed action.

Wetland determination, preliminary, means an in-office review of existing wetland inventories and related information by the zoning administrator at the time of application for a land use permit.

Wetland, regulated, means land characterized by the presence of water at a frequency and duration sufficient to support (and that under normal circumstances does support) wetland vegetation or aquatic life and is commonly referred to as a bog, swamp, or marsh and which is regulated by EGLE under the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994 (MCL 324.101 et seq.), or by any other state and/or federal statute. To be regulated by the EGLE under Public Act No. 451 of 1994, wetlands will need to meet one of the following conditions, as determined by the EGLE:

- (1) Be contiguous to any lake, pond, river or stream.
- (2) Not be contiguous to any lake, pond, river or stream; and more than five acres in size.
- (3) Not be contiguous to any lake, pond, river or stream; and five acres or less in size if the EGLE 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 EGLE has so notified the owner.

Yard means an open space on the same lot with a building unoccupied and unobstructed from the ground upward, except as otherwise provided herein. The measurement of a yard shall be construed as the minimum horizontal distance between the lot line and the building or structure.

Front yard means a yard extending across the front of the lot between the side lot lines and measured between the front line of the lot and the nearest point of the building.

Rear yard means a yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On both corner lots and interior lots the rear yards shall be in all cases at the opposite end of the lot from the front yard.

Side yard means a yard between the side lot line and the nearest sideline of the building and extending from the rear line of the building to the front line of the building.

(Zoning Ord. 2020, art. 2, 1-5-2021)

Secs. 36-7—36-30. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 36-31. Effective date.

Pursuant to the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3401 et seq.), this amendment or a summary of the amendment must be published in a newspaper of general circulation within 15 days following the adoption of this chapter amendment by the Township Board. The amendment shall take effect upon the expiration of seven days after publication.

(Zoning Ord. 2020, § 3.0, 1-5-2021)

Sec. 36-32. Administration and administrator.

- (a) The provisions of this chapter shall be administered by the Township Planning Commission and the Township Board in accordance with the Michigan Planning Enabling Act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.), and the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.33101), as amended through 2006.
- (b) The Township Board shall employ a zoning administrator to act as its officer to effect proper administration of this article. The individual selected, the terms of employment, and the rate of compensation shall be established by the Township Board. For the purposes of this chapter, the zoning administrator shall have the powers of a police officer.

(Zoning Ord. 2020, § 3.1, 1-5-2021)

Sec. 36-33. Duties.

The zoning administrator shall:

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- (1) Receive and review all applications for land use permits and certificates of occupancy and approve or disapprove such applications based on compliance or non-compliance with the provisions of this chapter and issue certificates when there is compliance with this chapter.
 - (2) Receive all applications for site plan review and special use permits which the planning commission is required to decide under this chapter; conduct field inspections and investigations; prepare maps, charts, and other pictorial materials when necessary or desirable; and otherwise process applications so as to assist the planning commission in formulating recommendations; notify the applicant, in writing, of any decision of the planning commission; and implement the decisions of the planning commission.
 - (3) Receive all applications for appeals, variances or other matters which the zoning board of appeals is required to decide under this chapter; conduct field inspections and investigations; prepare maps, charts and other pictorial materials when necessary or desirable; and otherwise process applications so as to formulate recommendations; refer such applications with recommendations to the zoning board of appeals for determination.
 - (4) Receive all applications for amendments to this chapter; conduct field inspections and investigations; prepare maps, charts and other pictorial materials when necessary or desirable; and otherwise process applications so as to formulate recommendations; report to the planning commission all such applications together with recommendations.
 - (5) Maintain a map or maps showing the current zoning classifications of all land in the Township, which will conform to the true copy.
 - (6) Maintain written records of all actions taken by the zoning administrator and meet with the planning commission upon request.
 - (7) Be responsible for providing forms necessary of the various applications to the zoning administrator, planning commission, Township Board, or zoning board of appeals, as required by this chapter and be responsible for information necessary on such forms for the effective administration of this chapter, subject to the general policies of the Township Board, planning commission, and zoning board of appeals.

(Zoning Ord. 2020, § 3.2, 1-5-2021)

Sec. 36-34. Land use permits.

(a) *Permit required.*

- (1) The following actions shall not commence until a land use permit has been issued by the Township Zoning Administrator:
 - a. The excavation, alteration, or filling of land.
 - b. The new use or change in use of land, except for the conduct of agricultural activity.
 - c. The new use or change in use of an existing building or structure.
 - d. Construction or expansion of a structure, including parking lots.
- (2) Except upon a written order of the Township Zoning Board of Appeals, no land use permit shall be issued for any building or structure where the construction, addition, alteration or use thereof would be in violation of any of the provisions of this chapter.

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- (3) No building permit shall be issued until the zoning administrator has determined that the building, structure, or use of land, if constructed or used as planned and proposed, will conform to the provisions of this chapter, as evidenced by issuance of a land use permit.
- (b) *Application requirements.* Application for a land use permit shall be submitted at least ten days prior to a contemplated new use or change of use of a building or land. Application for a land use permit shall be made in writing to the zoning administrator, signed by the person, firm, co-partnership, or corporation requesting the same or by the duly authorized agent of such person, firm, co-partnership or corporation. For those uses requiring a site plan, the zoning administrator shall not issue a land use permit until the provisions of article III of this chapter have been satisfied. For those uses not requiring a site plan, there shall be submitted to the zoning administrator with all applications for land use permits, two copies of a plot plan, drawn to scale showing:
- (1) The location, shape, area and dimensions for the lots or acreage.
 - (2) The location of the proposed construction, alteration, or repair upon the lots or acreage affected, along with existing structures, wells, and disposal systems. All wells and sanitary septic systems must have Livingston County Health Department approval.
 - (3) The dimensions, height, bulk of structures, and setback lines and a finished building grade drawing of existing and proposed structures.
 - (4) The nature of the proposed construction, alteration, or repair and the intended uses.
 - (5) The present use being made of any existing structure affected and any proposed change in the use thereof.
 - (6) The approximate boundary of any water body or state regulated wetland as determined by the procedures of section 36-37. A state permit shall be required for activities in a regulated wetland or an inland lake or stream. A copy of any required state permits shall be submitted with the land use permit application.
 - (7) Any other information deemed necessary by the zoning administrator to determine compliance with this chapter and to provide for its enforcement.
- (c) *Evidence of ownership.* All applicants for land use permits shall have available for the zoning administrator's inspection, evidence of ownership of all property affected by the permit and shall submit the same upon the request of the zoning administrator.
- (d) *Contents and voiding of permit.* Any land use permit issued by the zoning administrator shall state that the proposed use and any structure or building embraced in the use shall conform with the provisions of this chapter and shall further state any special limiting conditions of such use. Any land use permit granted under this section shall be null and void unless the development proposed shall have its first zoning inspection within one year from the date of the granting of the permit. The zoning administrator shall give notice by certified mail to the holder of a permit that is liable for voiding action before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated in said permit. The zoning administrator may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this chapter or of any other ordinances or regulations of the Township.
- (e) *Application fee.* A fee in accordance with the duly adopted schedule of fees shall be paid to the zoning administrator at the time of filing the application for land use permit. The purpose of the fee is to cover any necessary administrative and inspection costs incurred in connection with the application.
- (f) *Inspections.*

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- (1) The construction or usage covered by any land use permit shall be subject to the inspection by the zoning administrator to ensure compliance with the provisions of this chapter and the approved plot or site plan.
 - (2) It shall be the duty of the holder of every permit to notify the zoning administrator when the construction or usage is ready for inspection. Failure to make proper notification of the time for inspection shall automatically cancel the permit, requiring issuance of a new permit before construction may proceed or occupancy may be permitted.
 - (3) Inspections shall be made by the zoning administrator at the following intervals:
 - a. At the time of staking out lot corners.
 - b. When the building foundation forms are in place and/or poles are set.
 - c. Upon completion of the work authorized by the permit.
 - (4) Where applicable and when practical, inspections made by the zoning administrator may be made concurrently with inspections made by the building official.
 - (5) A temporary land use permit compliance permit may be issued for a portion of a building, structure or site prior to occupancy of the entire building, structure or site, provided that such portion of the building, structure, or site is in conformity with the provisions of this chapter and the building code and provided, further, that no threat to public safety exists. The zoning administrator may require that a performance guarantee be provided in accordance with article IV of this chapter as a condition of obtaining a temporary permit. The date of expiration shall be indicated on the temporary permit; failure to obtain a final permit within the specified time shall constitute a violation of this chapter, subject to the penalties set forth in article IV of this chapter.
- (g) *Availability of record.* A record of land use permits shall be kept on file in the Township office by the zoning administrator.

(Zoning Ord. 2020, § 3.3, 1-5-2021)

Sec. 36-35. Certificate of occupancy.

It shall be unlawful to use or occupy or permit the use of any building or premise hereafter created, erected, changed, converted, or wholly or partly enlarged in its use or structure until a certificate of occupancy by the building official is issued in accordance with the provisions of the current building code in effect in the Township.

(Zoning Ord. 2020, § 3.4, 1-5-2021)

Sec. 36-36. Special use permits.

- (a) *Application.* Applications for special use permits authorized in this chapter shall be submitted to the zoning administrator on a special form supplied by the same for such purposes. Applications shall be accompanied by payment of a fee in accordance with the duly adopted schedule of fees, to cover costs of processing the application. Applications for special use permits shall be subject to the provisions of section 36-34. in addition to the provisions stated herein.
- (b) *Procedures.*
 - (1) The zoning administrator shall review the proposed application to determine if all required information has been supplied, and forward completed applications and supporting data in accordance with the provisions of section 36-34(b) to the Township Planning Commission.

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- (2) Upon receipt of an application for a special land use permit, the planning commission shall hold a public hearing in accordance with the notification procedures described in section 36-40.
 - (3) Upon conclusion of the public hearing procedures, the Township Planning Commission may issue a special use permit. A copy of the Township Planning Commission's decision, with any conditions or reasons for rejection, shall be sent promptly to the zoning administrator and to the applicant.
- (c) *Basis of determinations.* The Township Planning Commission shall review the proposed special use in terms of the standards stated within this chapter and shall establish that such use and the proposed location:
- (1) Compatibility with the master plan will be harmonious and in accordance with the general objectives or any specific objectives of the Hamburg Township master plan.
 - (2) Compatibility with surrounding area will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, will not change the essential character of the area, and will not be hazardous or disturbing to existing or future nearby uses. In determining whether a special land use will be compatible and not create a significant detrimental impact, as compared to the impacts of permitted uses, consideration shall be given to the degree of impact the special land use may have on adjacent property, as compared with the expected value to the community. The following types of impacts shall be considered:
 - a. Use activities, processes, materials, equipment or conditions of operations;
 - b. Vehicular circulation and parking area;
 - c. Outdoor activity, storage and work areas;
 - d. Hours of operation;
 - e. Production of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light;
 - f. Impacts on adjacent property values; and
 - g. The relative ease by which the impacts above will be mitigated.
 - (3) Improvement to the immediate vicinity will be an improvement in relation to property in the immediate vicinity and to the Township as a whole.
 - (4) Impact of traffic on the street system. The location and design of the proposed special land use shall minimize the negative impact on the street system in consideration of items such as vehicle trip generation (i.e., volumes), types of traffic, access location and design, circulation and parking design, street and bridge capacity, traffic operations at proposed access points, and traffic operations at nearby intersections and access points. The Township may require submittal of a traffic impact study to ensure compliance with this standard. Such a traffic study shall be in accordance with standard practices and procedures and prepared by a qualified traffic professional. The Township may require mitigation to maintain traffic operations at a level that is consistent with other types of permitted uses in the district. Route and operational restrictions (such as hours, cleaning of dust or debris) may be established for construction traffic to minimize negative impacts.
 - (5) Impact on the overall environment. The proposed special land use shall not have an unacceptable significant adverse effect on the quality of the natural environment in comparison to the impacts associated with typical permitted uses. The planning commission may require a quantitative comparison of the impacts of typical permitted uses and the special land use to assist in making this determination (such as an overlay of conceptual development plans, on a natural features map, illustrating other site development options to demonstrate the impacts have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant environmental problem, mitigation shall be provided to alleviate the impacts associated with the requested use.

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- (6) Public services impact will be served adequately by essential public services and facilities or that the persons responsible for the establishment of the proposed use will provide adequately any such service or facility, will not create excessive additional public costs and will not be detrimental to the economic welfare of the Township. Public facilities shall include, but not be limited to, streets, pedestrian or bicycle facilities, police and fire protection, drainage systems, water and sewage facilities, and schools.
- (7) Compliance with zoning ordinance standards will be consistent with the intent and purposes of this chapter and be designed, constructed, operated and maintained to meet the stated intent of the zoning district.
- (d) *Conditions and safeguards.* The planning commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the purposes of this chapter and the general spirit and purpose of the district in which the special land use is proposed will be observed. Special land use permits may be issued for specific time periods as determined by the planning commission.
- (e) *Voiding of permit.* Unless otherwise specified by the planning commission, any special land use permit granted under this section shall be null and void unless the development proposed shall have its first zoning inspection within one year from the date of the granting of the permit. The zoning administrator shall give notice by certified mail to the holder of a permit that is liable for voiding action before voidance is actually declared. Said notice shall be mailed to the permit holder at the address indicated in said permit. The zoning administrator may suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued erroneously on the basis of incorrect information supplied by the applicant or his agent and is in violation of any of the provisions of this chapter or of any other ordinances or regulations of the Township.
- (f) *Reapplication.* No application for a special land use permit which has been denied wholly or in part shall be re-submitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or change of conditions found to be sufficient to justify reconsideration by the planning commission.
- (g) *Appeals, jurisdiction of Township Board.* In the event the planning commission denies an application for a special land use permit, the applicant shall have the right to appeal said decision to the Township Board. The appeal shall be exclusive and de novo.
- (h) *Existing special land uses.* An existing special land use shall be considered conforming, provided such use conforms to the site plan and conditions upon which it was approved. An existing special land use shall be considered a use of land which was approved under the provisions of this section; or was in existence at the time that the schedule of use regulations was amended to list the use as requiring a special land use permit. The landowner shall notify the zoning administrator of any change in an existing special land use and such change shall comply with the following requirements:
- (1) *Major amendments.* Any major amendment to an existing special land use shall require submittal of a new application for special land use and follow the review procedures contained in this article. Amendments to the site plan shall bring the site into compliance with all zoning ordinance requirements determined to be reasonable by the planning commission in proportion with the extent of the change at the site and in consideration with the physical constraints of the site. The zoning administrator shall determine whether the proposed amendment constitutes a minor or major amendment, based on the standards below. Changes or expansions in the use shall be considered cumulatively since the date the last special land use permit was issued. A change shall constitute a major amendment where any one of the following apply:
- a. Changes increase the buildings usable floor area by more than 25 percent;
 - b. Parking lots are expanded by more than 25 percent;

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- c. The occupancy, capacity or membership of the use is increased by more than 25 percent; or
 - d. The use is expanded to occupy an additional 25 percent or more of land area.
- (2) *Minor amendment.* Minor amendment to an existing special land use does not require submittal of a new application for a special land use permit.
 - (3) *Change in use.* Change to another special land use shall require submittal of a new application for special land use permit and follow the review procedures contained in this article.
 - (4) *Required site plan.* Any changes, whether it is deemed minor and major, shall require submittal of a site plan in accordance with article III of this chapter.

(Zoning Ord. 2020, § 3.5, 1-5-2021)

Sec. 36-37. Wetland determination.

- (a) *Filing procedure/wetlands determination.* Any person desiring a land use permit for any activity requiring a Township permit or land use review, such as constructing a building, filing a tentative preliminary plat, submitting a site plan, a planned unit development, condominium or site condominium, a special use permit or requesting a lot split shall apply to the zoning administrator for a preliminary wetland determination.
- (b) *Preliminary wetland determination.* If the zoning administrator or the planning commission determines, after reviewing available wetland maps, the USDA soil survey maps, and other related information, that the proposed activity may encroach into a state regulated wetland as defined, then a final wetland determination shall be conducted by the applicant prior to further processing of the land use permit application. If the zoning administrator or the planning commission determines that a site is buildable that there is no potential for the activity to impact a state regulated wetland, and finds all other applicable Township requirements satisfied, the zoning administrator can issue a land use permit without submittal of a final wetland determination.
- (c) *Final wetland determination.* If the zoning administrator or the planning commission determines the proposed activity may encroach into a state regulated wetland area, the applicant shall arrange to have a final wetland determination completed by an experienced wetland consultant before the land use permit can be processed. The study shall be prepared by an experienced consultant in the delineation and composition of wetlands. This does not preempt any responsibility of the applicant to also apply to the state for the required wetland permits.
 - (1) *Required information (final wetland determination).* The applicant or his agent shall supply the following information for a final wetland determination. The wetland boundary shall be flagged on-site at an interval of not more than 25 feet to permit on-site inspection and verification by Township officials.
 - a. The name, address and telephone number of the applicant.
 - b. The name, address, telephone number, a resume and list of experience of the applicant's agent, firm or individual preparing the wetland determination.
 - c. The owner of the property, if different from the applicant, and the applicant's interest in the property.
 - d. A legal description of the property, including the total area, exclusive of public road right-of-way, accurate to the nearest hundredths of an acre.
 - e. Written and graphic descriptions of the proposed activity.

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- f. An accurate graphic description of the wetlands complete with all of the following. The zoning administrator or the planning commission may reduce the requirements for minor projects at his discretion.
1. A written summary of how and when the wetland was delineated;
 2. Major plant species and animal breeding habitat that are present and an estimation of how the wetland functions or relates to its general environment;
 3. The presence of any hills or springs;
 4. An accurate measurement of the wetland area in acres and square feet, to the nearest hundredth of an acre; and
 5. Any proposed remedial or mitigating actions to be completed as part of the activity proposed in the land use request.
- (2) *Submittal review process.* Upon receipt of the final wetland determination, the zoning administrator or the planning commission shall review the proposed activity to determine if it encroaches into a regulated wetland. The zoning administrator or the planning commission may refer final wetland determinations to the environmental consultant for review and comment, as described in sections 36-38 through 36-40. If the proposed activity is determined to encroach into a state regulated wetland, the applicant shall be required to produce written evidence of compliance with applicable state and/or federal regulation, in the form of a permit or a letter of non-jurisdiction from the state. The applicant shall provide the zoning administrator with a copy of any application to the state for a wetland use permit, at the time that the application is filed with the state. The zoning administrator shall forward a copy of the state wetland use permit application for environmental review under the provisions of section 36-39.

(Zoning Ord. 2020, § 3.6, 1-5-2021)

Sec. 36-38. Environmental consultant review.

The zoning administrator or the planning commission may request an environmental consultant review of any land use permit, site plan, subdivision, condominium or land division application to comment on environmental concerns related to the project and compliance with any Township, county, state and/or federal environmental regulations. If an environmental consultant is required, the applicant shall deposit a cash escrow, in the amount required by the fee schedule, with the Township prior to the start of the environmental review. The consultant shall make a recommendation to the Township Planning Commission on the project's compliance with applicable Township, county, state and/or federal environmental regulations, concerns with significant environmental impacts resulting from the proposal and suggested mitigation measures to minimize the impacts. If there is potential for the project to have a significant impact on the human and natural environment, the consultant may recommend to the planning commission that the applicant be required to conduct environmental assessments and/or produce documentation of compliance with any Township, county, state and/or federal environmental regulations. Such environmental assessments, studies and documentation shall be prepared by a qualified professional and be the responsibility of the applicant and be reviewed by the Township's environmental consultant. The purpose of this requirement is to ensure necessary analysis on the environmental impact is available to Township officials prior to any decision being made.

(Zoning Ord. 2020, § 3.7.1, 1-5-2021)

Sec. 36-39. Wetlands.

Any wetland determinations referred to the environmental consultant shall be reviewed for completeness, accuracy of the delineation, review of regulatory determination and, impacts to the wetland and natural resources of Hamburg Township. The applicant shall be required to submit a copy of any state wetland use permit applications to the Township, upon submittal to the state.

- (1) The environmental consultant may forward written recommendation to the state for any wetland use permit applications being considered by the state.
- (2) The environmental consultant may request the state hold a public hearing for any wetland use permit applications being considered by the state.
- (3) The environmental consultant may study and document the environmental value of noncontiguous wetlands under five acres not regulated by the state to determine its value for the preservation of the natural resources of Hamburg Township from pollution, impairment or destruction. The environmental consultant may notify the state of his findings in writing and make recommendations on the state's exercise of regulation over these wetland areas.

(Zoning Ord. 2020, § 3.7.2, 1-5-2021)

Sec. 36-40. Notice.

Where public notice is required by this chapter before a public hearing or discretionary decision, a notice shall be provided as follows:

- (1) Notice shall be published in a newspaper of general circulation in Hamburg Township.
- (2) Notice shall also be sent by mail or personal delivery to the owners of all property for which approval is being considered, to the owners of all real property within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four such units or spatial areas, notice may be given to the manager or owner of the structure, who shall be requested to post the notice at the primary entrance to the structure. This notice shall be sent not less than 15 days prior to the date of the public hearing scheduled.
- (3) The notice shall contain:
 - a. A description of the nature of the request to be heard.
 - b. A description of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
 - c. A statement of when and where the request will be considered.
 - d. An indication of when and where written comments will be received concerning the request.

If the nature of the proposed amendment is to rezone an individual property or several adjacent properties, then notice shall be provided as described as above, with the exception that, if 11 or more adjacent properties are proposed for rezoning, then notice is not required for the owners of those properties or the

owners or occupants of property within 300 feet, nor is it necessary for the notice to list the addresses of the individual properties.

(Zoning Ord. 2020, § 3.8, 1-5-2021)

Secs. 36-41—36-68. Reserved.

ARTICLE III. SITE PLAN REVIEW

Sec. 36-69. Purpose.

The purpose of this article is to require the submittal of site plans for the review and recommendation of the planning commission and to require the final approval of the Township Board of Trustees for certain buildings and structures that may have an impact on natural resources, traffic circulation, surrounding land uses, and the character of the community (as amended June 28, 1988; as amended May 23, 2000; published June 7, 2000; effective upon publication); to provide a consistent and uniform method of reviewing proposed development plans; to ensure full compliance with the regulations in this chapter and other applicable ordinances and state and federal laws; to achieve efficient use of the land; to protect natural resources; and to prevent adverse impact on adjoining or nearby properties. It is the purpose of these provisions to encourage cooperation and consultation between the Township and the applicant to facilitate development in accordance with the Township's land use objectives.

(Zoning Ord. 2020, § 4.1, 1-5-2021)

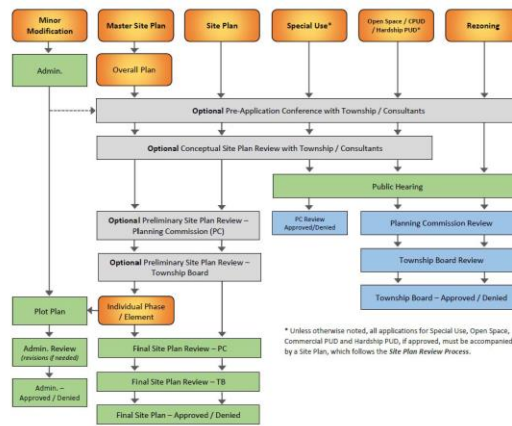
Sec. 36-70. Overview of procedures.

- (a) Optional preapplication conference is intended to offer the applicant the opportunity to meet with the Township Staff to discuss development concept relative to the Township's policies and regulations and for the Township Staff to provide preliminary assistance in preparing preliminary site plans.
- (b) Optional conceptual site plan review by planning commission is intended to offer the applicant the opportunity to present a conceptual development proposal to the planning commission for early feedback on the appropriateness of a development proposal from the perspective of the Township's master plan and other policies. Land use, density, development character, and general layout are issues that will be discussed. No formal action is taken by the planning commission at this stage.
- (c) Optional preliminary site plan review is intended to offer the applicant the opportunity to present more detailed plans for the project to the planning commission and Township Board and receive preliminary approvals. This process is used on larger projects so that prior to creating a complete working set of the engineering and architectural drawing the applicant has a better idea on how the Township views the project. Preliminary site plan review is a two-step process whereby the applicant submits the required site plan information for preliminary review relative to land use, density, compliance with Township master plan and other policies and standards. The planning commission then makes a recommendation to the Township Board which makes the final determination on preliminary site plans.
- (d) Final site plan review is also a two-step process where a conformance with the preliminary site plan is verified, and more detailed information is provided by the applicant for review relative to engineering, landscaping, and architecture. Or if preliminary site plan review is not undertaken, an initial set of detailed plans, meeting all the requirements of section 36-73(5) is submitted for an initial two-step review and

approval. The planning commission reviews the application and makes a recommendation to the Township Board which makes the final determination on final site plans.

- (e) Site plan amendments. Significant changes to a previously approved site plan are required to go through the site plan review process.
- (f) Minor projects and modifications—Zoning administrator. Minor projects and modifications, as described in section 36-77(d), may be reviewed and approved by the zoning administrator. The zoning administrator may refer any proposed project or modification to the planning commission if there are site plan related issues that merit planning commission review.
- (g) Minor projects and modifications—Administrative. Minor projects and modifications, as described in section 36-77(f), may be approved administratively as described in section 36-77(g).

Hamburg Township Review Procedures



(Zoning Ord. 2020, § 4.2, 1-5-2021)

Sec. 36-71. Applicability.

A site plan approval shall be required prior to the issuance of a land use permit within all districts for the construction or expansion of any permitted or special use with the exception of individual single-family and two-family dwellings and general and specialized farming activities. A site plan approval shall also be required for all condominium projects as regulated under the Condominium Act. Site plan review shall be required for any of the following activities:

- (1) Erection, moving, relocation, conversion or structural alteration to a building or structure to create additional floor space, other than a single-family dwelling.
- (2) Any development which would, if approved, provide for the establishment of more than one principal use on a parcel, such as, for example, a single-family site condominium or similar project where a parcel is developed to include two or more sites for detached single-family dwellings.
- (3) Development of non-single-family residential uses in single-family districts.
- (4) Any change in use that could affect compliance with the standards set forth in this chapter.
- (5) Expansion or paving of off-street parking and/or a change in circulation or access for other than a single-family dwelling.
- (6) Any excavation, filling, soil removal, or mining or landfill, except as otherwise specified.

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- (7) The development or construction of any accessory uses or structures, except for uses or structures that are accessory to a single-family dwelling.
 - (8) Any use or development for which submission of a site plan is required by the provisions of this chapter.

(Zoning Ord. 2020, § 4.3, 1-5-2021)

Sec. 36-72. Fees.

- (a) The Township Board shall establish by resolution, a schedule of fees, charges and expenses, for site plan review including planning review, engineering review, attorney, inspection and other matters pertaining to this chapter; the schedule shall be available in the Township office and may be amended only by the Township Board.
- (b) Any special meeting of the planning commission requested by the developer shall be paid for by the developer prior to said meeting at the rate of a regularly scheduled meeting.
- (c) Until all applicable fees, charges and expenses have been paid in full, no action shall be taken on any application.

(Zoning Ord. 2020, § 4.4, 1-5-2021)

Sec. 36-73. Procedures and requirements.

The Township has established a range of site plan review procedures intended to allow the appropriate level of review relative to the scope of the proposed project (Hamburg Township Review Procedures). The more complex the project, the more detailed the review process. The Township has also established two optional review procedures with staff and with the planning commission intended to provide applicants an opportunity to discuss projects on a conceptual level with minimal upfront expenditure.

- (1) *Optional preapplication conference.* In order to facilitate processing of a site plan in a timely manner, the applicant may request a preapplication site plan conference with the Township Planner. The purpose of such a conference is to provide information and guidance to the applicant that will assist in preparation of the site plan. The applicant is encouraged to provide even rough conceptual drawings or site plans at a preapplication conference indicating the location and boundaries of the subject property. No formal action shall be taken on a site plan at a preapplication conference. The Township planner's fee for any such preapplication conference shall be paid by the applicant if such charges are not covered by the Township's monthly retainer.
- (2) *Optional conceptual site plan review by the planning commission.* An applicant may file a written request for conceptual review of a preliminary site plan by the planning commission, prior to submission of a preliminary site plan for formal review. A preliminary site plan submitted for conceptual review shall be drawn to scale, and shall show site development features in sufficient detail to permit the planning commission to evaluate the following:
 - a. Relationship of the site to nearby properties;
 - b. Density;
 - c. Adequacy of landscaping, open space, vehicular drives, parking areas, drainage, and proposed utilities; and
 - d. Conformance with Township development policies and standards.

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1. Conceptual review fees shall be paid according to the fee schedule established by the Township Board.
 2. No formal action shall be taken on a preliminary site plan submitted for conceptual review, and neither the applicant nor the planning commission shall be bound by any comments or suggestions made during the course of the conceptual review.
- e. Filing and review procedures. The proprietor shall file ten copies of the site plan accompanying an application for conceptual site plan review with the zoning administrator. The zoning administrator shall review the submittal for completeness as to form only. If complete, the zoning administrator shall forward the materials to the Township planner and Township Engineer for their review. If the submittal is not complete, the zoning administrator shall notify the developer in writing of the deficiencies. Any plan deemed by the zoning administrator to be incomplete shall not be forwarded to the Township planner and the Township Engineer until all required information is furnished.
- (3) *Review by an environmental consultant.* The zoning administrator or the planning commission, or the Township Board of Trustees may request a review by an environmental consultant, under the provisions of sections 36-38 through 36-40 of the environmental concerns with any site plan application and the site plan's compliance with all Township, county, state and/or federal environmental regulations.
- a. If the site plan application reflects a facility that will result in a point source discharge of liquid into any lake, stream, river, creek, wetland or other open body of water within the Township prior to final site plan approval by the Township Board of Trustees, the applicant shall have obtained from the Township Board of Trustees a point source discharge permit pursuant to the provisions of Ordinance No. 69H.
 - b. If the site plan application reflects a facility that will supply essential services, prior to final site plan approval by the Township Board of Trustees, the applicant shall have entered into a franchise agreement with the Township.
- (4) *Optional preliminary site plan review.* The applicant shall submit the following information prior to being scheduled for planning commission review:
- a. Township review fee;
 - b. The name and address of the owner and any designated representative of the owner;
 - c. Written description of the proposed use;
 - d. Ten copies of preliminary site plan, illustrating existing site features, lot dimensions, general footprints for proposed buildings and parking, and relationship to adjacent land uses; and
 - e. A location map.

Upon review, the planning commission may recommend approval or denial of the proposed preliminary site plan. Upon a recommendation of approval for a preliminary site plan, the applicant has no more than three months to transmit all copies of the site plan along with certification of approval to the zoning administrator. The zoning administrator shall provide all such copies to the Township Clerk for submittal to the Township Board of Trustees for their consideration. The Township Board of Trustees, upon consideration of the site plan, shall either approve or deny the site plan. If the site plan is denied, the Township Board of Trustees shall state the reasons for such denial. If the site plan is not recommended for approval by the planning commission, the proprietor shall be notified by the zoning administrator of the reasons for disapproval.

(5) *Final site plan review.* If site plan or plot plan review is required, for final site plan review, the applicant shall submit ten copies of the following to the zoning administrator. If zoning administrator or administrative review is required per section 36-77(c), the zoning administrator shall determine the number of copies necessary for distribution to the appropriate review bodies.

- a. A complete application form supplied by the Township;
- b. A written description of the proposed project or use;
- c. Any additional information the planning commission finds necessary to make the determinations required herein; and
- d. A complete site plan or sketch plan that includes the information listed in subsection (6) of this section. The proprietor shall file ten copies of the site plan addressing all review comments accompanying an application for a land use permit with the zoning administrator at least ten business days prior to the planning commission meeting at which the site plan is to be considered. The zoning administrator shall review the site plan for completeness and for conformance with this chapter and the master plan.

If the site plan is recommended for approval by the planning commission, it shall transmit all copies of the site plan along with certification of approval to the zoning administrator. The zoning administrator shall provide all such copies to the Township Board of Trustees for their consideration. The Township Board of Trustees, upon consideration of the final site plan, shall either approve or deny the site plan. If the site plan is denied, the Township Board of Trustees shall state the reasons for such denial. If the site plan is not recommended for approval by the planning commission, the proprietor shall be notified by the zoning administrator of the reasons for disapproval.

(6) *Required information.*

a. *General information.*

1. Name and address of the proprietor and proof of ownership, developer, and registered engineer, registered surveyor, registered architect, registered landscape architect, or registered community planner who prepared the site plan.
2. Date of plan preparation, north arrow, and scale of plan, which shall not be greater than one inch equals 20 feet nor less than one inch equals 200 feet.
3. Full legal description of parcel and dimensions of all lot and property lines showing the relationship to abutting properties, and in which district the subject property and abutting properties are located.
4. Area map showing the relationship of the parcel to the surrounding area within one-half mile.
5. The location and description of all existing structures within 100 feet of the parcel.

b. *Physical information.*

1. Proposed plans for site grading, surface drainage, water supply and sewage disposal.
2. The location of existing and proposed landscaping, buffer areas, fences, or walls on the parcel.
3. Existing and proposed structure information including the following:
 - (i) Footprint location, dimensions and setbacks.
 - (ii) Finished floor and grade line elevations.

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- (iii) Elevation drawings that illustrate building design, size, height, windows and doors, and describe construction materials. Elevations shall be provided for all sides visible from an existing or proposed public street or a residential zoning district.
 - (iv) The planning commission may require a color rendering of the building elevations required in subsection (6)b3(iii) of this section.
 - (v) Proposed materials and colors shall be specified on the site plan. Color chips or samples shall also be submitted at or prior to the planning commission meeting to review the site plan. These elevations, colors and materials shall be considered part of the approved site plan.
 4. The location and dimensions of all existing and proposed streets, driveways, sidewalks, service lanes and other vehicular and pedestrian circulation features within and adjacent to the parcel.
 5. The location, dimensions, and numbers of off-street parking and loading spaces.
 6. Location of existing and proposed service facilities above and below ground, including:
 - (i) Well sites.
 - (ii) Septic systems and other wastewater treatment systems. The location of the septic tank and drainfield (soil absorption system) should be clearly distinguished.
 - (iii) Chemical and fuel storage tanks and containers.
 - (iv) Storage, loading, and disposal areas for chemicals, hazardous substances, salt and fuels.
 - (v) Water mains, hydrants, pump houses, standpipes, and building services and sizes.
 - (vi) Sanitary sewers and pumping stations.
 - (vii) Stormwater control facilities and structures including storm sewers, swales, retention and detention basins, drainageways and other facilities, including calculations for sizes.
 - (viii) Location of all easements.
 7. Any other pertinent physical features.
 - c. *Natural features.*
 1. Map of existing topography at two-foot contour intervals with existing surface drainage indicated.
 2. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service Soil Survey of Livingston County, Michigan.
 3. On parcels of more than one acre, existing topography with a maximum contour interval of two feet indicated. Topography on the site and beyond the site for a distance of 100 feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.

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4. Location of existing drainage courses, including lakes, ponds, rivers and streams, and all elevations.
 5. Location of existing wetlands, delineated under the requirements of section 36-37. A state permit shall be required for activities in a regulated wetland or an inland lake or stream. A copy of any correspondence with and applications to the state shall be submitted with the site plan application. The planning commission shall not grant final site plan approval until all necessary permits have been obtained.
 6. Location of natural resource features, including woodlands and areas with slopes greater than ten percent (one foot of vertical elevation for every ten feet of horizontal distance).
 7. Location of the required 50-foot natural features setback.
 8. Stormwater management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent feasible, with the development not substantially reducing the natural retention of storage capacity of any wetland, water body, or watercourse, or cause alterations which could increase flooding or water pollution on or off site.
 9. Wastewater treatment systems, including on-site septic systems will be located to minimize any potential degradation of surface water or groundwater quality.
 10. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges or polluting materials to the surface of the ground, groundwater, or nearby water bodies.
- d. *Natural features impact statement.* The purpose of a natural features impact statement (NFIS) is to provide the Township with information regarding the impact of a proposed project on the physical, natural, social, and economic environment of the community. A complete report shall be required with all site plan applications. The zoning administrator (ZA) has the discretion to modify this requirement based on the specific application. When required the report will be reviewed by the ZA and the environmental consultant. The environmental consultant may issue an advisory report to the zoning administrator for review by the planning commission. Contained in the advisory report will be a summary of the NFIS and appropriate comments and recommendations. The advisory report and the required site walk will be used to assist the Township Board and planning commission. The written NFIS will include the following information:
1. Name and address of person responsible for preparation of the impact assessment and a brief statement of any relevant qualifications. The zoning administrator or environmental consultant may recommend a qualified individual to prepare the NFIS if deemed appropriate.
 2. An impact assessment checklist on a form provided by the Township shall be completed and placed at the beginning of the document.
 3. Map and a written description/analysis of the project site including all existing structures, manmade facilities, and natural features. The analysis shall also include information for areas within 50 feet of the property. An aerial photograph or drawing may be used to delineate these areas.
 4. Description of existing natural features. A description of the environmental characteristics of the site prior to development shall be provided in the form of written documentation and a site inventory map identifying the location of natural features consistent with subsection (6)c of this section. In addition, dominant tree species shall be listed and all

species greater than 16 inches caliper or greater. As defined in section 36-6, natural features include but are not limited to: topography, soils, geology, groundwater, wetlands, watercourses, plants and animals (including aquatic species), habitat, and scenery.

5. Impact on natural features. A written description of the impact on the identified existing natural features shall be provided. The report shall also provide a natural features protection plan, which identifies on a map the natural features potentially affected. Where disturbance of natural features both during and after construction is proposed, a written analysis of alternative plans, which were considered, shall be provided to justify the proposed plan. The environmental consultant may recommend a mitigation plan be required which will describe how disturbed natural features were relocated or replaced. (See section 36-6 for complete definition of terms).
 6. Impact on stormwater management. Description of natural drainage patterns and soil infiltration and unsaturated soil capacity. A description of changes to site drainage and stormwater management facilities to be installed in compliance with the Township stormwater ordinance. Description of measures to control soil erosion and sedimentation during grading and construction operations and until a permanent ground cover is established. Recommendations for such measures may be obtained from the county soil conservation service.
 7. Special provisions. Provide a general description of any existing deed restrictions, protective covenants, master deed or association bylaws as they relate to the protection of natural features.
 8. Information sources. A list of all sources of information contained in the NFIS, if any shall be provided.
 9. Previous submittals. Any impact assessment previously submitted relative to the site and proposed development, which fulfills the above requirements (and contains accurate information of the site) may be submitted as the required impact assessment.
- (7) *Standards for site plan review.* In the review of all site plans, the zoning administrator and the planning commission shall endeavor to ensure the following:
- a. The proposed development conforms to all provisions of this chapter.
 - b. All required information has been provided.
 - c. The movement of vehicular and pedestrian traffic within the site and in relation to access streets and sidewalks will be safe and convenient.
 - d. The proposed development will be harmonious with existing and future uses in the immediate area and the community.
 - e. The proposed development provides the necessary infrastructure improvements, such as roads, drainage, pedestrian facilities and utilities, to serve the site, and be adequately coordinated with the current and future use of adjacent properties.
 - f. The applicable requirements of Township, county and state agencies are met regarding grading and surface drainage and for the design and construction of storm sewers, stormwater holding facilities, water mains, and sanitary sewers.
 - g. Natural resources will be preserved to the maximum extent possible in the site design by developing in a manner which will not detrimentally affect or destroy natural features such as lakes, ponds, streams, wetlands, steep slopes, and woodlands.

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- h. The proposed development shall respect the natural topography to the maximum extent possible by minimizing the amount of cutting, filling, and grading required.
 - i. The proposed development will not cause soil erosion or sedimentation.
 - j. Landscaping, including trees, shrubs and other vegetative material is provided to maintain, improve and/or restore the aesthetic quality of the site.
 - k. Conformance to the adopted Hamburg Township Engineering and design standards.
 - l. All proposed commercial, office, industrial, institutional and multiple-family development shall utilize quality architecture to ensure that buildings are compatible with surrounding uses, protect the investment of adjacent landowners, blend harmoniously into the streetscape and meet the objectives the Township master plan. New buildings, additions and renovations shall be designed to preserve or complement the design character of existing development, provide visual harmony between old and new buildings, and create a positive image for the Township's various commercial shopping nodes. Commercial, office, industrial, institutional and multiple-family architecture shall be reviewed by the planning commission under the following criteria:
 - 1. Buildings shall front towards and relate to the public street. Buildings shall be located to create a defined streetscape through uniform setbacks and proper relationship to adjacent structures. Proper relationship to existing structures in the area shall be maintained through building mass, proportion, scale, roofline shapes and rhythm. Buildings within the area designated on the master plan and Village Center master plan as the "Hamburg Village" shall be compatible with the historic character of the unincorporated place commonly referred to as the "Old Hamburg Village."
 - 2. Building materials and colors shall relate well and be harmonious with the surrounding area. Roof shape and materials shall be architecturally compatible with adjacent buildings and enhance the predominant streetscape. For any side of a principal building facing a public or private street, at least 50 percent of the facade shall be constructed of, or covered with, the following materials:
 - (i) Brick;
 - (ii) Fluted or scored concrete block;
 - (iii) Cut stone;
 - (iv) Vinyl siding;
 - (v) Wood siding;
 - (vi) Glass; or
 - (vii) Other materials similar to the above as determined by the planning commission.
 - 3. Buildings shall possess architectural variety, but enhance the overall cohesive community character. Buildings shall provide architectural features, details and ornaments such as archways, colonnades, towers, cornices or peaked rooflines.
 - 4. Building walls over 100 feet in length shall be broken up with a combination of the following: varying building lines, windows, architectural accents and trees.
 - 5. Building entrances shall utilize windows, canopies and awnings; provide unity of scale, texture, and color; and provide a sense of place.

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6. Where the rear facade of a building will be visible from a residential zoning district, or the rear of the site will be used for public access or parking, such rear facade shall be constructed to a finished quality comparable to the front facade.
 7. Signs, landscaping, lighting and other site elements shall be coordinated and compatible with the building design, as well as harmonious with other nearby developments. Developments shall provide site features such as decorative entry signs, ornamental lighting, pedestrian plazas and/or pedestrian furniture.
- (8) *Effect of approval.* Upon final approval of the site plan, construction or expansion of any permitted or special use shall conform to the site plan. The approval by the planning commission and Township Board of a site plan shall expire within one year after the date of such approval, unless a land use permit has been issued and construction has commenced. The zoning administrator shall not issue a land use permit for any type of construction on the basis of the approved site plan after such approval has expired. Approval shall also confer upon the zoning administrator to approve minor projects and modifications, as described in section 36-77.

The Township Board may grant an extension of the final site plan approval of up to 12 months upon demonstration by the applicant that commencement of the plan is eminent and upon a positive recommendation by the planning commission. Such request shall be accompanied by a schedule for commencement of the project.

(Zoning Ord. 2020, § 4.5, 1-5-2021)

Sec. 36-74. Amendment of site plan.

A previously approved site plan may be amended by the planning commission upon application by the applicant in accordance with procedures provided in section 36-73. Minor changes during construction or for expansion or certain changes in use may be approved by the zoning administrator or administratively, as described in section 36-77 and below.

(Zoning Ord. 2020, § 4.6, 1-5-2021)

Sec. 36-75. Performance guarantees.

As a condition of approval of the site plan, the planning commission may require a deposit by the applicant with the Township Clerk in the form of a certified check, cash, or a surety bond to ensure performance of any obligations of the applicant to make improvements shown upon the site plan. Such bond, cash, or check shall be in such an amount as the zoning administrator shall estimate to be a sufficiently adequate sum to cover the cost to construct or to complete construction of the required improvements. The Township shall rebate to the developer, as work progresses, amounts of such deposits equal to the ratio of work satisfactorily completed to the entire project. Such rebate shall be based upon the report and recommendation of the zoning administrator. The zoning administrator may refer the site plan to the Township Engineer for review of the proposed improvements and recommendations of performance guarantees.

(Zoning Ord. 2020, § 4.7, 1-5-2021)

Sec. 36-76. Appeals.

The decision of the planning commission with respect to a site plan is appealable to the Township Zoning Board of Appeals upon written request of the applicant and payment of the appropriate fee. In the absence of such request being filed within 60 days after the decision is rendered by the planning commission, such decision remains final.

Sec. 36-77. Site plan review for minor projects and modifications.

- (a) *Intent.* The intent of this section is to facilitate improvements to existing buildings or sites that have approved site plans or that bring an existing nonconforming building or site closer to compliance with the provisions of the Township's codes and ordinances. Minor projects and modifications shall include alterations to a building or site that do not result in expansion or substantially affect the character or intensity of the use, vehicular or pedestrian circulation, drainage patterns, the demand for public infrastructure or services, significant environmental impacts or increased potential for hazards. Minor projects and modifications shall be reviewed either by the zoning administrator or administratively as described in subsections (e) and (f) of this section or, if determined by the zoning administrator, Township supervisor, or planning commission Chair, the site plan review process described in section 36-73.
- (b) *Determination.* The zoning administrator shall make a determination on a minor project or modification based on the situations and criteria listed in the sections below. The zoning administrator may request the advice of the Township Engineer and Planning Consultant when considering proposed minor projects and modifications. The zoning administrator may determine that the proposed project or modification requires a complete site plan review, particularly for sites which do not comply with previously approved site plans, sites with existing or potential drainage problems, sites abutting residential uses, sites with parking deficiencies and uses where there are general health and safety issues. If a full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with section 36-73.
- (c) *Plan requirements.*
 - (1) The zoning administrator may accept a plot plan upon determining a complete site plan is not required for review of the project for compliance with this article. Any of the items required for a plot plan can be waived by the zoning administrator if they are believed not to be necessary for review. Plot plans should include the following information:
 - a. Application form and review fee.
 - b. Name, address and telephone number of the applicant.
 - c. North arrow.
 - d. Legal description of the property.
 - e. The plot plan shall be drawn at an engineer's scale. Any building expansion over 500 square feet within a five-year period shall require a professional seal of an architect, landscape architect or engineer.
 - f. Property lines and dimensions.
 - g. Existing and proposed buildings with dimensions and setbacks.
 - h. Existing and proposed parking including number of spaces provided and the number required according to article IX of this chapter. If changes are made to the parking area, a detail of pavement, stormwater runoff calculations and description of detention methods shall be provided.
 - i. Details on any new driveways or changes to existing driveways.
 - j. Location of existing signs and details on any proposed changes or new signs.
 - k. General illustration of existing landscaping; locations, size and species of any new landscaping.
 - l. Layout of any proposed changes to utilities.

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- m. Description of any proposed changes to drainage.
 - n. Floor plan of any new building area or building elevations, if applicable.
 - o. General description of existing uses within 100 feet of the subject parcel.
 - p. Any other items requested by Township Staff.
- (2) The zoning administrator may request the advice of the Township Engineer and Planning Consultant when considering proposed minor projects.
- (3) The zoning administrator may determine that the proposed project requires a complete site plan review, particularly for sites which do not comply with previously approved site plans, sites with existing or potential drainage problems, sites abutting residential uses, sites with parking deficiencies and uses where there are general health and safety issues. If a full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with section 36-73.
- (d) *Minor projects and modifications, which can be approved by the zoning administrator.*
- (1) *Projects with or without existing site plan approval.* The following minor projects and modifications may be approved with or without approval of an existing site plan review, as described in subsection (e) of this section zoning administrator approval of a land use permit may be permitted when the following are proposed:
- a. A change in internal floor plan which does not increase the intensity of use or parking requirements.
 - b. An increase or decrease road width by up to three feet to improve safety or preserve natural features. The design shall remain consistent with the standards of the Township.
 - c. An existing building and site are to be re-occupied by a use permitted in the subject zoning district and the new use will not require any significant changes in the existing site facilities.
 - d. Expansion, replanting or alterations of landscaping areas consistent with the other requirements of this chapter.
 - e. Alterations to the off-street parking layout or installation of pavement or curbing improvements provided the total number of spaces shall remain constant and meets, or if necessary has been modified to meet, the ordinance requirements for the building and/or use, and the construction plans and lot construction are approved by the Township Engineer if necessary.
 - f. Relocation of a trash dumpster to a more inconspicuous location or installation of screening around the dumpster.
 - g. Relocation or replacement of a sign meeting the dimensional and locational standards of this chapter.
 - h. Fences improved or installed consistent with the other requirements of this chapter.
 - i. Sidewalks, bike paths or pathways are being constructed or relocated with the intent of improving public convenience and safety.
 - j. Changes to well and septic systems.
 - k. Modifications to upgrade a building to state barrier free design, the Americans with Disabilities Act or other federal, state or county regulations as long as all other regulations are met.
 - l. Changes to lighting consistent with zoning ordinance standards.
 - m. The following, when permitted in the zoning district:

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1. A group care home;
 2. A two-family dwelling;
 3. An essential service;
 4. A home occupations; and
 5. An accessory open air business.
- (2) *Projects and modifications with existing site plan approval.* Granting approval of a final site plan grants authority to the zoning administrator to approve the following minor projects and modifications, as described in subsection (f) of this section, zoning administrator approval of a land use permit may be permitted when the following are proposed:
- a. An increase in the floor area on the site by up to 2,000 square feet or ten percent of the existing floor area, whichever is less, with no required increase in parking area. Administrative approval is not permitted if the cumulative total of the proposed expansion and any expansion within the last five years, as determined by the zoning administrator, exceeds this amount. This includes accessory structures.
 - b. Movement of a building, drive, road or parking during construction due to an unanticipated and documented constraint, to improve safety or to preserve natural features. The site plan shall still meet all required setbacks and other standards of this article.
 - c. An increase in open space or alteration of the open space boundary with no decrease in overall open space.
 - d. Proposed changes to building height, facade or architectural features (an elevation plan describing changes and construction materials is required) consistent with zoning ordinance standards and compatible with the approved design.
- (e) *Process for zoning administrator approval.*
- (1) Applicant submits a plot plan and required land use permit application form and fee.
 - (2) Prior to granting the land use permit approval, the zoning administrator shall review the project for compliance with the site plan standards (section 36-73(7)) and determine if the project meets or does not meet these standards.
 - (3) The zoning administrator may request the advice of the Township Engineer and Planning Consultant when considering proposed minor projects and modifications subject to zoning administrator review. The zoning administrator may determine that the proposed project or modification requires an administrative or complete site plan review, particularly for sites which do not comply with previously approved site plans, sites with existing or potential drainage problems, sites abutting residential uses, sites with parking deficiencies and uses where there are general health and safety issues. If a full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with section 36-73.
- (f) *Minor projects and modifications that can be approved administratively.*
- (1) *Projects without existing site plan approval.* The following minor projects may be approved administratively without approval of an existing site plan review, as described in subsection (g) of this section: Any of the items listed in subsection (d)(2) of this section.
 - (2) *Projects with or without existing site plan approval.* The following minor projects may be approved administratively with or without approval of an existing site plan review, as described in subsection (g) of this section.

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- a. An existing building and site are to be re-occupied by a special land use in the subject zoning district and the new use will not require any significant changes in the existing site facilities.
 - b. Situations similar to the items listed in subsection (f)(1) and (2) of this section as determined by the Township supervisor and the planning commission chairperson.
- (g) *Process for administrative approval.*
- (1) Applicant submits a plot plan and required application form and fee.
 - (2) The zoning administrator shall obtain a review and written approval from the Township supervisor and planning commission chairperson, or their designee, prior to granting administrative approval.
 - (3) The zoning administrator shall make a report of such administrative approvals to the planning commission.
 - (4) The zoning administrator, planning commission chairperson or Township supervisor may request the advice of the Township Engineer and Planning Consultant when considering proposed minor projects subject to zoning administrator review. The zoning administrator, planning commission chairperson or Township supervisor may determine that the proposed project requires a complete site plan review, particularly for sites which do not comply with previously approved site plans, sites with existing or potential drainage problems, sites abutting residential uses, sites with parking deficiencies and uses where there are general health and safety issues. If a full site plan is required, the zoning administrator shall inform the applicant to submit a set of plans in accordance with section 36-73.
 - (5) The zoning administrator, planning commission chairperson or Township supervisor may elect to require planning commission review and approval.

(Zoning Ord. 2020, § 4.9, 1-5-2021)

Sec. 36-78. Phasing.

- (a) *Intent.*
- (1) The intent of this section is to allow the Township to review projects in phases to ensure the logical and orderly development of projects in compliance with the provisions of this and other codes and ordinances of the Township. The phasing option is not intended to allow the deferral of compliance with the provisions of this article.
 - (2) A phase may consist of all or a portion of a proposed project or an element of a project such as building design, uses, parking, landscaping, or infrastructure, provided that each proposed phase of a development shall be self-sufficient or shall be supported by previously approved phases or elements of a master planned project.
- (b) *Master site plan.* Any development proposed to be constructed in phases must include an overall master site plan for the proposed development. The master plan shall be subject to the requirements for preliminary site plan review and each individual phase/element shall be subject to the requirements for final site plan review. In addition to the information required for preliminary site plan review identified in section 36-73(d), an application for a master planned development must also include the following information:
- (1) *General information.*
 - a. Name and address of the proprietor and proof of ownership, developer, and registered engineer, registered surveyor, registered architect, registered landscape architect, or registered community planner who prepared the site plan.

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- b. Date of plan preparation, north arrow, and scale of plan, which shall not be less than one inch equals 20 feet nor greater than one inch equals 200 feet.
 - c. Full legal description of parcel and dimensions of all lot and property lines showing the relationship to abutting properties, and in which district the subject property and abutting properties are located.
 - d. Area map showing the relationship of the parcel to the surrounding area within one-half mile.
 - e. The location and description of all existing structures within 100 feet of the parcel.
 - f. The phasing plan must include clearly delineated phasing lines that illustrate compliance with subsection (a) of this section, and a complete phasing schedule.

(2) *Natural features.*

- a. Map of existing topography at two-foot contour intervals with existing surface drainage indicated.
- b. Soil characteristics of the parcel to at least the detail provided by the U.S. Soil Conservation Service Soil Survey of Livingston County, Michigan.
- c. On parcels of more than one acre, existing topography with a maximum contour interval of two feet indicated. Topography on the site and beyond the site for a distance of 100 feet in all directions should be indicated. Grading plan, showing finished contours at a maximum interval of two feet, correlated with existing contours so as to clearly indicate required cutting, filling and grading.
- d. Location of existing drainage courses, including lakes, ponds, rivers and streams, and all elevations.
- e. Location of existing wetlands, delineated under the requirements of section 36-37. A state permit shall be required for activities in a regulated wetland or an inland lake or stream. A copy of any correspondence with and applications to the state shall be submitted with the site plan application. The planning commission shall not grant final site plan approval until all necessary permits have been obtained (as amended 7/25/95).
- f. Location of natural resource features, including woodlands and areas with slopes greater than ten percent (one foot of vertical elevation for every ten feet of horizontal distance).
- g. Location of the required 50-foot natural features setback.
- h. Stormwater management systems and facilities will preserve the natural drainage characteristics and enhance the aesthetics of the site to the maximum extent feasible, with the development not substantially reducing the natural retention of storage capacity of any wetland, water body, or watercourse, or cause alterations which could increase flooding or water pollution on or off site.
- i. Wastewater treatment systems, including on-site septic systems will be located to minimize any potential degradation of surface water or groundwater quality.
- j. Sites which include storage of hazardous materials or waste, fuels, salt, or chemicals will be designed to prevent spills and discharges or polluting materials to the surface of the ground, groundwater, or nearby water bodies.

(3) *Physical information.*

- a. Proposed plans for site grading, surface drainage, water supply and sewage disposal.
- b. The location of existing and proposed landscaping, buffer areas, fences, or walls on the parcel.

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- c. A preliminary site plan for the entire parcel carried out in such detail as to indicate the functional uses being requested, the densities and dwelling types being proposed, the traffic circulation plan, and sites being reserved for public facilities and open space (Map scale: one inch equals 200 feet).
 - d. The location and dimensions of all existing and proposed streets, driveways, sidewalks, service lanes and other vehicular and pedestrian circulation features within and adjacent to the parcel.
 - e. The location, dimensions, and numbers of off-street parking and loading spaces.
 - f. Location of existing and proposed service facilities above and below ground, including:
 - 1. Well sites.
 - 2. Septic systems and other wastewater treatment systems.
 - 3. The location of the septic tank and drainfield (soil absorption system) should be clearly distinguished.
 - 4. Chemical and fuel storage tanks and containers.
 - 5. Storage, loading, and disposal areas for chemicals, hazardous substances, salt and fuels.
 - 6. Water mains, hydrants, pump houses, standpipes, and building services and sizes.
 - 7. Sanitary sewers and pumping stations.
 - 8. Stormwater control facilities and structures, including storm sewers, swales, retention and detention basins, drainageways and other facilities, including calculations for sizes.
 - 9. Location of all easements.
 - g. Detailed plan for the maintenance of areas designated for future development. The natural features on these areas should be maintained. If grading occurs in these areas the ground should be planted with a low maintenance ground cover. The area must be maintained in a finished condition free of any junk, debris, or storage.
 - h. Any other pertinent physical features.
- (c) *Final site plan approval for each subsequent phase.*
- (1) Each subsequent phase of a master planned development shall comply with the requirements for final site plan review.
 - (2) The plot plan review process may be utilized for each subsequent phase of the proposed phased project provided the planning commission determines that the development of the subsequent phase is consistent with the originally approved master plan in terms of use, density, and physical character.
- (d) *Scheduled phasing.* When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space.
- (e) *Timing of phases.* Each phase of the project shall be commenced within 24 months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void, subject to the requirements of this article.

(Zoning Ord. 2020, § 4.10, 1-5-2021)

Secs. 36-79—36-99. Reserved.

ARTICLE IV. ENFORCEMENT

Sec. 36-100. Violations.

- (a) *Violation a nuisance.* Buildings erected, altered, moved, razed, or converted, or any use of land or premises carried on in violation of any provision of this chapter are declared to be a nuisance per se. Any and all building or land use activities considered possible violations of the provisions of this chapter shall be reported to the zoning administrator.
- (b) *Inspection of violation.* The zoning administrator shall inspect each alleged violation of this chapter, order the violator in writing of required actions to correct any violation, and inform the violator in writing of rights to appeal a decision of the zoning administrator.
- (c) *Correction period.* All violations shall be corrected within a period of 30 days after the order to correct is issued by the zoning administrator or as such longer period of time, not to exceed six months, as this period shall be reported to the Township Attorney who shall initiate prosecution procedures.

(Zoning Ord. 2020, § 5.1, 1-5-2021)

Sec. 36-101. Penalties and remedies.

- (a) Every person, corporation, or firm who violates, disobeys, omits, neglects, or refuses to comply with any provision of this chapter or any permit, license, or exceptions granted hereunder, or any lawful order of the zoning administrator, zoning board of appeals, planning commission or the Township Board issued in pursuance of this chapter shall be responsible for a municipal civil infraction.
- (b) The fines and penalties as set forth in section 1-45 are incorporated herein by reference.
- (c) For purposes of assessing fines and penalties only, a violation under this chapter shall be classified as a Class C municipal civil infraction.
- (d) *Scope of remedies.* The rights and remedies provided in this chapter are cumulative and are in addition to all other remedies provided by law. All monies received from penalties assessed shall be paid into the Township treasury on or before the first Monday of the month next following receipt thereof by any judicial officer of the Township. All fines collected shall belong to the Township and shall be deposited in the general fund.

(Zoning Ord. 2020, § 5.2, 1-5-2021)

Sec. 36-102. Performance guarantee.

- (a) To ensure compliance with the provisions of this chapter and any conditions imposed thereunder, the planning commission, Township Board or zoning administrator may require that that a performance guarantee be deposited with the Township to ensure faithful completion of improvements and/or the project, in accordance with section 505 of the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3505), as amended.
- (b) Improvements for which the Township may require a performance guarantee include, but are not limited to, landscaping, berms, walls, lighting, driveways and parking, acceleration/deceleration lanes, traffic control devices, sidewalks, and land reclamation activities.

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- (1) The performance guarantee shall meet the following requirements:
 - a. The performance guarantee shall be in the form of an irrevocable letter of credit or cash escrow for a term specified by the zoning administrator or someone acting in his place. If the applicant posts a letter of credit, it shall require only that the Township present it with a sight draft and an affidavit signed by the Township Attorney or the zoning administrator attesting to the Township's right to draw funds under it. If the applicant posts a cash escrow, the escrow instructions shall provide that the escrow agent shall have the legal duty to deliver the funds to the Township whenever the Township Attorney or zoning administrator presents an affidavit to the agent attesting to the Township's right to receive funds whether or not the applicant protests that right.
 - b. The performance guarantee shall be submitted at the time of issuance of the permit authorizing the activity or project. If appropriate based on the type of performance guarantee submitted, the Township shall deposit the funds in a non-interest-bearing account in a financial institution with which the Township regularly conducts business.
 - c. The amount of the performance guarantee shall be 2½ times the estimated cost of the improvements or project as submitted by the applicant. The applicant shall provide an itemized schedule of estimated costs to complete all such improvements or the project. In the event the applicant disagrees with the amount of the performance guarantee, application may be made with the Township Board to review the amount. The Township Board shall have the discretion to reduce this amount upon proper showing by the applicant that the amount was excessive or unreasonable.
 - d. The entire performance guarantee shall be returned to the applicant following inspection by the zoning administrator and a determination that the required improvements have been completed satisfactorily. The performance guarantee may be released to the applicant in proportion to the work completed on various elements, provided that a minimum of ten percent shall be held back on each element until satisfactory completion of the entire project.
 - e. An amount not less than ten percent of the total performance guarantee may be retained for a period of at least one year after installation of landscape materials to ensure proper maintenance and replacement, if necessary. This amount shall be released to the applicant upon certification by the zoning administrator that all landscape materials are being maintained in good condition.
 - (2) Whenever required improvements are not installed or maintained within the time stipulated or in accordance with the standards set forth in this chapter, the Township may complete the necessary improvements itself or by contract to an independent contractor and assess all costs of completing said improvements against the performance bond or other surety. The Township shall notify the owner, site plan review applicant, or other firm or individual responsible for completion of the required improvements 30 days prior to the commencement of said completion.

(Zoning Ord. 2020, § 5.3, 1-5-2021)

Secs. 36-103—36-132. Reserved.

ARTICLE V. ZONING BOARD OF APPEALS

Sec. 36-133. Creation.

There is hereby created a zoning board of appeals which shall perform its duties and exercise its powers as provided in this article and in Public Act No. 110 of 2006 (MCL 125.3101 et seq.), as amended, and in such a way that the objectives of this chapter shall be observed, public health, safety and welfare secured, and substantial justice done. The zoning board of appeals is established to ensure that the objectives of this chapter may be more fully and equitably achieved, that a means be provided for competent interpretation of this chapter, and that reasonable flexibility be provided in the application of this chapter.

(Zoning Ord. 2020, § 6.1, 1-5-2021)

Sec. 36-134. Membership.

- (a) The zoning board of appeals shall be composed of not less than five regular members who shall be selected in accordance with section 601 of Public Act No. 110 of 2006 (MCL 125.3601), as amended.
- (b) The Township Board may appoint no more than two alternate members of the zoning board of appeals who shall serve as a member of the zoning board of appeals upon the call of the chairperson when a regular member is absent from or unable to attend one or more meetings. An alternate member may also be called to serve in place of a regular member for the purpose of reaching a decision on a case in which the regular member has abstained for the reason of a conflict of interest. The alternate member having been appointed shall serve in the case until a final decision has been made. The alternate member shall have the same voting rights as a regular member of the zoning board of appeals in those cases in which the alternate member serves. Appointments of alternate members for the first year shall be for a period of one and two years respectively; thereafter, each alternate member shall hold office for a full three-year term.
- (c) Members of the zoning board of appeals shall be removable by the Township Board for non-performance of duty or misconduct in office upon written charges and after public hearing. A member shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest shall constitute misconduct of office.

(Zoning Ord. 2020, § 6.2, 1-5-2021)

Sec. 36-135. Organization and procedures.

- (a) *Rules of procedure.* The zoning board of appeals shall adopt its own rules of procedure as may be necessary to conduct its meetings properly.
- (b) *Majority vote.* The concurring vote of a majority of members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision, or determination of the zoning administrator, to decide in favor of the applicant upon which the zoning board of appeals is authorized to act under this chapter, or to grant a variance in this chapter.
- (c) *Meetings.* Meetings shall be open to the public and shall be held at the call of the chairperson and at such other times as the zoning board of appeals shall specify in its rules or procedure. The Board shall choose its own chairperson, and in his absence, an acting chairperson. Special meetings shall be held at the call of the chairperson, or as the zoning board of appeals shall determine, or upon request of at least two members of the zoning board of appeals; provided, however, that at least 48 hours' notice shall have been given to each member prior to the time set for the special meeting. The zoning board of appeals shall not conduct business unless a majority of the members of the zoning board of appeals are present.

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- (d) *Information.* The zoning board of appeals shall have the power to subpoena and request the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it. The zoning board of appeals shall also have the power to request the production of additional documentation or information which it deems necessary to render a decision on an application, and shall have the power to postpone a decision on an application until such time as the additional information, which has been requested, is produced by the applicant.
 - (e) *Records.* The zoning board of appeals shall maintain a record of its proceedings which shall be filed in the office of the Township Clerk. A copy of the decision shall be sent promptly to the applicant or appellant and to the zoning administrator.
 - (f) *Secretary and counsel.* The Township Clerk shall be responsible for providing secretarial services for the zoning board of appeals and the Township Attorneys may give legal counsel to the zoning board of appeals upon its request.

(Zoning Ord. 2020, § 6.3, 1-5-2021)

Sec. 36-136. Appeal.

- (a) An appeal may be taken to the zoning board of appeals by any person, firm, or corporation, or any officer, department, board or bureau aggrieved by a decision of zoning administrator concerning the administering and enforcing of the provisions of this chapter. In order to be aggrieved by a decision, the person or other entity must have a property interest recognized under the law, and sufficient standing as recognized under the law, to challenge the decision. Such appeal shall be taken within such time as prescribed by the zoning board of appeals by general rule, but in no event later than 30 days after the date of the decision from which the appeal is taken, by filing with the zoning administrator and with the zoning board of appeals a notice of appeal, specifying the grounds thereof. The zoning administrator will transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the zoning administrator certifies to the zoning board of appeals after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall be stayed by a restraining order which may be granted by the zoning board of appeals or by the circuit court.
- (c) A fee in accordance with the duly-adopted schedule of fees shall be paid to the Township Clerk at the time of filing the application to the zoning board of appeals. The purpose of the fee is to cover any necessary investigation expenses incurred by the zoning board of appeals in connection with said appeal, and to cover the costs associated with processing the appeal.

(Zoning Ord. 2020, § 6.4, 1-5-2021)

Sec. 36-137. Jurisdiction.

- (a) The zoning board of appeals, as herein created, is a body of limited power. The zoning board of appeals shall have the following powers and it shall be its duty:
 - (1) To hear and decide on all matters referred to it upon which it is required to pass under this chapter.
 - (2) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the same.
 - (3) To make a determination as to the appropriate zoning district for a use not specifically listed in this chapter. In making such a determination, the zoning board of appeals shall consider, among other

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- things, the specific characteristics of the use in question and compare such characteristics with the characteristics of uses expressly permitted in the district. Such characteristics shall include, but not be limited to, daily traffic congestion and traffic patterns, types of merchandise or service provided, types of goods produced, expected hours of operation, and other characteristics which relate in any fashion to the proposed use in comparison to permitted uses. The zoning board of appeals shall determine whether such use shall be permitted by right, special land use, or permitted as an accessory use. The zoning board of appeals shall have the authority to establish general standards and conditions under which a use may be included in a district when making a determination as to an unlisted use.
- (4) To hear and decide appeals where it is alleged there is an error of law in any order, requirement, decision or determination made by the zoning administrator in the enforcement of this zoning ordinance.
 - (5) Interpret the zoning map.
- (b) In hearing and deciding appeals, the zoning board of appeals shall have the authority to grant such variance from the provisions of this zoning ordinance as may be in harmony with the general purpose and intent so that the function of this zoning ordinance shall be observed, public health, safety and welfare secured, and substantial justice done, including the following:
- (1) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the same;
 - (2) Permit the erection and use of a building or use of premises in any district for public utility purposes necessary to public convenience and service, so located, designed, erected, and landscaped to conform harmoniously with the architecture and plan of the Township;
 - (3) Determine the precise location of the boundary lines between zoning districts where there is dissatisfaction with a decision between said subject made by the zoning administrator;
 - (4) Determine the off-street parking and loading space requirements of any use which is not mentioned in article IX of this chapter either by classifying it with one of the groups listed in that section or by an analysis of the specific need;
 - (5) Permit such modification of the height, setback, and area regulations as may be necessary to secure an appropriate improvement of a lot which is of such shape or so located with relation to surrounding development or physical characteristics that it cannot otherwise be appropriately or reasonably improved without such modification;
 - (6) Approve building and permits for legal nonconforming uses to terminate on a date specified in the approval documents, which date shall not exceed two years from the date of the permit, providing such uses are deemed helpful to the development of certain areas and which will not be detrimental to the neighboring areas;
 - (7) Permit a change of use from one nonconforming use to another nonconforming use of the same or a more restricted classification, provided that the proposed use is suitable or more appropriate to the district than the existing nonconforming use;
 - (8) Permit a change in a nonconforming structure, provided that the change results in a reduction in the nonconformity and the change in the structure is suitable or more appropriate to the district than the existing nonconforming structure.
- (c) Where, owing to special conditions, a literal enforcement of the provisions of this zoning ordinance would involve practical difficulties, the zoning board of appeals shall have power upon appeal in specific cases to authorize such variation or modification of the provisions of this zoning ordinance with such conditions and safeguards as it may determine, as may be in harmony with the spirit of this zoning ordinance and so that public safety and welfare be secured and substantial justice done. No such variance or modification of the

provisions of this zoning ordinance shall be granted unless it appears that, at a minimum, the applicant has proven a practical difficulty and that all the following facts and conditions exist:

- (1) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved that do not apply generally to other properties in the same district or zone.
- (2) That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the same zone and vicinity. The possibility of increased financial return shall not be deemed sufficient to warrant a variance.
- (3) That the granting of such variance or modification will not be materially detrimental to the public welfare or materially injurious to the property or improvements in such zone or district in which the property is located.
- (4) That the granting of such variance will not adversely affect the purpose or objectives of the master plan of the Township.
- (5) That the condition or situation of the specific piece of property, or the intended use of said property, for which the variance is sought, is not of so general or recurrent a nature.
- (6) Granting the variance shall not permit the establishment with a district of any use which is not permitted by right within the district.
- (7) The requested variance is the minimum necessary to permit reasonable use of the land.

For the purpose of the above, a practical difficulty exists on the subject land when the strict compliance with this chapter's standards would render conformity unnecessarily burdensome (such as exceptional narrowness, shallowness, shape of area, presence of floodplain or wetlands, exceptional topographic conditions), and the applicant has proven all of the standards set forth in subsections (c)(1) through (7) of this section. Demonstration of practical difficulty shall focus on the subject property or use of the subject property, and not on the applicant personally.

- (d) In consideration of all appeals and all proposed variations to this zoning ordinance, the zoning board of appeals shall, before making any variations from this zoning ordinance in a specific case, determine that the standards set forth above have been met, and that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the inhabitants of the Township.
- (e) The zoning board of appeals shall not have jurisdiction over the following matters:
 - (1) The zoning board of appeals shall not have the power or authority to alter or change this chapter or the zoning map.
 - (2) The zoning board of appeals shall not have the power or authority to alter or change the zoning district classification of any property.
 - (3) The zoning board of appeals shall not have the power or authority to grant a use variance or otherwise approve of a use not permitted under the zoning district classification.
 - (4) The zoning board of appeals shall not have the power or authority to grant a dimensional variance for any residential property which has the effect of rezoning that residential property to a different residential zoning classification provided in this chapter. For purposes of this section, the term "effect of rezoning" shall mean a request to vary or reduce the required lot area regulations in any residential zoning classification by an amount of 15 percent or greater. However, this prohibition shall not apply in the case of a property owner seeking such a dimensional variance to develop one residential structure on a single parcel of residential land.

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- (5) The zoning board of appeals shall not have the power or authority to hear an appeal relative to any decision rendered on a planned unit development.
 - (6) The zoning board of appeals shall not have the power or authority to hear an appeal relative to any decision rendered on a special land use.
 - (7) The zoning board of appeals shall not have the power or authority to hear an appeal from a decision rendered by the planning commission or Township Board related to a matter under which the planning commission and/or Township Board are the decision-makers under this chapter.

(Zoning Ord. 2020, § 6.5, 1-5-2021)

Sec. 36-138. Exercising powers.

In exercising the powers set forth in this article, the zoning board of appeals may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the zoning administrator. In granting a variance, the zoning board of appeals may specify such conditions in connection with the granting that will, in its judgement, secure substantially the objectives of the regulation or provisions to which such variance applies including the requirement of a bond in accordance with section 36-102. The breach of any such condition shall automatically invalidate the grant of the variance. The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of any zoning administrator, or to decide in favor of the applicant any matter upon which the zoning board of appeals is authorized to render a decision. The zoning board of appeals may, in its discretion, grant rehearing of any decision to consider additional and new matters related to the relief requested, when such rehearing is requested within 20 days of the Zoning Board of Appeal initial decision. The zoning board of appeals shall also have the right, on its own initiative, to reconsider a prior decision rendered by it if said motion for reconsideration occurs at the next regularly scheduled meeting after the decision in question, and the motion for reconsideration is made by a member of the zoning board of appeals who voted with the prevailing side. The decision of the zoning board of appeals shall be final, insofar as it involves discretion in the finding of the facts.

(Zoning Ord. 2020, § 6.6, 1-5-2021)

Sec. 36-139. Notice.

The zoning board of appeals shall make no recommendation except in a specific case and after a conducting a hearing. Notice stating the time, date, and place of the public hearing shall be published in a newspaper of general circulation and shall be sent to the applicant not less than 15 days before the public hearing. In addition, if the request for an interpretation or appeals of an administrative decision involves a specific parcel, written notice stating the nature of the appeal or interpretation request and the time, date, and place of the public hearing shall be sent by first class mail or personal delivery to all persons to whom real property is assessed within 300 feet of the boundary of the property in question and to the occupants of all structures within 300 feet of the boundary of the property in question. If a tenant's name is not known, the term "occupant" may be used. However, notices relative to any special meeting of the zoning board of appeals shall be limited as required by law. The zoning board of appeals may recess a hearing from time to time, and, if the time and place of the continued hearing is publicly announced at the time of the adjournment, no further notice shall be required. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(Zoning Ord. 2020, § 6.7, 1-5-2021)

Sec. 36-140. Miscellaneous.

- (a) No order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than one year (12 months) unless a building permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the zoning board of appeals permitting a use of a building or premises shall be valid for a period longer than one year (12 months), unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for the erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of the permit.
- (c) An application for a variance which has been denied wholly or in part by the zoning board of appeals shall not be resubmitted for a period of one year from the date of the last denial, except on grounds of newly-discovered evidence or proof of changed conditions found upon inspection of the zoning board of appeals to be valid.
- (d) Prior to granting a variance, all other existing infractions related to this chapter or other Township ordinances shall be resolved.
- (e) Any person aggrieved by a decision of the zoning board of appeals may appeal to the Livingston County Circuit Court in accordance with section 606 of Public Act No. 110 of 2006 (MCL 125.3606, as amended). An appeal to the circuit court shall be filed no later than 30 days after the zoning board of appeals certifies its decision in writing or approves the minutes of its decision.

(Zoning Ord. 2020, § 6.8, 1-5-2021)

Secs. 36-141—36-163. Reserved.

ARTICLE VI. DISTRICT REGULATIONS

Sec. 36-164. Establishment of districts.

The Township is hereby divided into the following zoning districts as shown on the zoning district map:

- (1) CE Country Estate Single-Family Residential District.
- (2) RAA Single-Family Low Density Rural District.
- (3) RA Single-Family Medium Density Residential District.
- (4) RB Single-Family High Density Residential District.
- (5) RC Multiple-Family Residential District.
- (6) WFR Waterfront Residential District.
- (7) NR Natural River Residential District.
- (8) MHP Mobile Home Park Residential District.
- (9) NS Neighborhood Service District.

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- (10) CS Community Service District.
 - (11) LI Limited Industrial District.
 - (12) GI General Industrial District.
 - (13) MD Mixed Development District.
 - (14) OH Old Hamburg District.
 - (15) VC Village Center District.
 - (16) VR Village Residential District.
 - (17) PPFR Public and Private Recreational Facilities District.

(Zoning Ord. 2020, § 7.1, 1-5-2021)

Sec. 36-165. Zoning district map.

- (a) *Identified.* The zoning districts, as provided in section 36-164, are bounded and defined as shown on the map entitled "Zoning District Map of Hamburg Township." The zoning district map, along with all notations, references, and other explanatory information, shall accompany and be made part of this chapter.
- (b) *Authority.* Regardless of the existence of purported copies of the zoning district map which may be published, a true and current copy of the zoning district map available for public inspection shall be located in the office of the Township Clerk. The clerk's copy shall be the final authority as to the current zoning status of any land, parcel, lot, district, use, building, or structure in the Township.
- (c) *Interpretation of district boundaries.* Where uncertainty exists with respect to the boundaries of any of the districts indicated on the zoning district map, the following rules shall apply:
 - (1) A boundary indicated as approximately following the centerline of a highway, alley, or easement shall be construed as following such centerline.
 - (2) A boundary indicated approximately following a recorded lot line or the line bounding a parcel shall be construed as following such line.
 - (3) A boundary indicated as approximately following a municipal boundary line of a city, village, or township shall be construed as following such line.
 - (4) A boundary indicated as following a railroad line shall be construed as being located midway in the right-of-way.
 - (5) A boundary indicated as following a shoreline shall be construed as following such shoreline, and in the event of change in the shoreline shall be construed as following the shoreline existing at the time the interpretation is made.
 - (6) The boundary indicated as following the centerline of a stream or river, canal, lake or other body of water shall be construed as following such centerline.
 - (7) A boundary indicated as parallel to, or an extension of, features in subsections (c)(1) through (8) of this section shall be so construed.
 - (8) A distance not specifically indicated on the official zoning map shall be determined by the scale of the map.
 - (9) Where a physical or cultural feature existing on the ground is at variance with that shown on the official zoning map or any other circumstances not covered by subsections (c)(1) through (8) of this section, the board of appeals shall interpret the location of the zoning district boundary.

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- (10) Where a district boundary line divides a lot which is in single ownership at the time of adoption of this chapter, the board of appeals may permit an extension of the regulations for either portion of the lot to the nearest lot line, but not to exceed 50 feet beyond the district line into the remaining portion of the lot.

(Zoning Ord. 2020, § 7.2, 1-5-2021)

Sec. 36-166. Application of district regulations.

The regulations herein established within each zoning district shall be the minimum regulations for promoting and protecting the public health, safety, and general welfare and shall be uniform for each class of land, buildings, structure, or uses throughout each district. Wherever the requirements of this chapter are at variance with the requirements of any other adopted rules or regulations, ordinances, deed restrictions, or covenants, the most restrictive or those imposing the higher standards shall govern. Except as hereinafter provided, district regulations shall be applied in the following manner:

- (1) No building shall hereafter be erected, altered, or moved, nor shall any building or premises hereafter be used for any purpose other than is permitted in the district in which said building or premises is located, except by appeal as herein described by this chapter. Uses for enterprises or purposes that are contrary to federal, state or local laws or ordinances are prohibited.
 - a. Permitted uses. Uses shall be permitted by right only if specifically listed as principal permitted uses in the various zoning districts or are similar to such listed uses. All other uses are prohibited.
 - b. Accessory uses and buildings. Accessory uses are permitted as listed in the various zoning districts or as similar to such listed uses, and only if such uses are clearly incidental to the permitted principal uses. Other accessory uses not listed are permitted if customarily incidental to any principal use. In addition to any provisions applied to a specific accessory use, the provisions of section 36-215 must also be met.
 - c. Special uses. Special uses are permitted as listed or if similar to the listed special uses. In addition to any provisions applied to a specific special use, the provisions of section 36-36 must also be met.
- (2) No building shall hereafter be erected or altered except by appeal as herein described by this chapter, to:
 - a. Exceed the height limit specified for the district in which such building is located.
 - b. Occupy a greater percentage of lot area than is specified for the district in which such building is located.
 - c. Intrude upon the required front, rear, or side yards, as specified for the district in which such building is located.
 - d. Accommodate or house a greater number of families than is specified for the district in which such building is located.
 - e. Provide less living space per dwelling unit than is specified for the district in which such building is located.
- (3) No lot area shall be so reduced or diminished that yards and other open spaces shall be smaller than specified, nor shall the density of population be increased in any manner except in conformity with the area regulations, nor shall the area of any lot be reduced below the minimum requirements herein established for the district in which such lot is located.

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- (4) No part of a yard or other open space required for any building for the purposes of compliance with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another building.
 - (5) Every building erected, altered, or moved shall be located on a lot of record as defined herein, and except in the case of approved multiple dwelling, commercial, and industrial developments, there shall be no more than one principal building and its permitted accessory structures located on each lot in any district.

(Zoning Ord. 2020, § 7.3, 1-5-2021)

Sec. 36-167. Intent of districts.

The intent and purpose of each district are set forth as follows:

- (1) *CE Country Estate Single-Family Residential District.* This district provides open land areas for residential and agricultural properties of a rural character that are presently without public water and sewerage facilities and are likely to remain without such services. Because this district is not planned to contain extensive public infrastructure such as sanitary sewer or an extensive paved road network, it is intended to remain at a low density. It is also the purpose of this district to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low-density family life.
- (2) *RAA Low Density Rural District.* The purpose of this district is to provide open land areas for residential and agricultural properties of a rural character that are presently without public water and sewerage facilities and are likely to remain without such services for an extended period of time. It is also the purpose of this district to protect and stabilize the essential characteristics of these areas in order to promote and encourage suitable environments for low density family life, until such time as it may be in the public interest to promote urban development of a greater intensity requiring higher levels of public services and utilities. The requirements of this district are designed to permit the safe and healthful use of on-site water supply and waste disposal.
- (3) *RA Medium Density Residential District.* The purpose of this district is to provide a stable and sound environment for single-family detached dwellings with suitable open space at a medium density. The requirements of this district are designed to protect the medium density residential character of development by restricting uses and activities which are not beneficial or appropriate in such an area, and by permitting construction and occupancy of single-family dwellings on fringes of higher density urban development and may be served by public sewerage systems and other appropriate urban facilities and services in the future. However, the requirements of this district are designed to permit the safe and healthful use of on-site water supply and waste disposal. There is no intent to promote by these regulations a district of lower quality and desirability than in the RAA Residential District, although a higher density of population is permitted herein.
- (4) *RB High Density Residential District.* The purpose of this district is to provide a stable and sound environment with suitable open space at a high density. The requirements of this district are designed to protect the single-family residential character of development by restricting those uses and activities, which are not beneficial or appropriate in such an area, and to promote high density development by permitting the construction and occupancy of single-family dwellings on relatively small-sized lots. These districts will generally be located adjacent to the highest concentrations of urban development and shall be served by public water and sewerage systems and other appropriate urban facilities and services. There is no intent to promote by these regulations a district of lower quality and desirability than other single-family residential districts, although a higher density of population is permitted herein.

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- (5) *RC Multiple-Family Residential District.* The purpose of this district is to provide for various types of multiple-family residential dwellings and group developments at a high density, but under specific population density controls. The requirements of this district are intended to recognize that various forms of site development are desirable in order to provide a wide range of choices of living environments, but at the same time to regulate such developments in order to prevent congestion on the public streets, reduce hazards to life and property, provide desirable light and air, and to provide for adequate open spaces and basic amenities. These districts will generally be located in or near the centers of highest concentrations of urban development or along major streets within such centers and shall be served by public water and sewerage systems and other appropriate urban facilities and services, particularly fire protection systems. There is no intent to promote by these regulations a district of lower quality or desirability than any other residential district, although a higher density of population and a greater variety of dwelling types are permitted herein.
 - (6) *WFR Waterfront Residential District.* The purpose of this district is to accommodate all types of single-family housing, including seasonal homes, and other permitted use on or near waterfront, woodland, or other resort or vacation areas. The requirements of this district are established to allow development to be located on, near, or in these areas only when streets, utilities and other necessary public services are provided at adequate urban standards.
 - (7) *NR Natural River Residential District.* Refer to section 36-175(g).
 - (8) *MHP Mobile Home Park Residential District.* The purpose of this district is to provide for the development of mobile home parks which are an asset to the community. The requirements of this district are established to allow the use of mobile homes located in a mobile home park regulated by the Mobile Home Commission Act, Public Act No. 419 of 1976, MCL 125.2301 et seq., and this chapter. All uses permitted in MHP-Mobile Home Park Residential District shall comply with the Mobile Home Commission Act, Public Act No. of 419 of 1976, MCL 125.2301 et seq., and the current mobile home code adopted by the mobile home commission. In addition to the rules and standards of the mobile home code, supplemental conditions shall apply to all uses permitted in the district by this chapter.
 - (9) *NS Neighborhood Service District.* It is the purpose of this district to provide for convenient retail and personal service establishments which cater to the day-to-day needs of families residing within immediately accessible neighborhoods. The requirements of this district are designed to accommodate a major portion of existing neighborhood commercial development, but at the same time to limit future commercial development to centers which can be economically supported by adjacent neighborhoods, and which have a minimum impact upon the residential character of surrounding development. It is the basic intent of this district to encourage future commercial development within planned centers and community service districts rather than in scattered locations through the residential area, but also to provide for those necessary services which are most appropriately and conveniently located in close proximity to residential neighborhoods.
 - (10) *CS Community Service District.* The purpose of this district is to accommodate the wide range of retail, business, and personal service establishments which are intended to serve a number of neighborhoods, an entire community, or larger geographical areas of the Township. The provisions for this district are designed to encourage commercial development of various related types of centers which can be economically supported by the community and the surrounding area. These districts will be conveniently located in relation to the highest concentrations of urban development and on or near major thoroughfares to provide access to the outlying areas which they will serve. Planned community and regional shopping centers with adequate circulation and off-street parking facilities will be encouraged.
 - (11) *LI Limited Industrial District.* The purpose of this district is to provide for the location of light manufacturing, wholesale activities, warehouses, research and development centers, office facilities, and accessory activities. Uses permitted in this district generate minimal noise, glare, odor, dust fumes,

heat radiation, vibration, air and water pollutants, or other harmful or obnoxious matter. Uses permitted in this district are characterized by minimal use, storage, collection or by production of toxic or hazardous materials; minimal use and storage of on-site fuels; minimal use of water; minimal combustion activities, ovens or vats; and minimal use of large processing equipment and bulk products. Uses which involve the storage or handling of explosive or highly inflammable gases or liquids are not intended in this district. The district is designed to create a low-density development with spacious yards to provide attractive settings as well as to help ensure compatibility with nonindustrial neighboring lots.

- (12) *GI General Industrial District.* The purpose of this district is to provide for a broad range of manufacturing, wholesale activities, warehouses, research and development centers, office facilities, and accessory activities. While uses permitted in this district could create greater environmental disturbances than uses permitted in limited industrial districts, it is the intent of this district to protect neighboring properties and the Township as a whole. The district is designed to permit more intensive industrial uses on larger lots than in limited industrial while still insuring compatibility with non-industrial neighboring lots. Outdoor storage of materials and equipment is often a characteristic of these uses.
- (13) *MD Mixed Development District.* The purpose of this district is to provide for various types of commercial, office, industrial, research, warehousing, and housing uses that are compatible with one another. The lands included in this district are those suited for uses characterized by low land coverage, the absence of objectionable external effects, large setbacks, attractive building architecture, and large landscaped park-like areas. The purpose of the district is to provide suitable sites for such uses, while making certain that such uses will be compatible with adjacent or surrounding districts. To these ends, development is limited to a low concentration, external effects are minimized, and permitted uses are limited to those which are adapted to an environment of this nature. The regulations are also designed to stabilize and protect the essential characteristics of the district by excluding uses which would have a detrimental effect upon the orderly development and functioning of the district.
- (14) *OH Old Hamburg District.* The purpose of this district is to promote the traditional and historical focus of Hamburg Township by preserving and enhancing areas which reflect elements of the Township's unique cultural, social, economic, political or architectural history. It is further the purpose of this district to stabilize and improve property values; to foster civic beauty and pride; and promote the use of the OH District for the education, pleasure and welfare of the citizens of Hamburg Township. The requirements of this district are designed to permit a variety of retail, office, housing, and service uses which are subject to an advisory review by the planning commission.
- (15) *VC Village Center District.* The purpose of this district is to encourage development and redevelopment which is consistent with the traditional architecture, mixture of uses and compact layout of a traditional village. The requirements of this district are designed to permit a variety of retail, office, housing, and service uses which are subject to review by the planning commission. More specifically, the VC Village Center Zoning District is intended to achieve the following objectives:
- a. Implement recommendations of the master plan including the M-36 Corridor Plan, the Hamburg Village Plan, and other sub area plans;
 - b. Encourage development which is consistent with the density and design of existing Old Hamburg Village development;
 - c. Provide a land use transition between the village area and the more rural areas of the Township;
 - d. Establish a complimentary and integrated mixture of employment, shopping, entertainment and civic uses which create a walkable village with less reliance on automobile travel;

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- e. Create a distinct community center and focal point in the Township;
 - f. Help ensure a consistent architectural theme without restricting innovative design;
 - g. Integrate public gathering places;
 - h. Promote long term viability in the established village area;
 - i. Reduce traffic conflict points along M-36 by using a system of internal streets and access;
 - j. Permit narrower streets and on-street parking on internal streets not intended to function as through streets;
 - k. Enable development and redevelopment to occur in a manner that will be compatible with the existing and new village environment; and
 - l. Promote a concentration of commercial uses and other higher intensity non-industrial uses rather than permitting extending a commercial strip along M-36 with all its inherent traffic congestion, compromise of public safety environmental threats and poor aesthetics.
- (16) *VR Village Residential District.* The purpose of this district is to encourage development and redevelopment which is consistent with the historic architecture, and compact layout of a traditional neighborhood. The requirements of this district are designed to permit a variety of residential densities and housing types. More specifically, the Village Residential Zoning District is intended to achieve the following objectives:
- a. Implement recommendations of the master plan including the M-36 Corridor Plan, the Hamburg Village Plan, and other sub area plans;
 - b. Encourage development which is consistent with the density and design of existing Old Hamburg Village development;
 - c. Provide a land use transition between the village area and the more rural areas of the Township;
 - d. Create a distinct community center and focal point in the Township;
 - e. Help ensure a consistent architectural theme without restricting innovative design;
 - f. Integrate public gathering places;
 - g. Promote long term viability in the established village area;
 - h. Reduce traffic conflict points along M-36 by using a system of internal streets and access;
 - i. Permit narrower streets and on-street parking on internal streets not intended to function as through streets; and
 - j. Enable development in a manner that will be compatible with the existing and new village environment.

(Zoning Ord. 2020, § 7.4, 1-5-2021)

Sec. 36-168. Uses in districts.

Permitted, accessory, and special uses for each district are set forth in section 36-169. Unless otherwise stated, minimum area, height, and bulk regulations for each permitted or special use are set forth in section 36-186.

(Zoning Ord. 2020, § 7.5, 1-5-2021)

Sec. 36-169. Schedule of use regulations—CE Country Estate Single-Family Residential District.

(a) *Permitted uses.*

- (1) Single-family dwelling.
- (2) General and specialized farming and agricultural activities including raising and growing of crops, fruit, nursery stock, livestock, and other farm animals, subject to the provisions of section 36-187.
- (3) Raising and keeping of horses and other domestic animals, not for purposes of enumeration or sale, but as an incidental activity to the principal use of the single-family dwelling, subject to the provisions of section 36-187.
- (4) Raising and keeping of poultry, subject to the provisions of section 36-187.
- (5) Roadside stands for the display and sale of products raised on the premises and community supported agriculture (CSAs).
- (6) Home occupations subject to the provisions of section 36-213.
- (7) Signs subject to the provisions of article XIII of this chapter.
- (8) Essential service subject to the provisions of section 36-216.
- (9) State-licensed residential child and adult care facilities identified as permitted in section 36-219.
- (10) Accessory dwelling units subject to the provisions of section 36-239.
- (11) Minor agricultural commercial and tourism uses subject to the provisions of section 36-243.

(b) *Special uses.*

- (1) Public buildings, fire stations, community centers, and maintenance buildings.
- (2) Public or private elementary, junior and senior high schools and institutions of higher education, subject to the provisions of section 36-218.
- (3) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
- (4) Public and private cemeteries, subject to the following conditions:
 - a. Minimum lot size shall be 20 acres.
 - b. Building shall be setback at least 100 feet from the property line.
- (5) Radio or television stations or transmitters occupying a site of no less than five acres.
- (6) Aircraft landing fields, subject to a specific duration of such use and further subject to such conditions as shall be deemed necessary and appropriate by the planning commission to protect the public health, safety, convenience, and general welfare.
- (7) Dog kennels, subject to the following conditions:
 - a. The parcel of land upon which such activity is conducted, shall be no less than ten acres in area with a minimum frontage on a public road or right-of-way of 660 feet.
 - b. All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of dogs, shall be hard surfaces and provided with proper drains for washing with water pressure.
 - c. All breeding areas, runs, and shelter areas shall be set back from the road right-of-way a minimum of 200 feet from the adjoining property lines.

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- d. The entire facility including breeding areas, shelters, and runs shall be enclosed by a visual screen and sound reducing wall or fence not less than six feet in height.
 - (8) Public or private golf courses, parks, recreation clubs, and open spaces.
 - (9) Bed and breakfast inn.
 - (10) State-licensed residential child and adult care facilities identified as special use in section 36-219.
 - (11) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.
 - (12) Major agricultural commercial and tourism uses subject to the provisions of section 36-243.
- (Zoning Ord. 2020, § 7.5.1(A), 1-5-2021)

Sec. 36-170. Schedule of use regulations—RAA Low Density Rural Residential District.

(a) *Permitted uses.*

- (1) Single-family dwelling.
- (2) General and specialized farming and agricultural activities including raising and growing of crops, fruit, nursery stock, livestock, and other farm animals, subject to the provisions of section 36-187.
- (3) Raising and keeping of horses and other domestic animals, not for purposes of enumeration or sale, but as an incidental activity to the principal use of a single-family dwelling, subject to the provisions of section 36-187.
- (4) Raising and keeping of poultry, subject to the provisions of section 36-187.
- (5) Roadside stands for the display and sale of products raised on the premises and community supported agriculture (CSAs).
- (6) Home occupations subject to the provisions of section 36-213.
- (7) Signs subject to the provisions of article XIII of this chapter.
- (8) Essential services subject to the provisions of section 36-216.
- (9) Family Child Care Homes as provided in section 36-6, and State Licensed Residential Facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
- (10) Accessory dwelling units subject to the provisions of section 36-239.
- (11) Minor agricultural commercial and tourism uses subject to the provisions of section 36-243.

(b) *Special uses.*

- (1) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
- (2) Institutions for human health care including hospitals, clinics, nursing or convalescent homes, and housing for the elderly.
- (3) Public buildings, fire stations, community centers, and maintenance buildings.
- (4) Public or private elementary, junior and senior high schools and institutions or higher education, subject to the provisions of section 36-218.
- (5) Group child care homes conducted in a residential dwelling, subject to provisions of section 36-219.

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- (6) Public and private cemeteries, subject to the following conditions:
 - a. Minimum lot size shall be 20 acres.
 - b. No building shall be located nearer than 100 feet from any property line.
 - (7) Radio or television stations or transmitters occupying a site of no less than five acres.
 - (8) Outdoor or drive-in theaters, subject to the following conditions:
 - a. Picture screens shall not be permitted to face a public roadway, shall be so located as to be out of view of any major thoroughfare, and shall not exceed 65 feet in total height.
 - b. A minimum yard of 100 feet shall separate such use from any public street used for access.
 - c. Entrance and exit routes shall be located no nearer than 500 feet to the point of intersection of the right-of-way lines to two or more intersecting streets.
 - d. The planning commission shall require such means of ingress and egress as will minimize congestion and hazards on the public streets adjacent to such uses.
 - (9) Airports and aircraft landing fields, subject to zoning administrator issuing a land use permit only for the duration of such use and subject to such conditions as he shall deem necessary and appropriate to protect the public health, safety, convenience and general welfare.
 - (10) Dog kennels, subject to the following conditions:
 - a. The parcel of land upon which such activity is conducted, shall be no less than ten acres in area with a minimum frontage on a public road or right-of-way of 660 feet.
 - b. All enclosures for breeding, rearing, shelter, or other uses in connection with harboring of dogs, shall be hard surfaces and provided with proper drains for washing with water pressure.
 - c. All breeding areas, runs and shelter areas shall be set back from the road right-of-way a minimum of 200 feet from adjoining property lines.
 - d. The entire facility including breeding areas, shelters, and runs shall be enclosed by a visual screening and sound reducing wall or fence not less than six feet in height.
 - (11) Public or private golf courses, parks, recreation clubs and open spaces.
 - (12) Bed and breakfast inn.
 - (13) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.
 - (14) Major Agricultural Commercial and Tourism Uses subject to the provisions of section 36-243.

(Zoning Ord. 2020, § 7.5.1(B), 1-5-2021)

Sec. 36-171. Schedule of use regulations—RA Medium Density Residential District.

- (a) *Permitted uses.*
 - (1) Single-family dwellings.
 - (2) General and specialized farming and agricultural activities including raising and growing of crops, fruit, nursery stock, livestock, and other farm animals, subject to the provisions of section 36-187.
 - (3) Raising and keeping of horses and other domestic animals, not for purposes of enumeration or sale, but as an incidental activity to the principal use of a single-family dwelling, subject to the provisions of section 36-187.

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- (4) Raising and keeping of poultry, subject to the provisions of section 36-187.
 - (5) Roadside stands for the display and sale of products raised on the premises and community supported agriculture (CSAs).
 - (6) Home occupations subject to the provisions of section 36-213.
 - (7) Signs subject to the provisions of article XIII of this chapter.
 - (8) Essential services subject to the provisions of section 36-216.
 - (9) Family child care homes as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
 - (10) Accessory dwelling units subject to the provisions of section 36-239.

(b) *Special uses.*

- (1) Public buildings, fire stations, community centers, and maintenance buildings.
- (2) Public or private elementary, junior and senior high schools and institutions or higher education, subject to the provisions of section 36-218.
- (3) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
- (4) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
- (5) Two-family dwellings, subject to the following conditions:
 - a. Minimum lot area shall be 60,000 square feet per two-family dwelling unit.
 - b. The structure shall be compatible with single-family dwellings located within the surrounding neighborhood.
- (6) Public or private golf courses, parks, and recreation clubs and open spaces. No building associated with such uses shall be located nearer than 50 feet from any property line.
- (7) Bed and breakfast inn.
- (8) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.

(Zoning Ord. 2020, § 7.5.1(C), 1-5-2021)

Sec. 36-172. Schedule of use regulations—RB High Density Residential District.

(a) *Permitted uses.*

- (1) Single-family dwellings.
- (2) Public or private parks and open spaces.
- (3) Home occupations subject to the provisions of section 36-213.
- (4) Signs subject to the provisions of article XIII of this chapter.
- (5) Accessory uses subject to the provisions of section 36-215.
- (6) Essential services subject to the provisions of section 36-216.

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- (7) Family child care homes provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
 - (8) Accessory dwelling units subject to the provisions of section 36-239.
- (b) *Special uses.*
- (1) Public buildings, fire stations, community centers, and maintenance buildings.
 - (2) Public or private elementary, junior and senior high schools and institutions or higher education, subject to the provisions of section 36-218.
 - (3) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
 - (4) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
 - (5) Two-family dwellings, subject to the following conditions:
 - a. Minimum lot area shall be 60,000 square feet per two-family dwelling unit.
 - b. The structure shall be compatible with single-family dwellings located within the surrounding neighborhood.
 - (6) Bed and breakfast inn.
 - (7) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.

(Zoning Ord. 2020, § 7.5.1(D), 1-5-2021)

Sec. 36-173. Schedule of use regulations—RC Multiple-Family Residential District.

- (a) *Permitted uses.*
- (1) Two-family dwellings.
 - (2) Multiple-family dwellings such as garden apartments, townhouses, and condominiums.
 - (3) Housing for the elderly.
 - (4) Institutions for human health care including hospitals, clinics and nursing or convalescent homes.
 - (5) Public or private parks and open spaces, or recreation clubs.
 - (6) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
 - (7) Home occupations subject to the provisions of section 36-213.
 - (8) Signs subject to the provisions of article XIII of this chapter.
 - (9) Accessory uses subject to the provisions of section 36-215.
 - (10) Essential services subject to the provisions of section 36-216.
 - (11) Family day care homes as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
- (b) *Special uses.*
- (1) Public buildings, fire stations, community centers, and maintenance buildings.

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- (2) Public or private elementary, junior and senior high schools and institutions or higher education, subject to the provisions of section 36-218.
 - (3) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
 - (4) Bed and breakfast inn.
 - (5) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.

(Zoning Ord. 2020, § 7.5.1(E), 1-5-2021)

Sec. 36-174. Schedule of use regulations—WFR Waterfront Residential District.

(a) *Permitted uses.*

- (1) Single-family dwellings.
- (2) Home occupations subject to the provisions of section 36-213.
- (3) Signs subject to the provisions of article XIII of this chapter.
- (4) Accessory uses subject to the provisions of section 36-215.
- (5) Essential services subject to the provisions of section 36-216.
- (6) Raising and keeping of horses and other domestic animals, not for purposes of enumeration or sale, but as an incidental activity to the principal use of a single-family dwelling, subject to the provisions of section 36-187.
- (7) Raising and keeping of poultry subject to the provisions of section 36-187.
- (8) Family child homes, as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
- (9) Accessory dwelling units subject to the provisions of section 36-239.

(b) *Special uses.*

- (1) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
- (2) Public buildings, fire stations, community centers, and maintenance buildings.
- (3) Public or private elementary, junior and senior high schools and institutions or higher education, subject to the provisions of section 36-218.
- (4) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
- (5) Public or private golf courses, parks, recreation clubs and open spaces.
- (6) Bed and breakfast inn.
- (7) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.

(Zoning Ord. 2020, § 7.5.1(F), 1-5-2021)

Sec. 36-175. Schedule of use regulations—NR Natural River District.

- (a) *Authority.* The Huron River is a designated Natural River (classification: county scenic river). Authority for these provisions herein stated are granted by the provisions of part 305 of the Environmental Protection Act, beginning at MCL 324.30501.
- (b) *Purposes and intent.* The ordinance codified herein is enacted to implement public objectives embodied in the Huron River Natural River Management Plan adopted by the natural resources commission and endorsed by Hamburg Township. These public objectives seek to preserve and enhance the values of the Huron River area as well as to promote the public health, safety and general welfare of this community and the state as a whole. These objectives are sought to be achieved through zoning of this unique scenic natural river area for the following stated purposes:
- (1) To protect and enhance the values of the natural river in the interest of present and future generations;
 - (2) To protect the economic value of this scenic resource from unwise and disorderly development which may adversely pollute, destroy or otherwise impair its beneficial use and preservation;
 - (3) To prevent ecological and aesthetic damage which may result from overcrowding and overuse or unwise and disorderly development;
 - (4) To permit reasonable and compatible uses of land which complement the natural characteristics of the river and further the purposes of this chapter;
 - (5) To limit the intensity of use, density of population and type and amount of development in order to protect and enhance the natural river values, and thereby carefully guide the expenditure of funds for public improvements and services in an orderly fashion, in keeping with the character of the natural river area, the purposes for its designation, and the community as a whole;
 - (6) To conserve the river water, and prevent further degradation of its quality, purity, clarity and free-flowing condition;
 - (7) To provide for the conservation of soil, of riverbed and banks of adjoining uplands;
 - (8) To protect the natural floodwater storage capacity of the river floodplain and to prevent flood damages and associated public relief expenditures created by improper construction of structures in the floodplain;
 - (9) To protect and enhance fish, wildlife and their habitat;
 - (10) To protect boating and recreational values and uses of the river;
 - (11) To protect historic values of the river and adjoining uplands;
 - (12) To protect individuals from investing funds in structures proposed for location on lands unsuited for such development because of high groundwater, erosion, or vulnerability to flood damage; and
 - (13) To provide for administrative relief from the terms of this chapter where warranted and in accord with the standards contained herein.
- (c) *Principal uses permitted.* The following uses shall be permitted, subject to any limitations described herein:
- (1) Single-family dwelling (detached).
 - (2) Natural study, hiking, and pedestrian paths; boardwalks; and conservation and environmental interpretive areas (kiosks, overlooks, open shelter, etc.) are permitted as long as the activity is not detrimental to the natural river district and is constructed of the most environmentally compatible materials.

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- (3) Accessory uses subject to the provisions of section 36-215.
 - (4) Essential services subject to the provisions of section 36-216 and with the following additional conditions:
 - a. Except on existing rights-of-way, new electric transmission lines of 30 KV or higher shall not be located within the district or to cross the Huron River without the written permission of the state.
 - b. Wherever feasible, all electrical and telephone transmission lines shall be placed underground.
 - (5) Signs subject to the provisions of article XIII of this chapter.
 - (6) Home occupations subject to the provisions of section 36-213.
 - (7) Family child homes, as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
 - (8) Accessory dwelling units subject to the provisions of section 36-239.
- (d) *Principal uses permitted subject to special conditions.* The following uses shall be permitted, subject to the specific conditions hereinafter imposed for each use and subject to further review and recommendation by the Township Planning Commission and approval by the Township Board per section 36-36:
- (1) Churches and other buildings associated with religious worship, including housing for religious personnel associated with such uses.
 - (2) Public buildings, fire stations, and community centers.
 - (3) Public or private elementary, junior and senior high schools, and institutions of higher education, subject to the provisions of section 36-218.
 - (4) Public or private golf courses, parks, recreation clubs and open spaces.
 - (5) Raising and keeping of horses and other domestic animals, not for the purposes of remuneration or sale, but as an incidental activity to the principal use of a single-family dwelling, subject to the provisions of section 36-187.
 - (6) Raising and keeping of poultry subject to the provisions of section 36-187.
 - (7) Bed and breakfast inns subject to the provisions of section 36-236.
 - (8) Adult foster care, large and/or small group homes subject to the provisions of section 36-237.
- (e) *Setbacks.*
- (1) *Setbacks and lot width.* Unplatted lots, new subdivisions, and condos in the NR district shall accommodate the building setbacks as set forth in this chapter, and shall have a minimum riverfront lot width of 150 feet. Septic systems are required to be set back a minimum of 125 feet from the ordinary high water mark of the Huron River.
 - (2) *Building setbacks.* New buildings and appurtenances on the Huron River mainstream will be required to set back a minimum of 125 feet from the ordinary high water mark, further:
 - a. New buildings and appurtenances must be setback at least 100 feet from the top of a bluff.
 - b. No buildings shall be placed on land that is in a floodway or a wetland.
- (f) *Land alteration.*
- (1) *Cutting and filling.* Cutting or filling for building (including appurtenances) on the floodplain is prohibited. Cutting and filling for building on the upland shall meet all state, county and township

regulations. Dredging and filling for the construction of fish or wildlife ponds within 500 feet of the river requires a permit under part 301 of Public Act No. 451 of 1994 (MCL 324.30101), as amended. However, no lake shall be constructed within the NR Natural River District.

- (2) *Stormwater runoff.* A stormwater runoff management system shall be intact for all stormwater runoff prior to the runoff reaching the ordinary high water mark of the Huron River or its tributaries to ensure the protection of the watercourses from erosion and unnecessary degradation due to sedimentation.
 - (3) *Earth changing activities.* All earth changes, including dredging, damming, cutting, filling and grading, within 500 feet of the river's edge shall be done in accordance with the requirements of a permit issued by the local soil erosion and sedimentation control enforcement agency pursuant to part 301 of Public Act No. 451 of 1994 (MCL 324.30101), as amended. In addition, commercial mining and an extraction of topsoil or subsurface sand, gravel, or minerals is not permitted within 300 feet of the river's edge.
 - (4) *Dredge and fill activities.* All dredge and fill activities and construction of permanent structure, including docks, lying below the ordinary high water mark of the river are subject to the provisions of part 301 of Public Act No. 451 of 1994 (MCL 324.30101), as amended.
- (g) *Building design and screening.*
- (1) *Use of natural materials and colors.* Property owners are encouraged to use natural materials and natural unobtrusive colors in the construction of new or remodeling of existing buildings.
 - (2) *Floodplain restrictions.* Sections 36-286 through 36-290 shall apply in the natural river district with the exception that no structures (except accessory building/structures) shall be permitted in the floodplain of the Huron River in the natural river district.
 - (3) *Natural vegetation strip.* To minimize erosion, stabilize the riverbank, protect water quality, keep nutrients out of the water, maintain water temperature at natural levels, preserve fish and wildlife habitat, to screen manmade structures, and also to preserve aesthetic values of the natural river area, a natural vegetation strip shall be maintained on each parcel or lot between the river's edge and a line, each point of which is 100 feet on all privately owned land and on all publicly owned land horizontal from and perpendicular to the river's edge. This restricted, minimum cutting strip shall apply on each side of the mainstream. Within the natural vegetation strip, trees and shrubs may be selectively pruned or removed for harvest of merchantable timber, to achieve a filtered view of the river from the principal structure, and for reasonable private access to the river. Said pruning and removal activities:
 - a. Shall ensure a live root system stays intact to provide for streambank stabilization and erosion control;
 - b. Shall ensure that any path to the river's edge is not greater than ten feet in width, shall meander down to the river's edge in a matter which protects the soil and vegetation from erosion while also screening the principal structure and vehicles from a direct river view;
 - c. Shall require a detailed plan of the cutting and removing of vegetation be submitted to the environmental consultant for review if necessary. The environmental consultant shall make a recommendation to the zoning administrator who will then give final approval/disapproval within the vegetation strip; and
 - d. All commercial lumbering in the Natural River District shall be required to file a \$1,000.00 bond with the Township to be returned to said party following inspection of the property by the zoning administrator to ensure repair of damaged trees and property.

Dead, diseased, unsafe or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, and other plants regarded as a common nuisance may be removed. Planting of

perennial native species in the natural vegetation strip is encouraged, especially where exposed soil and steep slopes exist, and in reforestation efforts.

- (4) *Use of pesticides, herbicides, and fertilizers.* Because of the potentially severe adverse effects on riverfront vegetation, fish, wildlife, and water quality from improper use of even small amounts of pesticides, herbicides, and fertilizers, their use on lands within the natural river area is prohibited except when utilized in accord with the advice and supervision of qualified specialist. No pesticides, herbicides, or fertilizers are allowed in the vegetation strip along the river.
- (h) *Docks and launches.*
- (1) *Docks.* Docks may be constructed not to exceed six feet in width nor more than 20 feet in length paralleling the river with no more than four feet of the dock extending beyond the low water mark. Docks must be constructed in accordance with the rules of Public Act No. 346 of 172. Docks must be constructed of materials that are not detrimental to the river and must have natural/unobtrusive colors used for coverings. Docks cannot impede the waterway of normal water traffic.
- (2) *Launches.* No public launches are allowed in residential areas into the river or its tributaries.
- (i) *Campgrounds and picnic areas.* On public land, no new structures associated with a campground or picnic area, except those necessary to protect the riverbank, will be permitted within 300 feet of the designated mainstream. Such structure shall be designed and constructed in such a manner as to further the purpose of this district.
- (j) *Archaeological sites.* The identification, preservation, and interpretation of archaeological sites along the designated portions of the district, both by public agencies and local societies, is strongly encouraged.

(Zoning Ord. 2020, § 7.5.1(G), 1-5-2021)

Sec. 36-176. Schedule of use regulations—MHP Mobile Home Park District.

- (a) *Permitted uses.*
- (1) Mobile home parks subject to the provisions of the Mobile Home Commission Act, MCL 125.2301 et seq., the current mobile home commission, and this chapter.
- (2) Other uses and structures under park management supervision such as office space, laundry facilities, storage garages, recreational facilities, and other services intended for the sole use of mobile home park residents.
- (3) Signs subject to the provisions of article XIII of this chapter.
- (4) Accessory uses subject to the provisions of section 36-215.
- (5) Essential services subject to the provisions of section 36-216.
- (6) Family child homes, as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
- (b) *Special uses.* Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.

(Zoning Ord. 2020, § 7.5.1(H), 1-5-2021)

Sec. 36-177. Schedule of use regulations—NS Neighborhood Service District.

(a) *Permitted uses.*

- (1) Planned neighborhood shopping centers are subject to the following conditions:
 - a. Only those uses specifically permitted in NS Neighborhood Service shall be permitted within such development.
 - b. Minimum lot size shall be one acre with not less than 150 feet of road frontage.
 - c. The exterior of all buildings within such development shall be of consistent architectural treatment so as to provide a unified appearance.
- (2) Retail stores for the sale of products such as hardware and paint, clothing, drugs, and notions, gifts, books and records.
- (3) Food and beverage stores for the sale of groceries; fruit and meat; baked goods; dairy products; beverages and liquor.
- (4) Food and beverage service establishments such as restaurants without drive-through service, dairy bars, and taverns provided all food and beverages shall be served from within an enclosed building.
- (5) Personal service establishments such as barbershops, beauty salons, laundry pick-up, and other similar uses.
- (6) Business and professional offices, such as legal, engineering, financial, insurance, accounting, medical, dental, government and other similar offices.
- (7) Banking and financial institutions without drive-through windows.
- (8) Repair shops for bicycles, appliances, shoes, jewelry, small motors, and other such items but not motor vehicles.
- (9) Public buildings, fire stations, community centers, and maintenance buildings.
- (10) Churches and other buildings associated with religious worship, but not including housing for religious personnel.
- (11) Signs subject to the provisions of article XIII of this chapter.
- (12) Accessory indoor uses subject to the provisions of section 36-215(12).
- (13) Essential services subject to the provisions of section 36-216.
- (14) Collection bins subject to the provisions of section 36-244.

(b) *Special uses.*

- (1) Open air business for the sale of products or the conduct of activities listed or performed in conjunction with a permitted use in NS Neighborhood Service.
- (2) Dry cleaning establishments subject to the following:
 - a. Dike containment area for storage of hazardous materials.
 - b. No connections to waste water discharge in work area and no floor drains.
 - c. Dry to dry loop non-vent system equipment.
 - d. Compliance with all Michigan Health Department requirements.
- (3) Laundromats shall be connected to public sewer.

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- (4) Drive-through establishments for the provisions of goods or services of a permitted use in NS Neighborhood Service (e.g., drive-through restaurant or drive-through bank) subject to the following conditions:
- a. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets (measured from the nearest right-of-way line or further if necessary based on the required traffic impact study).
 - b. Any corner or double-frontage site shall be limited to one entrance/exit drive for each separate public road frontage. A site with only one public road frontage shall be permitted no more than two entrance/exit drives. Coordinated access with adjoining sites is encouraged and may be required.
 - c. Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.
- (5) Apartments subject to the provisions of section 36-235.
- (6) Gasoline service stations subject to the following conditions:
- a. All activities, except those required to be performed at the service island, shall be conducted entirely within an enclosed building.
 - b. Bumping, painting, and major mechanical repairs are specifically prohibited.
 - c. Outdoor storage of wrecked or dismantled vehicles shall not be permitted.
 - d. Access points shall meet the standards of the Township and may be modified, as necessary, based on the required traffic impact study.
- (7) Bed and breakfast inn.
- (8) Marinas, subject to the following conditions:
- a. Docking space shall be limited to the maximum number of boats allowed by the EGLE marina operating permit and the standards of the Township common use (keyhole) regulations contained in section 36-291.
 - b. Access shall be provided only from the water and a major arterial road.
 - c. All piers and wharves shall be setback a minimum of 15 feet from any side lot line, provided further that such piers and wharves shall be installed such that the boat moored is a minimum of six feet from any side lot line.
 - d. The number of public launches shall be limited to the number of parking spaces available for the storage of vehicles with boat trailers.
 - e. Pump-out facilities shall be provided at the marina for disposal of refuse from boat holding tanks in a sanitary manner. Toilet facilities shall be provided meeting the requirements of the Livingston County Health Department.
 - f. Refuse and garbage containers shall be provided and kept in clean and sanitary condition for the use of boat owners.
 - g. Facilities shall be provided for the safe and sanitary disposal of oil and other engine fluids.
 - h. Major repair or dismantling of boats shall be conducted within an enclosed building.
 - i. All areas utilized for dry-docking/on-land storage of boats shall meet the requirements for boat dry-dock storage.

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- j. Other related uses such as boat sales and service, food and beverage store, food and beverage service establishment or retail store may be located on the same site, provided such use is permitted in the zoning district and site meets the requirements for all applicable uses.
- (9) Boat sales and service, subject to the following:
- a. Access shall be provided from a major arterial road.
 - b. Repair or dismantling of boats shall be conducted within an enclosed building.
 - c. All areas utilized for outdoor storage of boats shall meet the requirements for boat dry-dock storage, except that the planning commission may allow up to three boats located outdoors to be visible from the public right-of-way.
 - d. All areas utilized for storage of boats shall be setback 50 feet from any residential zoning district.
 - e. All boat or trailer storage areas shall be screened from view of any abutting residentially zoned or used land and the public road right-of-way by a continuous opaque visual barrier consisting of a row of evergreen trees or a masonry wall not less than six feet in height, or other screening approved by the planning commission. The planning commission may require additional screening and setbacks where outdoor multi-level boat racks are proposed.
- (10) Adult foster care large and/or small group homes, subject to the provisions of section 36-237.
- (11) Childcare center, subject to the provisions of section 36-219.

(Zoning Ord. 2020, § 7.5.1(l), 1-5-2021)

Sec. 36-178. Schedule of use regulations—CS Community Service District.

(a) *Permitted uses.*

- (1) All uses permitted in NS Neighborhood Service, with the section 36-177(b)(11).
- (2) Planned community shopping centers subject to the following conditions:
 - a. Only those uses specifically permitted in CS Community Service shall be permitted within such development.
 - b. Minimum lot size shall be one acre with not less than 150 feet of road frontage.
 - c. The exterior of all buildings within such development shall be of consistent architectural treatment so as to provide a unified appearance.
- (3) Department stores.
- (4) Retail and wholesale stores for the sale of such products as hardware and paint, clothing, drugs, and notions, gifts, books and records.
- (5) Business service establishments such as business supply stores, office machine sales, and service, medical and dental laboratories, and printing shops.
- (6) Indoor commercial recreation facilities such as theaters, bowling alleys, health clubs, skating rinks, and billiard and game parlors.
- (7) Funeral homes and mortuaries.
- (8) Motels.
- (9) Showroom and sales of new and used automobiles, farm machinery, and other vehicles and equipment, and the display and sale of used cars, farm machinery, and other vehicles and equipment

when in conjunction with a showroom and sales of new units thereof; and repair of the same when in conjunction with a showroom and sales of new units thereof, subject to the provisions of section 36-242.

- (10) Trade schools/business colleges; music and dance studios; and other similar public and private educational institutions.
 - (11) Dry cleaning establishments subject to the following:
 - a. Dike containment area for storage of hazardous materials.
 - b. No connections to wastewater discharge in work area and not floor drains.
 - c. Dry to dry loop non-vent system equipment.
 - d. Compliance with all Michigan Health Department requirements.
 - (12) Laundromats when connected to public sewer.
 - (13) Indoor private recreational facilities such as bowling alleys, ice rinks or indoor golf.
 - (14) Collection bins subject to the provisions of section 36-244.
- (b) *Special uses.*
- (1) Open air business for the sale of products or the conduct of activities listed or performed in conjunction with a permitted use in CS-Community Service.
 - (2) Drive-in and drive-through establishments for the provisions of goods or services of a permitted use in CS-Community Service (e.g., drive-through restaurant or drive-through bank) subject to the following conditions:
 - a. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets (measured from the nearest right-of-way line or farther if necessary, based on the required traffic impact study).
 - b. Any corner or double-frontage site shall be limited to one entrance/exit drive for each separate public road frontage. A site with only one public road frontage shall be permitted no more than two entrance/exit drives. Coordinated access with adjoining sites is encouraged.
 - c. Devices for the transmission of voices shall be so directed or muffled as to prevent sound from being audible beyond the boundaries of the site.
 - (3) Automobile and truck washes.
 - (4) Motor freight depots and terminals, subject to the following conditions:
 - a. Goods and/or trucks are stored only on a temporary basis and are clearly in transit and have not yet reached their final destination.
 - b. Such activities shall not include the storage of scrap or junk materials; wrecked or partially dismantled vehicles; petroleum or other than in mobile carriers or for use on the premises.
 - c. No building, temporary storage yard, or loading berth shall be located within 50 feet of any rear or side property line or within 100 feet of any street right-of-way line.
 - d. All temporary storage yards shall be enclosed by a well maintained solid fence or masonry wall not less than six feet in height.
 - (5) Outdoor recreation facilities, such as skating rinks, driving ranges and miniature golf courses but not including drive-in theaters or amusement parks.

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- (6) Childcare center, subject to the provisions of section 36-219.
 - (7) Apartments subject to the provisions of section 36-235.
 - (8) Gasoline service stations subject to the following conditions:
 - a. All activities, except those required to be performed at the service island, shall be conducted entirely within an enclosed building.
 - b. Bumping, painting, and major mechanical repairs are specifically prohibited.
 - c. Outdoor storage of wrecked or dismantled vehicles shall not be permitted.
 - (9) Bed and breakfast inn.
 - (10) Multiple family dwellings such as garden apartments, townhouses, and condominiums subject to the same restrictions as the RC Multiple-Family Residential District.
 - (11) Elderly cottage housing (ECHO) in accordance with sections 36-429 through 36-433.
 - (12) Automobile rental, subject to the following conditions:
 - a. Minimum lot area shall be one acre.
 - b. Minimum lot width shall be 150 feet.
 - c. All areas utilized for storage of vehicles shall be setback 50 feet from any residential zoning district.
 - d. All vehicle storage areas shall be screened from view of any abutting residential area by a row of evergreen trees or a masonry wall or not less than six feet in height, or other screening approved by the planning commission.
 - e. A plan shall be provided that indicates the number, type, location and traffic circulation pattern of vehicles to be stored on the site for planning commission approval.
 - f. Ingress and egress shall meet the spacing requirements of section 36-339. Such use shall be limited to a single access point on a public or private road.
 - (13) Truck and trailer rental, subject to the following conditions:
 - a. Minimum lot area shall be one acre.
 - b. Minimum lot width shall be 150 feet.
 - c. All stored rental vehicles and trailers shall be no closer to the front of the parcel than the front line of the principal building on the parcel, provided that in no case shall rental vehicles and trailers be stored in the required front yard.
 - d. All areas utilized for storage of vehicles or trailers shall be setback 50 feet from any residential zoning district.
 - e. All vehicle or trailer storage areas shall be screened from view of any abutting residentially zoned or used land by a row of evergreen trees or a masonry wall or not less than six feet in height, or other screening approved by the planning commission, except that the planning commission may allow up to three vehicles or trailers to be visible from the public right-of-way.
 - f. A plan shall be provided that indicates the number, type location and traffic circulation pattern of vehicles or trailers to be stored on the site for planning commission approval.
 - g. Ingress and egress shall meet the spacing requirements of section 36-339. Such use shall be limited to a single access point on a public or private road.

(14) Minor automobile repair, subject to the following conditions:

- a. Setbacks. Side and rear yard setbacks for repair garages or other buildings shall be 50 feet from any residentially zoned or used district.
- b. Hours of operation. All minor automobile repair services shall be conducted entirely within an enclosed building and between the hours of 7:00 a.m. and 9:00 p.m.
- c. Orientation of open bays. Buildings shall be oriented so that open service bays do not face onto adjacent major thoroughfares or arterial roads unless screened by an adjoining lot or building.
- d. Outdoor storage. There shall be no storage of vehicle components such as parts, trash, supplies or equipment outside of a building.
- e. Curb cuts. M-36 is the major roadway through Hamburg Township and also serves as a regional thoroughfare. Driveways and curb cuts along M-36 are permitted only as necessary to access the village. Shared access drives are required unless site conditions prohibit such collaboration.
- f. Screening.
 - 1. Where minor automobile repair establishments adjoin property located in any residentially zoned or used district, a solid, ornamental, masonry wall, six feet in height, shall be erected and maintained along a shared lot line. In addition, all trash areas shall be enclosed on all sides by a required six-foot masonry wall.
 - 2. Such walls shall be constructed of the same materials as that of the principal building, and be faced with either brick, decorative block, or pre-cast concrete formed into a decorative pattern and painted in the same color scheme as that of the principal building. All masonry walls shall be protected by a fixed curb or barrier to prevent vehicles from contacting the wall. The masonry wall may be required by the planning commission where the minor repair establishment adjoins a nonresidential use, such as a professional office building, clinic or day nursery, or a landscaped area of any other nonresidential use.
- g. Outdoor display. The outdoor display and sale of merchandise shall be prohibited, unless specifically approved by the planning commission as a condition of the special land use permit.
- h. Commercial vehicles. Tow trucks or other commercial vehicles that are on the premises for reasons other than typical customer activity shall be parked in non-required parking spaces and should not be parked in such a manner to be used as an advertisement.
- i. Fire safety. All uses shall comply with the flammable liquid regulations promulgated by the fire safety board by authority conferred by section 3 of Public Act No. 207 of 1941 (MCL 29.3c).
- j. Engineering. The installation and use of an oil-water separator with monitoring capabilities in the facility's stormwater management system shall be required, as well as the use of best management practices for pollution prevention for automobile service operations, in order to protect surface water and groundwater quality, along with approval by the Township Engineer.
- k. Modifications. Any of the requirements in subsections (b)(14)a through j of this section may be altered, as necessary, should the applicant demonstrate to the satisfaction of the planning commission justification for deviation from these use standards.

(15) Major automobile repair, subject to the following conditions:

- a. Major automobile repair may be permitted as an accessory use to minor automobile repair, provided the standards for minor automobile repair are satisfied.
- b. Outdoor storage. There shall be no storage of vehicle components and parts, trash, supplies, or equipment outside of a building, except for vehicles to be worked on, for a period lasting no

longer than seven consecutive days. All vehicles awaiting repair must be completely screened by a six-foot masonry wall, as detailed above, with landscaping in front. The amount of space dedicated to such outdoor storage areas cannot exceed the square footage of the principal building.

(Zoning Ord. 2020, § 7.5.1(J), 1-5-2021)

Sec. 36-179. Schedule of use regulations—LI Limited Industrial District.

(a) *Permitted uses.*

- (1) Planned community shopping centers subject to the following conditions:
 - a. Only those uses specifically permitted in CS Community Service shall be permitted within such development.
 - b. Minimum lot size shall be one acre with not less than 150 feet of road frontage.
 - c. The exterior of all buildings within such development shall be of consistent architectural treatment so as to provide a unified appearance.
- (2) Research and testing facilities.
- (3) Warehousing and material distribution centers.
- (4) Sale of goods at wholesale.
- (5) Manufacturing, processing, or assembling of such products as food products, pharmaceutical and cosmetic products, appliances, electrical parts, scientific instruments, office machines, and metal products except heavy machinery and transportation equipment, provided that the materials, equipment and processes utilized are to a considerable extent, clean, quiet, and free from objectionable or dangerous nuisance or hazard.
- (6) Packaging operations, but not including baling of discarded or junk materials, such as, but not limited to, paper, cloth, rags, lumber, metal, or glass.
- (7) Body, paint, and repair shops for autos and other vehicles.
- (8) Shops for plumbing, sheet metal, woodworking, machine work, and tool and die making.
- (9) Printing, publishing, and related activities.
- (10) Business and professional offices such as legal, engineering, financial, insurance, accounting, medical, dental, governmental, and other similar offices.
- (11) Banking and financial institutions.
- (12) Public service installations, public utility buildings and structures for gas, water, and electrical service, telephone exchanges, and transformer stations and substations, including the storage of equipment and vehicles, but not including power plants.
- (13) Sales, rental, service, and repair of motor vehicles, farm machinery, boats, trailers, and heavy equipment, including power plants.
- (14) Signs subject to the provisions of article XIII of this chapter.
- (15) Accessory uses subject to the provisions of section 36-215.
- (16) Essential services subject to the provisions of section 36-216.
- (17) Gasoline service stations, subject to the following conditions:

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- a. All activities, except those required to be performed at the service island, shall be conducted entirely within an enclosed building.
 - b. Outdoor storage of wrecked or dismantled vehicles shall not be permitted.
- (18) Funeral homes and mortuaries.
 - (19) Collection bins subject to the provisions of section 36-244.
- (b) *Special uses.*
- (1) Retail uses which have an industrial character in terms of either outdoor storage or display requirements or activities such as lumber yards or building supplies.
 - (2) Greenhouses, nursery sales, garden and feed centers.
- (Zoning Ord. 2020, § 7.5.1(K), 1-5-2021)

Sec. 36-180. Schedule of use regulations—GI General Industrial District.

- (a) *Permitted uses.*
- (1) All uses permitted as of right in LI Limited Industrial.
 - (2) Planned industrial parks subject to the same conditions as specified under LI Limited Industrial, except that only those uses permitted in LI Limited Industrial and GI General Industrial shall be permitted within such development.
 - (3) Manufacturing of heavy equipment and machinery.
 - (4) Contractor's establishment.
 - (5) Trucking and cartage facilities, truck and industrial equipment storage yards, repairing, and washing equipment and machinery.
 - (6) Construction and farm equipment sales.
 - (7) Manufacturer of stone or tile products.
 - (8) Open industrial uses or industrial products or materials storage, including storage of materials, inoperative equipment, vehicles, or supplies, but not including junk or salvage yards.
 - (9) Gasoline service stations subject to the following conditions:
 - a. All activities, except those required to be performed at the service island, shall be conducted entirely within an enclosed building.
 - b. Outdoor storage of wrecked or dismantled vehicles shall not be permitted.
 - (10) Collection bins subject to the provisions of section 36-244.
- (b) *Special uses.*
- (1) All special uses permitted in LI Limited Industrial.
 - (2) Concrete or concrete products manufacture.
 - (3) Asphalt and other bituminous plants.
 - (4) Bulk storage or petroleum and chemical products, flammable liquids or gasses.
 - (5) Public and private sanitary landfills, incinerators, and junk yards.

(6) Quarries and sand and gravel pits.

(7) Plating.

(Zoning Ord. 2020, § 7.5.1(L), 1-5-2021)

Sec. 36-181. Schedule of use regulations—OH Old Hamburg District.

(a) *Permitted uses.*

(1) Single-family dwelling.

(2) Retail stores for the sale of such products as hardware and paint, clothing, drugs, and notions, gifts, books and records.

(3) Food and beverage stores for the sale of groceries; fruit and meat; baked goods; dairy products; beverages and liquor.

(4) Food and beverage service establishments such as restaurants, dairy bars, and taverns provided all food and beverages shall be served from within an enclosed building.

(5) Personal service establishments such as barbershops, beauty salons, laundry pick-up, and other similar uses.

(6) Business and professional offices, such as legal, engineering, financial, insurance, accounting, medical, dental, government and other similar offices.

(7) Banking and financial institutions.

(8) Repair shops for bicycles, appliances, shoes, jewelry, small motors, and other such items but not motor vehicles.

(9) Public buildings, fire stations, community centers, and maintenance buildings.

(10) Churches and other buildings associated with religious worship, but not including housing for religious personnel.

(11) Signs subject to the provisions of article XIII of this chapter.

(12) Accessory uses subject to the provisions of section 36-215.

(13) Essential services subject to the provisions of section 36-216.

(14) Family child homes as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(15) Accessory dwelling units subject to the provisions of section 36-239.

(b) *Special uses.*

(1) Multiple family dwellings such as garden apartments, townhouses, and condominiums subject to the same restrictions as the RC Multiple Family Residential District.

(2) Housing for the elderly subject to the same restrictions as the RC Multiple Family Residential District.

(3) Inns, such as county inns and bed and breakfast establishments.

(4) Apartments subject to the provisions of section 36-235.

(5) Bed and breakfast inn.

(6) Group day care homes conducted in a residential dwelling, subject to the provisions of section 36-219.
(Zoning Ord. 2020, § 7.5.1(M), 1-5-2021)

Sec. 36-182. Schedule of use regulations—MD Mixed Development District.

(a) *Permitted uses.*

- (1) Warehousing and materials distribution centers.
- (2) Business and professional offices, such as legal, engineering, financial, insurance, accounting, medical, dental, government and other similar offices.
- (3) Banking and financial institutions.
- (4) Data processing and computer centers, including sales, service and maintenance of data processing equipment.
- (5) Manufacturing, processing, assembling or wholesaling of products, provided that the materials, equipment, and processes utilized are to a considerable extent, objectionable or dangerous nuisance or hazard.
- (6) Sales, rental, service, and repair of household goods, small engines, boats and recreational equipment, but not including automobiles, trucks and heavy equipment.
- (7) Retail stores for the sale of such products as hardware and paint, clothing, drugs, and notions, gifts, books and records.
- (8) Food and beverage stores for the sale of groceries; fruit and meat; baked goods; dairy products; beverages and liquor.
- (9) Public buildings, fire stations, community centers, and maintenance buildings.
- (10) Signs subject to the provisions of article XIII of this chapter.
- (11) Accessory uses subject to the provisions of section 36-215.
- (12) Essential services subject to the provisions of section 36-216.

(b) *Special uses.*

- (1) Multiple family dwellings such as garden apartments, townhouses, and condominiums subject to the same restrictions as the RC Multiple Family Residential District.
- (2) Industrial plants, manufacturing, processing or assembling of the following:
 - a. Biological products, drugs, medicinal chemicals, and pharmaceutical preparation.
 - b. Electrical machinery, equipment and supplies, electronic components and accessories.
 - c. Office, computing and accounting machines.
- (3) Sales, rental, service and repair automobiles, trucks and heavy equipment.
- (4) Greenhouses, nursery sales, garden and feed centers.
- (5) Research and testing facilities.
- (6) Printing, publishing, and related activities.
- (7) Experimental, film or testing laboratories.
- (8) Bed and breakfast inn.

Sec. 36-183. Schedule of use regulations—VC Village Center District.

(a) *Permitted uses.*

- (1) Single-family detached dwellings.
- (2) Duplexes and townhouses.
- (3) The following nonresidential uses up to 5,000 square feet of gross floor area, without drive-through service or outdoor retail sales/display, and in locations designated for the use in the Hamburg Village master plan:
 - a. Retail stores for the sale of such products as art/office supplies, computer equipment, hardware, appliances, sporting goods, clothing, drugs, notions, gifts, books, and home entertainment supplies and rental.
 - b. Food and beverage stores for the sale of groceries, fruit and meat; baked goods; dairy products; beverages and liquor.
 - c. Food and beverage service establishments such as restaurants, dairy bars, and taverns, including outdoor cafes.
 - d. Personal service establishments such as barbershops, beauty salons, and laundry pick-up.
 - e. Banking and financial institutions.
 - f. Repair shops for bicycles, appliances, shoes, jewelry, small motors, and other such items but not motor vehicles.
 - g. Funeral homes.
 - h. Music/dance studios and technical or vocational training facilities.
- (4) Business and professional offices such as administrative, legal, architecture, engineering, financial, insurance, real estate, accounting, medical, dental, governmental and other similar offices up to 10,000 square feet of gross floor area and in locations designated for the use in the Hamburg Village master plan.
- (5) Signs subject to the provisions of article XIII of this chapter.
- (6) Accessory dwelling units subject to the provisions of section 36-239.
- (7) Accessory buildings, structures and uses subject to the provisions of section 36-215.
- (8) Essential services subject to the provisions of section 36-216.
- (9) Family child homes, as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.
- (10) Collection bins subject to the provisions of section 36-244.
- (11) Childcare center subject to the provisions of section 36-219.

(b) *Special uses.*

- (1) Apartments.
- (2) Bed and breakfast inns.

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- (3) The permitted nonresidential uses that are greater than 5,000 square feet of gross floor area, or with drive-through service, or outdoor retail sales/display, or in locations not designated for the use in the Hamburg Village master plan.
 - (4) The permitted business and professional offices greater than 10,000 square feet of gross floor area, or in locations designated not for the use in the Hamburg Village master plan.
 - (5) Banquet halls, private clubs and fraternal halls.
 - (6) Indoor recreation centers such as fitness and health clubs, batting cages, bowling alleys, skating rinks, and athletic courts.
 - (7) Gas stations and minor vehicle repair.
 - (8) Showroom and sales of new and used automobiles and motorcycles, and repair of same when performed in conjunction with a showroom and sales of units thereof. Such uses shall be subject to the provisions of section 36-242.
 - (9) Automobile repair facilities, tires sales and service facilities and similar uses without outdoor storage, display or activities.
 - (10) Churches and other buildings associated with religious worship, but not including housing for religious personnel.

(Zoning Ord. 2020, § 7.5.1(O), 1-5-2021)

Sec. 36-184. Schedule of use regulations—VR Village Residential District.

(a) *Permitted uses.*

- (1) Single-family detached dwellings.
- (2) Signs subject to the provisions of article XIII of this chapter.
- (3) Accessory buildings, structures and uses subject to the provisions of section 36-215.
- (4) Accessory dwelling units subject to the provisions of section 36-239.
- (5) Essential services subject to the provisions of section 36-216.
- (6) Family child homes, as provided in section 36-6, and state-licensed residential facilities, except for adult foster care facilities for care and treatment of persons released from or assigned to adult correctional facilities.

(b) *Special uses.*

- (1) ECHO.
- (2) Multiple family dwellings such as duplexes, apartments, and townhouses.
- (3) Inns, such as country inns and bed and breakfast establishments.
- (4) Churches and other buildings associated with religious worship with a seating capacity of not more than 300 persons, but not including housing for religious personnel.
- (5) Public buildings, post offices, libraries, fire stations, community centers, public maintenance buildings, and public and private schools.
- (6) Childcare center, subject to the provisions of section 36-219.

(Zoning Ord. 2020, § 7.5.1(P), 1-5-2021)

Sec. 36-185. Schedule of use regulations—PPRF Public and Private Recreational Facilities District.

(a) *Permitted uses.*

- (1) Caretaker/camp administrator quarters, accessory to any permitted or special land use.
- (2) General and specialized farming and agricultural activities including raising and growing of crops, fruit, nursery stock, livestock, and other farm animals, subject to the provisions of section 36-187.
- (3) Raising and keeping of horses and other domestic animals, including stables, subject to the provisions of section 36-187.
- (4) Roadside stands for the display and sale of products raised on the premises.
- (5) Public parks, public open space, public recreation areas, fields and buildings; excluding campsites, off-road vehicle courses and trails, fun and archery ranges; and other similar more intense recreational uses as classified by the planning commission.
- (6) Signs subject to the provisions of article XIII of this chapter.
- (7) Essential services subject to the provisions of section 36-216.
- (8) Raising and keeping of poultry subject to the provisions of section 36-187.

(b) *Special uses.*

- (1) Private outdoor recreational areas and indoor recreational buildings, such as: recreational fields, rinks or courts, including football, baseball, batting cages, soccer, tennis, basketball, ice skating, swimming pools, animal racing and similar activities, and uses accessory to the above uses, such as refreshment stands, maintenance buildings, office for management functions, spectator seating, restrooms, and service areas. Such uses shall be subject to the following:
 - a. The site size shall be adequate to accommodate the intended uses, parking, and extensive buffer areas without significant impact on nearby properties in terms of noise, traffic, lighting glare, views, odors, trespassing, dust blowing debris, as determined by the planning commission. The applicant shall provide documentation the site size is adequate using national facility standards.
 - b. All ingress and egress shall be along a county road.
 - c. No building shall be located within 100 feet of a property line.
 - d. All buildings shall be setback 100 feet from the edge of any wetland or the shoreline of any lake, pond, river or stream.
- (2) Public or private campgrounds and lodges, including campgrounds for travel trailers, tent-campers, motor homes, tents, and cabins, subject to the following conditions:
 - a. Minimum lot size shall be 40 acres.
 - b. All ingress and egress shall be along a county road.
 - c. Development features including the principal and accessory buildings and structures shall be located and related to minimize adverse effects on adjacent properties. Minimum setbacks for any buildings, structures or use areas shall be 200 feet from any property line abutting a residential district.
 - d. All buildings shall be setback 100 feet from the edge of any wetland or the shoreline of any lake, pond, river or stream.

- e. Each campsite shall be at least 2,000 square feet in size.
 - f. Each camp site shall be provided with water and sanitary service approved by the health department or have convenient access to approved service buildings.
- (3) Common use or public water access sites provided such site shall comply with the standards contained in section 36-291.
 - (4) Canoe and rowboat rental.
 - (5) Off-road vehicle and go-cart courses, subject to the following conditions:
 - a. Any such site shall be located in a predominantly undeveloped area so as to minimize any adverse effects on the adjacent properties due to reasons of dust, odor and noise. Any such site shall have a minimum area of at least 80 acres. All activity shall be setback a minimum of 125 feet from any lot line.
 - b. The hours of operation shall also be set by the planning commission to minimize any adverse effects on adjacent properties.
 - c. All ingress and egress shall be along a county road.
 - (6) Gun and archery ranges, and hunt clubs, subject to the following conditions:
 - a. Any such site shall be located in a predominantly undeveloped area so as to minimize any adverse noise effects on the adjacent properties. The hours of operation shall also be so regulated as to minimize any adverse effects on adjacent properties. Any such site shall have a minimum area of at least 80 acres.
 - b. All ingress and egress shall be along a county road.
 - (7) Golf courses, driving ranges, miniature golf, including clubhouses and accessory structures.
 - (8) Ski facilities, including lodges and accessory structures.
 - (9) Public and private cemeteries, subject to the following conditions:
 - a. Minimum lot size shall be 40 acres.
 - b. No building shall be located nearer than 100 feet from any property line.
 - (10) Radio or television stations or transmitters occupying a site of no less than five acres.
 - (11) Aircraft landing fields, subject to a specific duration of such use and further subject to such conditions as shall be deemed necessary and appropriate by the planning commission to protect the public health, safety, convenience and general welfare.

(Zoning Ord. 2020, § 7.5.1(Q), 1-5-2021)

Sec. 36-186. Schedule of area, height, and bulk regulations.

Schedule of Area, Height, and Bulk Regulations

District	Minimum Lot Area (Square Feet) ^{1,6*}	Minimum Lot Width at Street (Feet) ^{2*}	Maximum Lot Coverage Buildings/Parking (%) ^{7*}	Minimum Yard Setback (Feet) ^{4*}			Maximum Building Height		Additional Regulations Section 36-187
				F ^{3*}	S ^{4*}	R	Stories	Feet	
				F ^{3*}	S ^{4*}	R	Stories	Feet	

A.	CE Country Estate Single-Family Residential District	217,800	330	20/20	30	20	35	2.5	35	Yes
B.	RAA Low Density Rural Residential	87,120	200	20/20	30	20	35	2.5	35	Yes
C.	RA Medium Density Residential	43,560	125	35/40	25	10	30	2.5	35	Yes
D.	RB High Density Residential	10,000	70	35/40	25	8	30	2.5	35	No
E.	RC Multiple Family Residential	43,560 1st unit plus 2,500 sq. ft. each additional unit	150	35/40	30	20	35	2.5	35	Yes
F.	WFR Waterfront Residential	43,560	125	35/40	25	105*	30	2.5	35	Yes
G.	NR Natural River Residential	43,560	150	35/40	25	10	30	2.5	35	Yes
H.	MHP Mobile Home Park Residential	See section 36-187(d)		—	—	—	—	2.5	35	Yes
I.	NS Neighborhood Service	10,000	80	40/75	25	205*	25	2.5	35	Yes
J.	CS Community Service	43,560	150	40/75	30	205*	25	2.5	35	Yes
K.	LI Limited Industrial	43,560	150	40/75	30	20	25	3	40	Yes
L.	GI General Industrial	87,120	200	40/75	50	20	25	3	40	Yes
M.	OH Old Hamburg	5,000	50	80/80	10	5	15	2.5	35	Yes
N.	MD Mixed Development	43,560	150	40/65	40	20	25	3	40	Yes
O.	Village Residential	21,780 ^{9*} Residential	80	35/40 ^{11*}	20 ^{12*}	10	25	2.5	35	Yes

		with sanitary sewer: 14,000 ^{8,9,10*}								
P.	Village Center	18,700 ^{9*} Residential with sanitary sewer: 10,600 ^{8,9,10*}	65	50/80 ^{11*}	see note ^{12*}	10 ^{13*}	15	2.5	35	Yes
Q.	PPRF Public & Private Recreational Facilities District	1,742,400	660	20/20	100	50	100	2.5	35	Yes

*See Footnotes

Footnotes Schedule of Area, Height, and Bulk Regulations table.

1. Minimum lot areas are for all uses within the district unless otherwise specified in sections 36-169 through 36-186, schedule of use regulations. Minimum lot areas are exclusive of public street right-of-way or private road access easements.
2. Minimum lot widths are required along the street upon which lot principally fronts. On cul-de-sacs or where a curvilinear street pattern results in irregularly shaped lots with non-parallel side lot lines, the following minimum lot widths shall apply:

<i>District</i>	<i>Minimum Lot Width at Right-of-Way</i>	<i>Minimum Lot Width at Building Line</i>
RAA	64 feet	106 feet
RA, WFR	64 feet	100 feet
RB	60 feet	70 feet
RC	100 feet	150 feet
NR	80 feet	150 feet

3. Minimum front yard setbacks are required as shown except where established buildings on adjacent lots vary from this minimum. In such case, a new building shall be constructed with a front yard of no less depth than the average front yards of buildings located on each side of the proposed building. In no case shall this provision be interpreted to allow a front yard of more than 40 feet or less than 20 feet. On corner lots, both street yards shall provide the minimum front yard setback. The size of corner lots shall be large enough to accommodate both front yard setbacks and a building of a similar size to those on non-corner lots.

4. In any district, a principal building, all attached structures, fences, and accessory structures shall not be permitted within 50 feet of the ordinary high water mark of any body of water unless otherwise stated as in section 36-215(11). In the natural river residential (NR) zoning district in addition to required front, side, and rear yard setbacks, all new buildings and structures shall be required to be setback a minimum of 125 feet from the ordinary high water mark, or if the ordinary high water mark

cannot be determined, the setback shall be from the river's edge. The setback may be decreased ten feet for every ten-foot rise in bank height to a minimum of 75 feet from the ordinary high water mark.

5. In the waterfront residential (WFR) zoning district lots that have less than or equal to 60 feet lot widths shall be provided a reduced minimum side yard setback of five feet with an aggregate side yard setback of 15 feet. In neighborhood service (NS) and community service (CS) districts, a principal building may be constructed on or near the property line, provided that the combination of the two side yards shall total 20 feet and the building's side wall is a firewall meeting building code. In all cases, one side yard shall be provided which is sufficient to permit the access of emergency vehicles to the rear of the building.

6. Lots shall contain a sufficient buildable site exclusive of any wetlands meeting the minimum zoning setback regulations plus off-street parking, septic disposal fields, well location and accessory building provisions.

7. The maximum lot coverage values are for the following:

a. Building lot coverage: the total footprint of buildings, divided by the site, excluding water bodies and wetlands.

b. Total impervious surface: the total footprint of buildings, parking, paved and gravel storage yards, driveways, streets, roads, and sidewalks, divided by the size of the site, excluding water bodies and wetlands.

Single-family or two-family residential lots may have up to an additional ten percent lot coverage after approval of a grading and drainage plan, prepared by a registered engineer or a registered landscape architect and approved by the Township Engineer.

8. For multiple-family dwellings with sanitary sewer, the following maximum densities shall be allowed:

Housing type	<i>Maximum Dwelling Units per Acre</i>	
	Village Center	Village Residential
Apartments	10	8
Townhouses	8	6
Duplexes	6	5

9. The minimum lot area for residential (single- and multiple-family) may be reduced by up to 25 percent, provided that at least half the total area by which residential lots are reduced below the minimum lot size be provided as common open space, meeting the requirements of section 36-187(i).

10. The minimum lot area for residential (single- and multiple-family) with sanitary sewer may be reduced to the sanitary sewer minimum lot size.

11. No building shall be greater than 30,000 square feet gross floor area except for a group of uses, each with individual pedestrian entrances.

12. Buildings shall be placed no more than 20 feet from the front lot line. A lesser setback may be required by the planning commission where the established setbacks of adjacent buildings is less than 20 feet. Where the average front yard setbacks for the adjacent buildings on either side of the proposed use is greater than 20 feet the planning commission may permit a front yard setback above 20 feet but not to exceed the average front yard setbacks for the adjacent buildings. For a structure with a garage door facing a public street or private road, the accessory garage building, or the front wall of the attached garage, shall be setback a minimum of five feet behind the front building line of the principal structure.

13. The side yard setback shall be a minimum ten feet except a zero-foot setback may be permitted where the building abuts another building which is separated by an approved firewall.

(Zoning Ord. 2020, § 7.6.1, 1-5-2021)

Sec. 36-187. Additional district regulations.

- (a) *PPRF public and private residential facilities; CE country estate single-family residential; RAA low density rural residential; RA medium density residential; WFR waterfront residential; and NR natural river residential.*
- (1) General and specialized farming and agricultural activities shall be subject to the following conditions:
- a. Minimum lot size shall be ten acres.
 - b. No building housing animals shall be located nearer than 75 feet from any property line.
- (2) Raising and keeping of horses and other domestic animals shall be subject to the following conditions:
- a. Minimum lot size shall be two acres.
 - b. Two horses or large domestic animals are permitted on parcels meeting the minimum lot size. For each additional horse or large domestic animal, two additional acres shall be required.
 - c. Animals must be kept within a fenced area which shall be located no nearer than 100 feet from any water body. This requirement shall not apply to a water body which is located entirely within the subject property and is not connected to any water body off the subject property.
 - d. The setback standards per section 36-293 shall apply to all districts.
 - e. No building housing animals shall be located nearer than 75 feet from any property line.
 - f. Animals shall be maintained and accommodated in a manner so as not to pose a nuisance to adjoining property or a hazard to water quality and public health, safety, and welfare. Where necessary to protect water quality and public health, safety and welfare, the zoning administrator may require additional setbacks or buffer strips from property lines or adjacent water bodies.
- (3) Raising and keeping of poultry shall be subject to the following conditions:
- a. In the Waterfront Residential (WFR) or Natural River (NR) zoning districts the raising and keeping of poultry shall only be permitted on lots greater than 2.0 acres.
 - b. Animals must be kept within a fenced area which shall be located no nearer than 100 feet from any water body. This requirement shall not apply to a water body which is located entirely within the subject property and is not connected to any water body off the subject property.
 - c. On parcels two acres or less, a maximum of eight poultry animals are permitted.
 - d. On parcels greater than two acres, 16 poultry animals are permitted. For each additional one acre over two acre, 16 additional poultry animals are permitted.
 - e. Roosters shall only be permitted on parcels greater than two acres.
 - f. Poultry must be located within the required rear yard in an enclosed structure.
 - g. The setback standards per section 36-293 shall apply to all districts.
 - h. Animals shall be maintained and accommodated in a manner so as not to pose a nuisance to adjoining property or a hazard to water quality and public health, safety, and welfare. Where necessary to protect water quality and public health, safety and welfare, the zoning administrator may require additional setbacks or buffer strips from property lines or adjacent water bodies.

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- i. Poultry must be kept and cared for under sanitary conditions; poultry shall not become excessively noisy, odorous, dangerous, or in any way disruptive to the character of the area in which they are kept, or otherwise become a public nuisance.
 - j. On lots over ten acres additional poultry may be permitted with approval of a special use permit per section 36-36.
 - k. Private restrictions on the use of property shall remain enforceable and take precedence over these additional district regulations. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. The interpretation of private restrictions is the sole responsibility of the private parties involved.
- (b) *RC Multiple Family Residential.* The minimum distance between multiple-family structures shall be 35 feet, in addition to required setback from lot lines.
- (c) *MHP Mobile Home Park Residential.*
- (1) In addition to the requirements of this chapter, all uses permitted in mobile home park residential (MHP) shall comply with the Mobile Home Commission Act, MCL 125.2301, and the current mobile home code in effect.
 - (2) Front and rear yard. Each mobile home site shall have front and rear yards of not less than ten feet each.
 - (3) Side yard. A minimum of 20 feet shall be maintained between mobile homes.
 - (4) Lot area. The mobile home park shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square foot for any one site may be reduced by 20 percent provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space, but in no case shall the open and distance requirements be less than that required by the mobile home code.
 - (5) Landscape buffer. A landscape buffer shall be required along those boundaries of the mobile home park which abut a district other than MHP. For mobile home parks of less than 25 sites, a 15-foot unoccupied landscaped buffer strip shall be provided. For mobile home parks of 25 sites or more, a 25-foot unoccupied landscaped buffer strip shall be provided. The ten-foot setback between mobile home park boundaries and a mobile home required by the Mobile Home Code may be included as part of the landscape buffer strip. The selection, spacing, and size of plant material shall be such as to create, within a five-year period from the date of planting, a horizontal obscuring effect for the entire length of the entire buffer, and a vertical obscuring effect of no less than ten feet.
 - (6) Each mobile home park shall have two paved accesses at least, one of which shall be to a major arterial street.
 - (7) Upon completion of construction of all buildings and site improvements represented on the approved mobile home park construction plans and specifications, the developer, owner, or operation of the park, in conjunction with an architect or engineer, shall submit final plans and specifications, prepared in accordance with rule 913 of the mobile home code, to the zoning administrator.
- (d) *NS Neighborhood Service and CS Community Service.*
- (1) All uses permitted in these districts including storage shall be conducted entirely within an enclosed structure unless otherwise specified herein.

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- (2) Where these districts abut a residential district, there shall be provided either a landscape buffer strip designed in accordance with the provisions of section 36-278 or a fence between six and eight feet in height as determined and approved by the planning commission.
- (e) *LI Limited Industrial.*
- (1) Vehicular access to uses permitted in this district shall be provided from a paved street within or abutting such districts.
- (2) Except as hereinafter provided, all uses permitted in this district shall be conducted in completely enclosed buildings.
- a. Outside storage of materials, products and equipment, including tank storage, shall be permitted, subject to special approval of the planning commission.
- b. Outdoor storage yards shall be completely enclosed by a solid fence or wall between six or eight feet in height.
- c. Outdoor display of finished goods for sale shall be permitted only as specified with permitted retail uses.
- d. No outside use of cranes, tanker loading or unloading facilities or rail transportation shall be permitted.
- (3) No structure shall be located less than 100 feet from any residential district.
- (4) Where this district abuts a residential district, there shall be provided either a landscape buffer strip designed in accordance with the provisions of section 36-278 or a fence between six and eight feet in height as determined and approved by the planning commission.
- (5) Every lot in this district shall provide a landscaped buffer strip of at least 15 feet in depth, measured from the front lot line, within the prescribed front yard setback. The buffer strip shall be composed of trees and/or foliage, pursuant to the Township Engineering and design standards.
- (6) All shipping and receiving activities shall be located at the rear or side of the building. No on-site truck storage overnight shall be permitted, except in the rear yard.
- (7) All piping, vents, ventilators, exhaust, refrigeration and cooling mechanisms shall be enclosed or maximally screened from view and insulated.
- (8) No crude petroleum products or processing and no processing of raw materials, including, but not limited to, logs, animal byproducts, pulp, petroleum, coal, and ores shall be permitted.
- (9) Any light industrial use which in the judgment of the planning commission may have off-site impacts requiring the imposition of additional restrictions to lessen the impacts of noise, odor, vibration, smoke, glare, dust, fumes, radiation, explosion, heat, toxic contamination, or other nuisances, shall be subject to special approval.
- (10) The planning commission may waive or modify the fencing or landscape buffering requirement upon a determination that a solid fence or landscaping buffer will not be necessary or effective for screening. In making such a determination, the following shall be considered:
- a. Need for security;
- b. Abutting district or existing use;
- c. Extent that existing natural vegetation provides the desired screening;
- d. Topographic conditions which would eliminate the benefits of required solid fencing or landscape buffer;

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- e. Building heights and views in relation to existing topography and vegetation as well as views from adjacent uses;
 - f. Similar conditions existing such that no good purpose would be served by providing the required landscaping buffer or solid fence.
- (f) *GI General Industrial.*
- (1) Vehicular access to uses permitted in this district shall be provided from a paved street within or abutting such districts.
 - (2) All uses permitted in this district shall be conducted in completely enclosed buildings, except that outdoor storage yards shall be completely enclosed by a solid fence or wall between six and eight feet in height.
 - (3) No structure shall be located less than 100 feet from any residential district.
 - (4) Where this district abuts a residential district, there shall be provided either a landscape buffer strip designed in accordance with the provisions of section 36-278 or a fence between six and eight feet in height as determined and approved by the planning commission.
 - (5) Every lot in this district shall provide a landscaped buffer strip of at least 15 feet in depth, measured from the front lot line, within the prescribed front yard setback. The buffer strip shall be composed of trees and/or foliage.
 - (6) The planning commission may waive or modify the fencing or landscape buffering requirement upon a determination that a solid fence or landscaping buffer will not be necessary or effective for screening. In making such a determination, the following shall be considered:
 - a. Need for security;
 - b. Abutting district or existing use;
 - c. Extent that existing natural vegetation provides the desired screening;
 - d. Topographic conditions which would eliminate the benefits of required solid fencing or landscape buffer;
 - e. Building heights and views in relation to existing topography and vegetation as well as views from adjacent uses;
 - f. Similar conditions existing such that no good purpose would be served by providing the required landscaping buffer or solid fence.
- (g) *MD Mixed Development District.*
- (1) Developments planned under the provisions of the MD District shall be homogeneous and uniform in nature and all reasonable attempts shall be included in such plans to protect the existing environmental quality of the site. Preservation of natural features such as slopes, stands of trees, animal sanctuaries and similar characteristics shall be taken into account when the site has such features present. Similarly, appropriate measures shall be suggested by the applicant to ensure minimal negative impact upon adjacent land areas, residents, and property owners should the site plan be implemented.
 - (2) Outdoor storage or display shall be prohibited.
 - (3) The planning commission may permit the provision of landscaped area in lieu of and within the area which would otherwise provide for up to ten percent of the total required parking spaces.
 - (4) Off-street parking areas shall not be permitted within the required front yard setback.

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- (5) Off-street loading areas shall not be visible from any public or private road.
 - (6) The planning commission may waive or modify the fencing or landscape buffering requirement upon a determination that a solid fence or landscaping buffer will not be necessary or effective for screening. In making such a determination, the following shall be considered:
 - a. Need for security;
 - b. Abutting district or existing use;
 - c. Extent that existing natural vegetation provides the desired screening;
 - d. Topographic conditions which would eliminate the benefits of required solid fencing or landscape buffer;
 - e. Building heights and views in relation to existing topography and vegetation as well as views from adjacent uses;
 - f. Similar conditions existing such that no good purpose would be served by providing the required landscaping buffer or solid fence.
 - (h) *OH Old Hamburg.*
 - (1) In an OH Old Hamburg District, no exterior portion of any commercial building or structure (including walls, fences, light fixtures, steps, pavement, or other appurtenant features), or aboveground utility structures shall be erected, altered, restored, moved or demolished without the review of the planning commission prior to the issuance of a land use permit.
 - (2) The review of the planning commission shall be advisory to the zoning administrator in the issuance of a land use permit. The purpose of the planning commission review is to advise on actions which may or may not be compatible with the desirable historic, architectural or cultural aspects of the district. The planning commission may consider Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings prepared by the U.S. Department of Interior for reviewing actions within the OH District. Such standards are made part of this chapter.
 - (3) The provisions of this subsection (h) shall not be construed to prevent the ordinary maintenance or repair of any exterior feature in an OH District. Further, the provisions of this subsection (h) shall not prevent the construction, alteration, restoration or demolition of any feature which the building inspector certifies is required because of a threat to public safety.
 - (i) *VC and VR Village Center and Village Residential Districts.*
 - (1) *Design standards.* The following design standards shall apply to all site plans reviewed under article III of this chapter special uses reviewed under section 36-36 subdivision plats reviewed under the subdivision control ordinance, and condominium projects reviewed under the condominium ordinance.
 - a. *General.* The overall design and mixture of uses shall be consistent with the intent of this district. Compatibility of uses shall be determined by the following:
 - 1. The uses shall not create noise, dust, odors, fumes or other nuisances that will have an obnoxious effect on surrounding residences.
 - 2. Traffic volumes generated by the use shall not have a negative impact on surrounding residential character.
 - 3. Architecture shall meet the requirements of section 36-73(7).
 - 4. Location and use of yards shall contribute to the continuation of open space areas within the immediate vicinity.

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5. Location and design of landscaping and pedestrian areas shall be compatible with and enhance the area pedestrian and open space network.
 6. Location, size and types of architectural projections such as porches or awnings shall be compatible with other structures along the same block.
 7. Location, scale and design of signs shall be consistent with the character of other signs, street elements structures and uses located along the same street.
 8. Residential development shall be designed to be compatible with surrounding land uses, while providing a mixture of housing types to meet the varied needs of Township residents.
- b. *Sidewalks/pedestrian circulation.*
1. Site design shall demonstrate a special sensitivity to pedestrian circulation and safety.
 2. Sidewalks at least five feet wide and at least seven feet wide where abutting parking shall be provided along public streets and private roads; bikepaths shall be required in locations designated in the Hamburg Village master plan or to provide linkages with existing or planned bikepaths.
 3. All developments shall provide pedestrian linkages between public sidewalks and the building entrances.
- c. *Common open space.* For any development which includes ten or more dwelling units, 1,500 square feet of common open space shall be provided per dwelling unit. Such open space may be counted towards meeting open space requirements for minimum lot size reductions, provided that it meets all of the following requirements:
1. Open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the planning commission, such as:
 - (i) Recorded deed restrictions;
 - (ii) Covenants that run perpetually with the land; or
 - (iii) A conservation easement established per section 8204 of Public Act No. 451 of 1994 (MCL 324.8204).
 2. The common open space shall be used for social, recreational and/or natural preservation. Common open space within the village shall be of a distinct geometric shape, generally rectilinear or square. The common open space shall include landscaping, sidewalks, pedestrian benches and pedestrian scale lamp posts. Open space at the edges of the village, as shown on the Hamburg Village master plan shall be left in a natural state, with the exception of trails or boardwalks.
- d. *Parking/loading areas.*
1. The amount of parking for nonresidential uses required under article IX of this chapter may be reduced by the planning commission by up to 50 percent upon a finding that patrons will be able to walk to the use from nearby residential areas, patrons are parked at other uses and visiting several uses, and/or on-street parking is available.
 2. Off street parking lots shall be located behind the front line of the principal building. Where this is not feasible or practical, the planning commission may permit off street parking within the front yard. Parking lots must be setback from any front lot line a minimum of 20 feet.

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3. All off street parking spaces or loading areas must be screened from view of any public road or pedestrian path right-of-way, or private road or pedestrian path easement by an evergreen hedge row or masonry wall, which is consistent with building architecture and site design, at least three feet in height.
 4. Where parking or loading areas abut a residential use, a six-foot-tall masonry wall, which is consistent with building architecture and site design, shall be constructed between the parking lot or loading area and the adjacent residential use. The planning commission may substitute the masonry wall with one or more rows of six-foot-tall evergreens.
 5. Loading/unloading from secondary streets may be permitted by the planning commission rather than the required on-site loading, upon demonstration by the applicant that through traffic flow and access to neighboring uses will not be disrupted.
- e. *Architecture.*
1. Buildings shall possess architectural variety but enhance the overall cohesive and historic village character.
 2. Building architecture shall meet the standards of section 36-73(7).
 3. The first floor of front facades shall include at least 30 percent windows. The approximate size, shape, orientation and spacing shall match that of buildings on adjacent lots.
 4. The mass and proportion of structures shall be similar to structures on adjacent lots and on the opposite side of the street. Larger buildings may be broken-up with varying building lines and rooflines to provide a series of smaller scale sections which are individually similar in mass and proportion to surrounding structures.
 5. Buildings located on corner lots shall provide distinct and prominent architectural features or site elements which reflect the importance of the building's corner location and creates a positive visual landmark. An entry feature or site landmark shall be required at corners designated for such a feature in the Hamburg Village master plan. The architectural feature or site element shall be subject to planning commission approval.
 6. On sites which contain commercial structures over 50 years old, no exterior portion of any commercial building or structure (including walls, fences, light fixtures, steps, pavement, or other appurtenant features), or aboveground utility structures shall be erected, altered, restored, moved or demolished without the review of the planning commission prior to the issuance of a land use permit. The purpose of the planning commission review is to advise on actions which may or may not be compatible with the desirable historic, architectural or cultural aspects of the district. The planning commission may consider Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings prepared by the U.S. Department of Interior for reviewing actions within the Old Hamburg Village. Such standards are made part of this chapter.
 7. For proposed alterations to commercial structures for which site plan review is not required under article III of this chapter, the review of the planning commission shall be advisory to the zoning administrator in the issuance of a land use permit. The provisions of this section shall not be construed to prevent the ordinary maintenance or repair of any exterior feature. Further, the provisions of this section shall not prevent the construction, alteration, restoration or demolition of any feature which the building inspector certifies is required because of a threat to public safety.
- f. *Signs.* Signs shall be designed to be compatible with the principal building's architecture and materials.

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- g. *Street and access design.* Streets shall meet the following, with the acknowledgment that for any public streets, any more stringent standards of the county road commission or the Michigan Department of Transportation shall apply.
1. Access points to M-36 shall be spaced at least 500 feet apart.
 2. Access points along streets or driveways intersecting with M-36 shall be setback at least 60 feet from the M-36 right-of-way line.
 3. The Township may require shared access or connections between adjacent uses as a means to limit conflict points and preserve capacity along M-36.
 4. The maximum length of blocks shall be 700 feet.
 5. Street connections to adjacent parcels shall be provided where the master plan identifies a future street connection or there is the possibility to create future street connections. Road stubs for future connections shall be improved to the parcel line.
- h. *Landscaping.* All landscaping shall meet the minimum requirements of article VIII of this chapter. Because of the higher density of development permitted in the VC and VR districts, the following standards shall apply to frontage landscaping in place of the standards contained in article VIII of this chapter:
1. At least an 80-foot-wide landscaped greenbelt shall be provided along undeveloped areas of M-36, as designated on the Hamburg Village master plan, with at least two rows of trees spaced no greater than 25 feet on center. Trees shall be a mixture of evergreen and canopy trees meeting the minimum plant size requirements of article VIII of this chapter. Provision of this landscaped greenbelt may be counted towards the common open space requirements of subsection (c) of this section.
 2. Along all road frontages, other than M-36 section identified in subsection (i)(1)h.1 of this section, one canopy street tree shall be planted within five feet of the front lot line for each 40 linear feet of frontage.
- i. *Lighting.*
1. A consistent type of pedestrian scale ornamental lighting shall be provided along all sidewalks, within any off-street parking lots and along road frontages.
 2. Parking lot lighting shall not be greater than 20 feet in height.
- (2) *Approval standards.* The following criteria shall be used, in addition to the standards contained in article III of this chapter or the subdivision control ordinance, as a basis upon which site plans or subdivision plats shall be reviewed and approved by the Township:
- a. *Compatibility with adjacent uses.* The proposal shall be designed, constructed, and maintained to be compatible with permitted uses on surrounding land to the extent that is reasonably feasible, giving consideration to economic and site conditions. Consideration may be given to:
1. The location and screening of vehicular circulation and parking areas in relation to surrounding development, to the maximum extent feasible.
 2. The location and screening of outdoor storage, outdoor activity and work areas, and mechanical equipment in relation to surrounding development.
 3. The bulk, placement, and materials of construction of the proposed use in relation to surrounding development shall be compatible as determined by the general requirements listed in section 36-187(i)(1)a.

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4. Proposed site amenities.
 5. The site grading and stormwater drainage plan.
- b. *Transportation and access.* The proposed use shall be designed to minimize the impact of traffic generated by the use to the extent that is reasonably feasible, giving consideration to economic and site conditions. Consideration may be given to the following:
1. Relationship between the proposed development and existing and proposed streets.
 2. Estimated traffic generated by the proposed use.
 3. Location and access to on-street parking.
 4. Location and access to off-street parking.
 5. Provisions for vehicular traffic.
 6. Continuation of the planned street network for the village.

The planning commission may require a traffic impact study for special uses.

- c. *Building architecture.* In determining the appropriateness of buildings, design elements shall be evaluated in relation to existing and proposed surrounding buildings and uses. The design shall meet the standards of subsection (i)(1)g of this section
- d. *Emergency access.* All buildings or groups of buildings shall be so arranged as to permit convenient and direct emergency vehicle access.
- e. *Health and safety concerns.* Any use shall comply with applicable federal, state, county, and local health and pollution laws and regulations related to noise; dust, smoke and other air pollutants; vibration; glare and heat; fire and explosive hazards; gases; electromagnetic; radioactive materials; and toxic and hazardous materials. The planning commission may require an environmental impact study for special uses.
- f. *Screening.* Off-street parking, outside refuse, storage areas, and mechanical and electrical equipment which are within sight of adjacent residential districts or public roads shall be adequately screened.
- g. *Appearance.* Signs and other site features shall be designed and located on the site so that the proposed development is aesthetically pleasing and harmonious with nearby developments.

(Zoning Ord. 2020, § 7.7, 1-5-2021)

Secs. 36-188—36-212. Reserved.

ARTICLE VII. SUPPLEMENTARY PROVISIONS

Sec. 36-213. Home occupations.

Home occupations are occupations allowed as an accessory use clearly incidental and secondary to the primary use of the dwelling unit for dwelling purposes, carried on by the immediate family members inhabiting the dwelling unit. Typical home occupations may include, but are not limited to, hairdressing, accounting, home gardening, real estate and insurance sales, appliance and motor repair, and professional offices. The following conditions for home occupations shall be met:

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- (1) *General requirements.* The following requirements shall apply to all home occupations:
- a. The home occupation shall involve no more than the equivalent of one on-site, full-time employee other than members of the immediate family residing on the premises.
 - b. A home occupation shall not endanger or infringe upon the health, safety, welfare, or enjoyment of any other persons in the area, by reason of noise, vibration, glare, fumes, odor, unsanitary or unsightly conditions, electrical interference, fire hazard, traffic, or parking congestion.
 - c. No structural alterations or additions which will alter the residential character of the structure in terms of the use or appearance shall be permitted to accommodate a home occupation.
 - d. All home occupation activities shall be conducted indoors, except gardening which may be conducted outdoors.
 - e. Only customary domestic or household equipment, or equipment judged by the zoning administrator not to be injurious or a nuisance to the surrounding neighborhood shall be permitted.
 - f. There shall be no external evidence of such occupations except a small announcement sign as specified per section 36-476. Plants used in a gardening home occupation may be grown outside only for the time period which is required for full growth.
 - g. A family day care home as defined by this chapter shall be permitted as a home occupation with any Residential District provided all provisions of section 36-213 are met.
- (2) *Class I Home Occupations.* Class I home occupations are allowed in the RAA, RA, RB, RC, WFR, NR, VC, and VR districts and do not require planning commission approval. In addition to the required general conditions, a Class I home occupation must also comply with the following restrictions:
- a. A Class I home occupation shall utilize no more than 25 percent of the total floor area on site.
 - b. Class I home occupations shall not have more than two customers and/or delivery vehicles on-site at one time, excluding the vehicles of the occupants of the home. Shipments or deliveries by vehicles having more than two axles are prohibited.
 - c. A Class I home occupation may offer for sale any article or service which is incidental to services performed or articles produced on the premises.
- (3) *Class II Home Occupations.* Class II home occupations are allowed in the RAA, RA, RB, RC, WFR, NR, VC, and VR districts after special approval per section 36-36. In addition to the required general conditions, a Class II home occupation must also comply with the following restrictions; however, the planning commission shall have the authority to modify or waive the general requirements in the special approval process:
- a. At no time shall the number of vehicles on the site of a Class II home occupation impose a negative impact on adjacent uses. Frequent shipments or deliveries by vehicles having more than two axles are prohibited.
 - b. Class II home occupations may offer for sale any article or service provided that the sale of any articles or services by a Class II home occupation shall not have a negative impact on the surrounding uses.
 - c. The planning commission may stipulate hours of operation for a home occupation.
 - d. Class II home occupations shall be located on parcels with frontage on an arterial or collector road.

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- e. Any parking associated with a home occupation shall be located to the side or rear of the principal building.
 - f. Class II home occupations shall be required to submit an annual permit for administrative review. All annual permits shall be received by the zoning administrator on January 15. If the applicant received their special use between October and January 14, they shall submit their annual permit one year from January 15 of the following year.

In the event the zoning administrator determines that the Class II home occupation no longer complies with the provisions of this section, section 36-36, or any conditions placed on the operation by the Township, the applicant will be required to submit a revised application for special use approval to the planning commission.

(4) *Approval procedure for Class II home occupations.*

- a. Class II home occupations can only be approved by the planning commission after a public hearing and pursuant to the requirements of section 36-36.
- b. A site plan for a home occupation does not need to be a formal site plan complying with the requirements of article III of this chapter. The applicant shall submit a plot plan and letter describing the proposed use, the portion of the dwelling or other building 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 100 feet, abutting streets, driveways, and parking areas.
- c. Prior to granting approval, the planning commission must determine that a proposed Class II home occupation is compatible with 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 section 36-36.
- d. A home occupation approval shall be limited to the applicant and members of his immediate family residing in the dwelling unit. Home occupation approval shall not be transferable with sale, rental, or lease of the dwelling unit.

(Zoning Ord. 2020, § 8.1, 1-5-2021)

Sec. 36-214. Signs.

Sign regulations have been moved to article XIII of this chapter.

(Zoning Ord. 2020, § 8.2, 1-5-2021)

Sec. 36-215. Accessory buildings and structures.

Accessory buildings and structures, except as otherwise provided for in this chapter, shall be subject to the following provisions:

- (1) Authorized accessory buildings may be erected as part of the principal building; may be connected to the principal building by a roofed porch, breezeway, or similar structure; or may be completely detached from the principal building.
- (2) All accessory buildings shall meet front and side yard requirements, except where such accessory buildings are detached and located completely to the rear of the principal building, in which case an accessory building may be located no nearer than five feet to any side lot line.

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- a. On a lot that abuts a water bodies if an accessory building is located between the principal structure and the front property (the property line that abuts the street) the accessory building may be located no nearer than 15 feet from the lot line which abuts the street and ten feet from one side lot line and five feet from the opposite side lot line.
 - b. If the existing structure on a lot that abuts a water body has nonconforming side yard setbacks and a side yard setback less than ten feet is utilized for the accessory building, the smallest side yard setback on the accessory building shall be on the same side as the smallest side yard setback on the existing structure.
- (3) No accessory building shall be located nearer than five feet to any rear lot line or occupy more than 30 percent of any rear yard area.
 - (4) An accessory building which is detached from the principal building shall not be located nearer than ten feet to any separate building or structure on the lot.
 - (5) On a corner lot in any residential district, no accessory building shall be located nearer to the side street lot line than the side yard setback of the principal building on said lot. In all cases, the garage entrance shall be located to allow adequate sight distance and off-street parking. When the rear lot line forms a part or all of a side lot line of an adjacent lot, a garage shall be no nearer than five feet to the rear lot line.
 - (6) In residential districts, private swimming pools are permitted as an accessory use, provided that:
 - a. They are accessory to an existing dwelling;
 - b. The pool, including all connections and appurtenances, is located either:
 1. Entirely within a rear yard, maintains a minimum setback of five feet from the rear and side property lines and pump and filter installations are located a minimum of ten feet from the adjoining property lines; or
 2. Entirely within a side yard or partially within a side yard and rear yard and maintains a minimum setback from any property line equal to or greater than the required minimum rear yard setback as stated in section 36-186, including footnotes, for the zoning district in which it is located;
 - c. A masonry wall or approved fence between four and six feet in height shall enclose the pool. All openings in the wall or fence shall be equipped with self-closing, self-latching gates or doors.
 - (7) In residential districts abutting a water body, docks are permitted on legal lots of record that have improved roadway access and spaces for on-site parking. Such docks may be located in the water but not nearer than five feet from any side lot line where the land and dock intersect.
 - (8) Detached accessory buildings located within residential districts which have a roof pitch less than 8:12 shall not exceed 14 feet in height, as defined. Detached accessory buildings located within residential districts which have an 8:12 pitched roof or greater shall not exceed 17 feet in height, as defined. This provision shall not apply to parcels of land containing five acres or more.
 - (9) No accessory building or structure shall be permitted prior to the construction of the main building or structure.
 - (10) Accessory buildings, structures and uses in waterfront districts. In the waterfront residential district (WFR) and the natural river residential district (NR), accessory garage structure may be placed on a separate lot of record than the principal structure if the following provisions are met and a permit has been issued by the zoning administrator:
 - a. The lot upon which the principal building is located must be a waterfront or riparian lot.

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- b. The garage can only be constructed on a non-waterfront lot.
 - c. The accessory structure can be used only for a garage or storage facility. Garages or storage facilities may not exceed a combined total of 800 square feet of ground floor area. One shed may be permitted in addition to the 800 square feet of accessory buildings.
 - d. There shall be common ownership between the principal building or residence and lot being used for the garage.
 - e. The lot upon which the principal building is located must not be more than 66 feet from the lot being used for the garage.
 - f. The accessory structure shall maintain all required front, side, rear yard setbacks and lot coverage regulations associated with a principal structure as specified in section 36-186. Height shall conform with subsection (8) of this section.
- (11) On lots that abut a water body in any zoning district other than natural river districts, accessory structures are permitted within 50 feet of the ordinary high water mark of any body of water if they meet the following requirements:
- a. They are less than 144 square feet in size;
 - b. They are no greater than ten feet in height; and
 - c. Provided all other regulations in this chapter are met.
- (12) All structures located within the natural river district shall also comply with the requirements of section 36-175.

(Zoning Ord. 2020, § 8.3, 1-5-2021)

Sec. 36-216. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the Township. The construction of buildings associated with essential services shall be subject to the provisions of article III of this chapter with the exception that the planning commission shall only provide a written recommendation to the Township Board which shall approve, approve with conditions, or deny the site plan application for all essential services after receipt of such recommendation. Approvals, permits, and agreements required by other Township ordinances must be obtained prior to application for site plan review. Approvals granted under other ordinances in no way constitute site plan approval. Otherwise, the construction, maintenance and alteration of essential services shall be exempt from the provisions of this chapter.

(Zoning Ord. 2020, § 8.4, 1-5-2021)

Sec. 36-217. Single-family dwellings, mobile homes, prefabricated housing.

No single-family dwelling (site built), mobile home, modular housing, or prefabricated housing located outside a mobile home park or mobile home subdivision shall be permitted unless said dwelling unit conforms to the following standards:

- (1) *Square footage.* Hamburg Township does not have a minimum square footage requirement. The maximum dwelling size is only restricted by the lot setbacks and lot coverage regulations in section 36-186. Each such dwelling unit shall comply with any state construction code requirements for minimum square footage.

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- (2) *Dimensions.* Each such dwelling shall comply in all respects with the Michigan State Construction Code Commission, including minimum heights for habitable rooms. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those imposed by the Michigan State Construction Code Commission, then and in that event such federal or state standard or regulation shall apply.
 - (3) *Foundation.* Each such dwelling unit shall be firmly attached to a permanent foundation constructed on the site in accordance with the Michigan State Construction Code Commission and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code. All dwellings shall be securely anchored to the foundation in order to prevent displacement during windstorms.
 - (4) *Undercarriage.* Dwelling units shall not be installed with attached wheels. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
 - (5) *Sewage disposal or water supply.* Each such dwelling unit shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.
 - (6) *Storage area.* Each such dwelling unit shall contain a storage capability area either in a basement located under the dwelling, in an attic area, or in a separate or attached structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
 - (7) *Architecture.* All dwellings shall be aesthetically compatible in design and appearance with other residences in the vicinity. All homes shall have a roof overhang of not less than six inches on all sides. Steps shall also be required for exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
 - (8) *Compatibility determination.* The compatibility of design and appearance shall be determined in the first instance by the Township Zoning Administrator. Any determination of compatibility shall be based upon the character, design, and appearance of one or more residential dwellings located outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the lots situated within said area; or, where said area is not so developed, by the character, design, and appearance of one or more residential dwellings located outside of mobile home parks throughout the Township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 - (9) *Additions.* Each such dwelling unit shall contain no addition or room or other area which is not constructed with similar quality, materials and workmanship as the original structure, including permanent attachment to the principal structure and construction of a foundation as required herein.
 - (10) *Code compliance.* Each such dwelling unit shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards, as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
 - (11) *Building permit.* All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable state construction code provisions and requirements.
 - (12) *Exceptions.* The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state or federal law or otherwise specifically required in this chapter and pertaining to such parks. Mobile homes which do not conform to the standards of this

section shall not be used for dwelling purposes within the Township unless located within a mobile home park or a mobile home subdivision district for such uses, or unless used as a temporary residence as otherwise provided in this chapter.

(Zoning Ord. 2020, § 8.5, 1-5-2021)

Sec. 36-218. Public or private elementary, junior, or senior high schools, and institutions of higher education.

Schools and educational institutions shall be subject to the minimum requirements of the district in which they are located and the following additional standards:

- (1) Minimum lot size shall be five acres.
- (2) No building shall be located nearer than 100 feet from any property line.
- (3) Such use shall be located with frontage on a hard surface public street having a right-of-way of at least 66 feet.

(Zoning Ord. 2020, § 8.6, 1-5-2021)

Sec. 36-219. Group day care homes, childcare centers.

Group day care homes and childcare centers shall be subject to the minimum requirements of the district in which they are located, state licensing requirements, and the following additional standards.

- (1) The number of children permitted for childcare centers shall not exceed one child per 500 square feet of usable lot area, unless a smaller area is determined to be adequate through the special use permit process. The number of children permitted for childcare centers and group day care homes shall be subject to the provisions of state licensing requirements.
- (2) A fenced play area of 100 square feet per child shall be provided, unless a smaller area is determined to be adequate through the special use permit process. The size of the outdoors play area for childcare centers and group day care homes shall be subject to the provisions of state licensing requirements.
- (3) If a special use permit is required the planning commission shall determine through the special use permit process (section 36-36) if the size of the subject property and the size of the fenced play area are adequate for the proposed use on the property. In making this determination the planning commission may consider the characteristics of the proposed use, the subject property, the surrounding properties and any other factors that may have an impact of the proposed use. Some characteristics to consider may include, but are not limited to, the number and age of the children to be cared for; the number of employees; the use of the subject site and surrounding properties; and the size, location, layout, of the site improvement both on the subject site and on the surrounding properties.
- (4) The site shall be designed to minimize nuisance to adjoining property and protect the safety of children using the facility.

(Zoning Ord. 2020, § 8.7, 1-5-2021)

Sec. 36-220. Temporary structures.

No structure shall be used for dwelling purposes that does not comply with the requirements of this chapter or applicable building codes, except as provided in this section.

(Zoning Ord. 2020, § 8.9(1), 1-5-2021)

Sec. 36-221. Temporary buildings, structures, and shelters.

- (a) *General provisions.* No temporary structure shall be used for dwelling purposes that does not comply with the requirements of this chapter or applicable building codes, except as provided in this section. All temporary buildings and structures not discussed in this section shall meet the requirements of this chapter for the type of building or structure and for the zoning district it is located in.
- (b) *Permitted temporary buildings, structures, and shelters.* The following are permitted subject to meeting all of the following requirements of this section:
 - (1) *Temporary dwellings.* No temporary dwelling shall be erected or moved onto a lot and used for dwelling purposes except during construction of a permanent dwelling on the premises which has been issued a building permit. The reasonable date for removal of the temporary dwelling, established on the permit issued by the zoning administrator, shall not exceed one year from the date of occupancy of the permanent structure. The temporary dwelling shall be connected to private water supply and sewage disposal systems approved by the County Health Department or to public water supply and sewage disposal systems. No temporary dwelling shall be erected in any lot which is a part of a platted subdivision.
 - (2) *Temporary construction structures.* Temporary buildings and/or structures used for storage of equipment and construction offices may be used only during construction of a permanent structure which has been issued a building permit. The temporary building and/or structure shall be removed from the site prior to issuance of a certificate of occupancy.
 - (3) *Temporary shelters.* Temporary shelters shall only be allowed for storage. These structures are only permitted in the rear yard area on lots that do not abut a waterbody and are only allowed between the main structure and the road right-of-way on lots that do abut a waterbody in the CE, RAA, RA, WFR, and NR zoning districts. These structures shall be maintained at all times. These structures are also allowed when part of a special event, temporary use or seasonal sale permit.
 - (4) *Permits.* A temporary building or structure shall require issuance of a land use permit from the zoning administrator under section 36-34. The permit shall be renewed annually if needed. Any temporary building or structures shall be placed so as to conform to all yard requirements of the zoning district in which it is located.
- (c) *Applicant's deposit required.* The Township may require a deposit by the applicant with the Township Clerk in the form of a certified check, cash, or a surety bond in an amount sufficient to hold the Township free of all liabilities incident to the operation of a temporary building, to indemnify any adjoining landowner for any damages resulting from the operation of such activity and to ensure proper and complete clean-up and removal of all temporary buildings. The amount of such bond, cash, or check shall be estimated by the zoning administrator. The Township shall rebate to the applicant upon satisfactory removal of all temporary buildings. Such rebate shall be based upon the report and recommendation of the zoning administrator. The zoning administrator may refer the application to the Township Engineer for review of the proposed improvements and recommendations of performance guarantees.

(Zoning Ord. 2020, § 8.9(2), 1-5-2021)

Sec. 36-222. Special events, seasonal sales and other temporary uses.

- (a) The following conditions apply to specific temporary uses:
- (1) Carnival, circus and musical concert or other transient entertainment or recreational enterprise.
 - a. Maximum duration: Ten days.
 - b. Operator or sponsor: Nonprofit entity.
 - c. Location: Shall not be located in or adjacent to any developed residential area except on church, school or park property.
 - (2) Sidewalk or tent sale or other similar outdoor sale.
 - a. Maximum duration: Seven days.
 - b. Location: In commercial districts only.
 - c. Sidewalk coverage: Shall not cover more than 50 percent of the width of the sidewalk. ADA compliance must still be met.
 - d. Parking lot coverage: Sufficient number of parking spaces shall remain to meet the existing zoning requirements for that district.
 - (3) Sporting or outdoor recreational event and any overnight camping associated with these events.
 - a. Maximum duration: Ten days.
 - (4) Search light or other apparatus used for the projection of a high intensity light beam.
 - a. Maximum duration: Three days.
 - b. Light must not be directed towards other properties.
- (b) Permit requirements. The Township Zoning Administrator shall make a determination that the location of any special event, seasonal sale or temporary uses will not adversely affect adjoining properties, nor adversely affect public health, safety, and the general welfare of the Township by using the following standards. The permit shall establish a reasonable date for removal of the temporary structure and/or use, and shall set forth other conditions of permission as deemed necessary by the zoning administrator.
- (1) Plot plan. A plot plan shall be submitted with all the information required under section 36-77(c) along with a detailed description of the use or event. The description should include, but not be limited to, description of use or event, dates and hours of operation, number of employees, projected number of people that will attend the use or event, any amplified noise uses how the site will secured, the plan for proposed cleanup of the site, etc.
 - (2) Standards. In order to protect the adjacent property owners and citizens of the Township, the zoning administrator shall review all special events, seasonal sales and temporary uses to ensure they meet the following standards:
 - a. Adequate off-street parking and ingress and egress shall be provided.
 - b. All uses shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
 - c. The applicant shall specify the exact duration of the temporary use.
 - d. Electrical and utility connections shall be approved by the building official.

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- e. Adequate site and surrounding area clean up shall be done during and following the use. All improvements shall be removed from the site at the conclusion of the project.
 - f. Adequate restroom facilities shall be provided. A general guide for this requirement is one toilet for each 50 persons estimated to attend.
 - g. Closure of commercial or similar activity shall be from 12:00 midnight to 9:00 a.m.
 - h. Any signage shall conform to the provisions of the district in which the use is located.
 - i. There will be no gambling or use of alcohol or controlled substances contrary to law.
 - j. There will be no generation of bright lights, loud noises, or strong odors at a level or intensity sufficient to create a nuisance to adjacent properties.
- (c) Performance guarantee. The Township may require a deposit by the applicant with the Township Clerk in the form of a certified check, cash, or a surety bond in an amount sufficient to hold the Township free of all liabilities incident to the operation of a temporary use, to indemnify any adjoining landowner for any damages resulting from the operation of such activity and to ensure proper and complete clean-up after temporary use and removal of all temporary buildings. The amount of such bond, cash, or check shall be estimated by the zoning administrator. The Township shall rebate to the applicant upon satisfactory removal of all temporary uses. Such rebate shall be based upon the report and recommendation of the zoning administrator. The zoning administrator may refer the application to the Township Engineer for review of the proposed improvements and recommendations of performance guarantees.

(Zoning Ord. 2020, § 8.10, 1-5-2021)

Sec. 36-223. Unsafe buildings.

Nothing within this chapter shall be construed to prevent compliance with an order by the appropriate authority to correct, improve, strengthen, or restore to a safe or healthy condition, any part of a building or premises declared unsafe or unhealthy.

(Zoning Ord. 2020, § 8.11, 1-5-2021)

Sec. 36-224. Structural damage.

Any structure or building which may be in whole or in part destroyed by fire, windstorm, or other such cause, if rebuilt, shall be rebuilt in accordance with this chapter and other pertinent codes and ordinances or shall be restored to a safe and healthy condition with all debris removed from the site within 90 days from the occurrence of such damage.

(Zoning Ord. 2020, § 8.12, 1-5-2021)

Sec. 36-225. Building grades.

The finished surface of ground areas outside the walls of any building or structure hereafter erected, altered, or moved shall be so designed that surface water shall flow away from the building walls in such a direction and with such a method of collection that inconvenience or damage to adjacent properties will not result. When property is developed adjacent to existing properties previously developed, existing grades shall have priority.

(Zoning Ord. 2020, § 8.13, 1-5-2021)

Sec. 36-226. Street closures.

Whenever any street, alley, or other public way is vacated by official action, the zoning district adjoining each side of such public way shall automatically be extended to the center of such vacation, and all area included therein shall henceforth be subject to all appropriate regulations of that district within which such area is located.

(Zoning Ord. 2020, § 8.14, 1-5-2021)

Sec. 36-227. Fences, walls and screens.

- (a) All fences, walls and other protective barriers (referred to in this section as fences) of any nature, description located within any district of Hamburg Township shall meet all of the following regulations:
- (1) All structures shall be located entirely on or within the lot lines of the lot upon which they are located; and shall not be located within any public road right-of-way or private road easement. Fences on any corner lot must also comply with the setback requirements of section 36-228.
 - (2) Fences shall consist of materials commonly used in conventional fence construction, such as wood or metal. Razor wire shall not be permitted. Fences, which carry electric current shall be permitted only in conjunction with the raising and keeping of horses or other domesticated animals permitted under section 36-187. Barbed wire may be permitted in industrial districts, provided that the barbed wire is at least six feet above ground.
 - (3) If, because of the design or construction, one side of the fence has a more finished appearance than the other, the side of the fence with the more finished appearance shall face the exterior of the lot.
 - (4) A fence shall not be erected where it would prevent or unreasonably obstruct the use of adjacent property or the safe use of an existing driveway or other means of access to adjacent property.
 - (5) Fences shall be erected in a manner to allow emergency access to the rear yard of a lot by placing a gate and providing sufficient space between the building line of any structure and the fence on at least one side of the yard.
 - (6) Fences shall be maintained in good condition. Rotten or broken components shall be replaced, repaired, or removed. As required, surfaces shall be painted, stained, or similarly treated.
 - (7) The height of a fence shall be measured from the point at which the fence posts, pilasters or footing intersects the ground on the lowest side of the fence to the top of the fence directly above. Where a fence is built on top of a wall, the combined fence/wall height is measured from the lowest grade to the top of the fence directly above. A fence may slightly exceed the height limits due to minor variations in the underlying terrain as determined by the zoning administrator.
- (b) In addition to the standards of this section, all fences, walls, or other screening structures, other than necessary retaining walls, located within a single-family residential district shall not exceed the following maximum heights described herein and graphically depicted in figures 1—8.
- (1) Any fence located within the front yard may not exceed a maximum height of four feet. For the purposes of the fence regulations a corner lot shall be considered to have front yard along each of the roadways. All fences in the front yard shall be 50 percent open (examples: split rail, picket, or wrought iron fences). In no case shall a fence greater than four feet be located in the minimum front setback for the zoning district.
 - (2) Any fence located outside of a front yard may have a maximum height of six feet.
 - (3) The following are exceptions to this subsection and subsection (a) of this section:

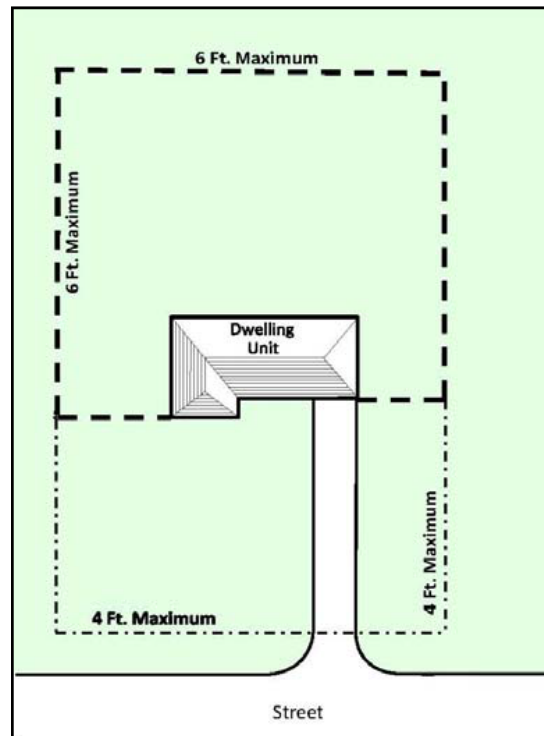
- a. Where lots abut a water body:
 - 1. No fence shall be permitted in the required lake or river setbacks in section 36-186 (footnote 3) other than railings as permitted under section 36-230(9).
 - 2. Any fence located between the ordinary high water mark of the water body and the principal building shall not exceed a maximum height of four feet and shall be 50 percent open.
- b. No Fence shall be permitted in a wetland area but fences are permitted within the required wetland setbacks in section 36-293.
- c. On all lots where the front yard of a subject lot abuts the side or rear yard of one or more adjoining lots, the height of the fence on the subject lot may be six feet along that portion of the common property line. (See Figure 2).
- d. Wire fences used to contain livestock and farm animals are exempt from height requirements.
- e. Wire fences used around gardens or crops are exempt from height requirements if they are made to be 75 percent open materials such as soft meshing and are over five feet from the closest property line.

(c) Figures 1 through 8 that graphically depict fence height and locations.

Fencing Heights, as indicated in figures below:

Four-Foot Maximum, Six-Foot Maximum:

Figure 1 and Figure 2: Standard Lots



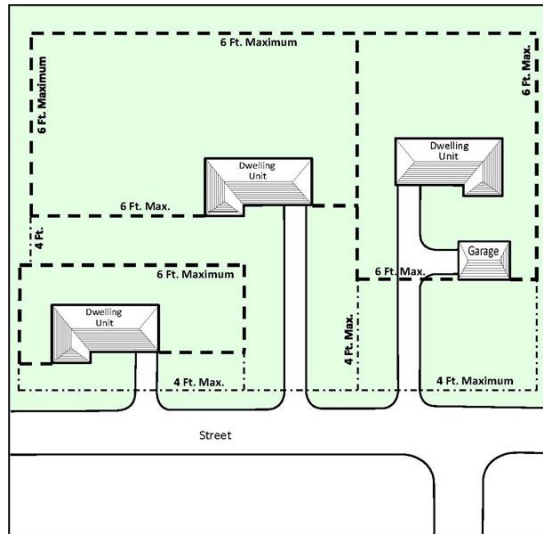
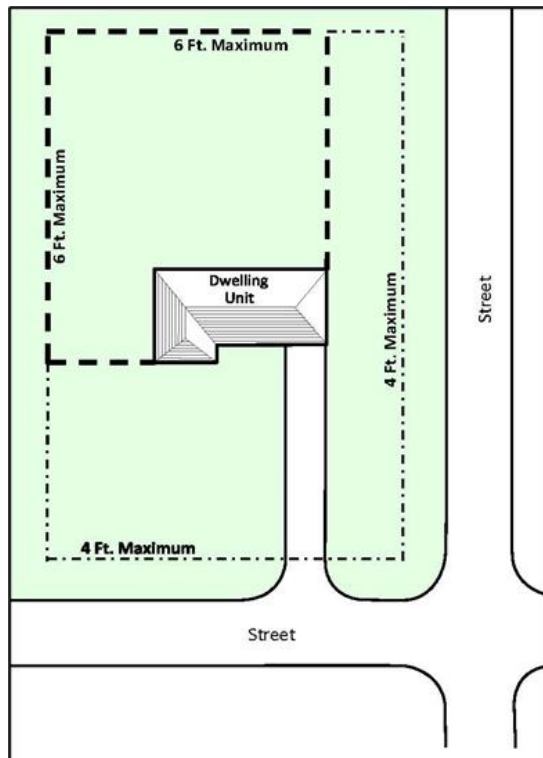


Figure 3, Figure 4, and Figure 5: Corner Lots



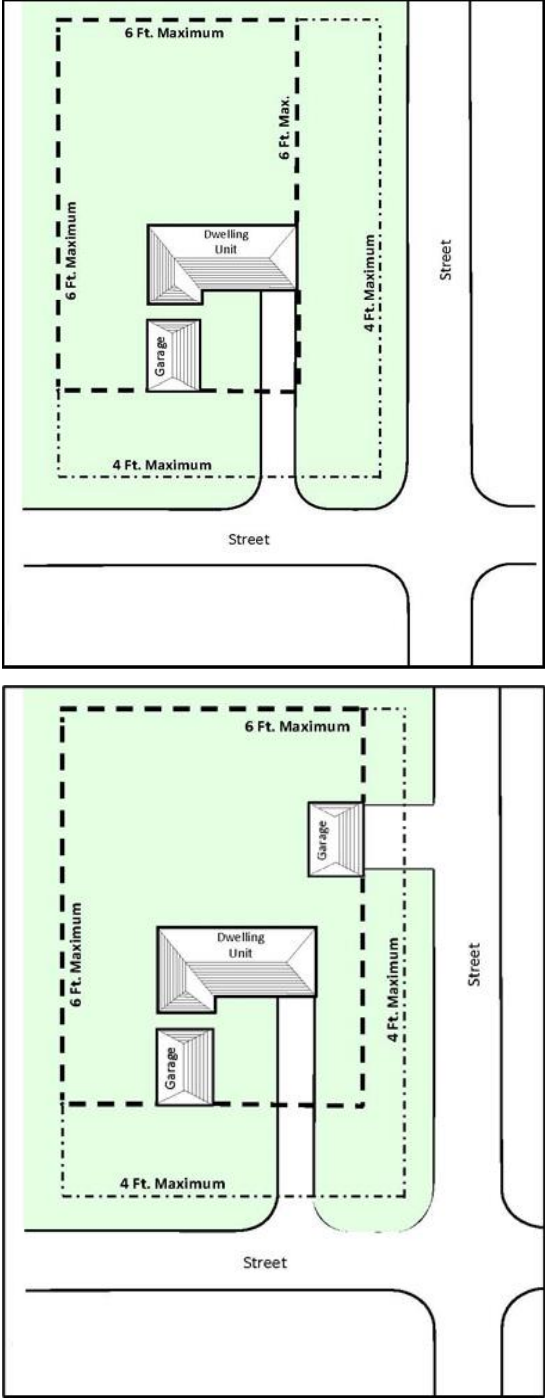


Figure 6: Waterfront Lots

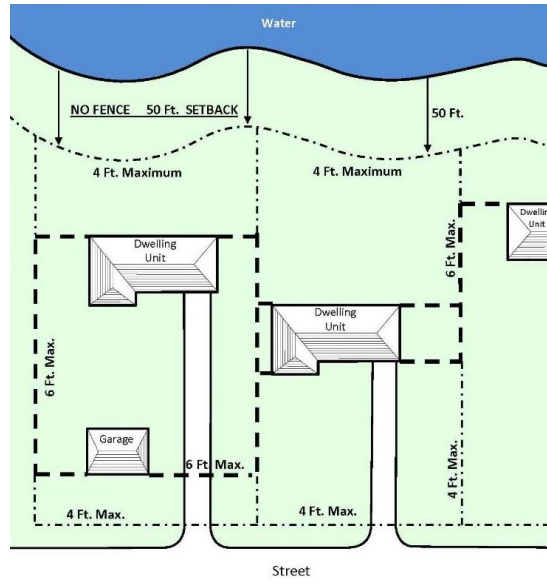
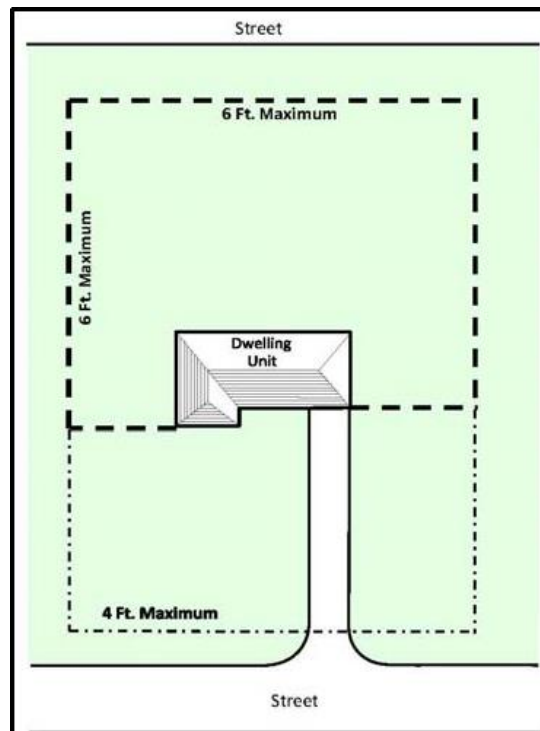
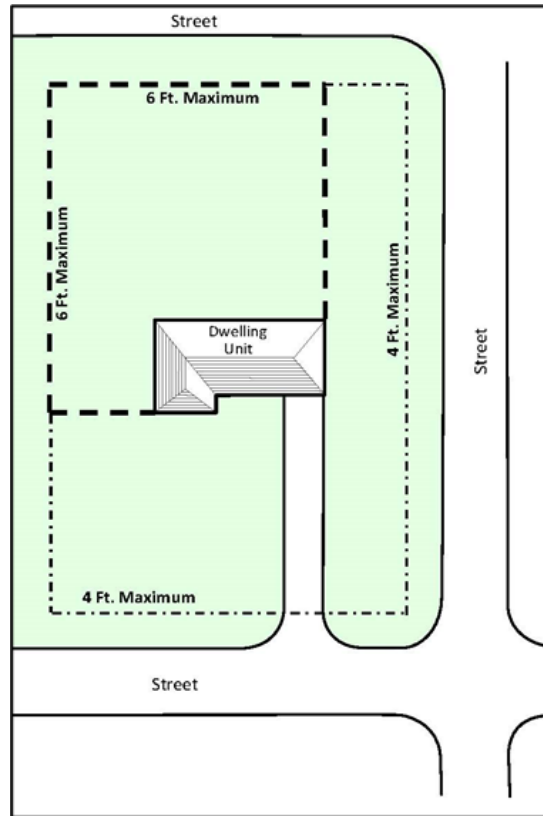


Figure 7 and Figure 8: Through Lots



Through Lots



(Zoning Ord. 2020, § 8.15, 1-5-2021)

Sec. 36-228. Intersection visibility.

On any corner lot in any district having front and side yards, no fence, wall, screen, hedge, sign, or other structure or planting shall obstruct the visibility of street vehicular traffic between the heights of three feet and ten feet in an area measuring 30 feet from the point of intersection of the street right-of-way lines and the tangent connecting the 30-foot extremities of the intersecting right-of-way lines.

(Zoning Ord. 2020, § 8.16, 1-5-2021)

Sec. 36-229. Access to a street.

Any lot of record created prior to the effective date of the ordinance from which this chapter is derived without any frontage on a public street or way shall not be occupied except where access to a public street or way is provided by a public or private easement or other right-of-way no less than 20 feet in width and meeting the requirements of section 36-335 through 36-344. Access to commercial, industrial, or recreational uses shall not be designed so as to pass through residential neighborhoods.

(Zoning Ord. 2020, § 8.17, 1-5-2021)

Sec. 36-230. Yard encroachments.

The following shall apply to all buildings and structures, whether temporary or permanent:

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- (1) Decks, terraces and patios may project into a required yard provided that such structures are:
 - a. Unroofed and without walls or other continuous enclosure.
 - b. That no such structure shall be permitted nearer than five feet to any lot line.
 - c. That such areas and structures may have open railings or fences not exceeding three feet in height.
 - d. That such structures may have non-continuous windbreaks, visual screens, or walls not exceeding eight feet in height in a rear yard, or four feet in height in a front or side yard, and not enclosing more than one-half the perimeter of said deck, terrace, patio, or similar structure.
 - (2) Elevated decks and balconies may project into a required yard a distance not to exceed six feet, provided:
 - a. That such structure shall not be permitted within eight feet of any lot line.
 - b. That no building shall have more than one such elevated deck or balcony in any one yard.
 - c. That such areas and structures may have open railings or fences not exceeding three feet in height.
 - d. That such structures may have non-continuous windbreaks, visual screens, or walls not exceeding eight feet in height in a rear yard, or four feet in height in a front or side yard, and not enclosing more than one-half the perimeter of the elevated deck or balcony.
 - (3) Unenclosed or enclosed porches and other enclosed appurtenances to a principal building shall be considered an integral part of the building to which they are attached and shall be subject to all yard requirements thereof.
 - (4) Chimneys, flues, belt courses, sills, pilasters, bay windows, awnings, approved signs, window air conditioners, cornices, eaves, gutters, and similar features may project into any required yard a maximum of 24 inches.
 - (5) Unenclosed and unroofed fire escapes, outside enclosed or unenclosed stairways, and excavated stairways may project into any required yard a maximum of five feet.
 - (6) Accessory structures and buildings, including gazebos, decks, terraces, patios and similar features, which are not attached to a principal building, shall comply with the requirements of section 36-215.
 - (7) Access drives may be placed in the required front, side, or rear yards so as to provide access to rear yards or accessory or attached structures. Further, any walk, terrace or other pavement serving a like function, shall be permitted in any required yard, providing the pavement is no higher than nine inches above grade.
 - (8) Stoops or steps must lead to an exterior entrance to a building and shall not encroach into any required yard more than five feet.
 - (9) Decks, patios, and terraces may abut a waterbody and the following conditions shall apply:
 - a. Said structures shall not exceed 12 inches in height above the average surrounding grade.
 - b. Yard coverage shall not exceed 30 percent for all structures on the lot including the principal building.
 - c. The horizontal distance of said structures shall not exceed 50 percent of the width of the lot line that abuts the waterbody.
 - d. Said structures shall be at least five feet from a side lot line.

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- e. Said structures shall not extend over the water more than 24 inches. This provision shall not apply to seasonal docks.
 - f. Railings shall not exceed three feet in height and shall not obstruct view by more than 30 percent.
- (10) Mechanical equipment on residential properties such as ground-mounted air conditioners, full house generators, and similar machines, may project into any required yard a maximum of four feet provided:
- a. The noise regulations of section 36-285 and general Ordinance No. 94-A, breach of peace, shall be met;
 - b. The said mechanical equipment shall be located closer to the subject building than buildings on surrounding properties; and
 - c. The said mechanical equipment shall be sufficiently screened from off-site views by either a vegetated screen or visual screen, as deemed appropriate by the zoning administrator.

(Zoning Ord. 2020, § 8.18, 1-5-2021)

Sec. 36-231. Supplementary height regulations.

- (a) The following structural appurtenances shall be permitted to exceed the height limitations for authorized uses in any district.
 - (1) Those purely ornamental in purpose such as church spire, belfries, domes, cupolas, ornamental towers, flagpoles, and monuments.
 - (2) Those necessary to mechanical or structural functions such as chimneys, smokestacks, water tanks, elevator and stairway penthouses, ventilators, bulkheads, aerials, and antennas, electronic devices, heating and cooling units, and fire towers.
 - (3) Those necessary to proper building design such as cornices and parapet walls, which shall not exceed the height limitations by more than five feet and shall have no window openings.
- (b) The foregoing permitted exceptions may be authorized only when the following conditions are satisfied:
 - (1) No portion of any building or structure permitted as an exception to a height limitation shall be used for human occupancy or commercial purposes.
 - (2) Any structure permitted as an exception to a height limitation shall be erected no higher than such height as may be necessary to accomplish the purpose for which it is intended to serve.
 - (3) Structures permitted as exceptions to height limitations shall not occupy more than 20 percent of the gross roof area of any building upon which they may be located.

(Zoning Ord. 2020, § 8.19, 1-5-2021)

Sec. 36-232. Continued conformance with regulations.

The maintenance of yards, open spaces, lot areas, height and bulk limitations, fences, walls, clear vision areas, parking and loading spaces, and all other requirements for a building or use specified within this chapter shall be a continuing obligation of the owner of such building or property on which such building or use is located.

(Zoning Ord. 2020, § 8.20, 1-5-2021)

Sec. 36-233. Garage sales, rummage sales, and similar activities.

Garage sales, rummage sales, yard sales, moving sales, and similar activities shall be considered temporary accessory uses within any residential zoning district subject to the following conditions:

- (1) Any garage sale, rummage sale or similar activity shall be allowed without a land use permit for a period not to exceed four days within a six-month period. Such activities in operation for a period of time in excess of four days shall require a temporary land use permit from the zoning administrator. In no instance shall more than two garage sales, rummage sales or similar activity be held in any one location within any 12-month period.
- (2) All such sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
- (3) All such sales shall be conducted a minimum of 20 feet from the front lot line of the premises of such sale.
- (4) Overnight outside storage of goods or merchandise offered at such sale is prohibited.
- (5) No signs advertising a garage sale or similar activity shall be placed upon public property. Two signs advertising a garage sale are permitted to be placed upon private property with the consent of an owner of said property and shall be removed within 24 hours of the conclusion of said garage sale or similar activity.

(Zoning Ord. 2020, § 8.21, 1-5-2021)

Sec. 36-234. Firewood sales.

The sale of firewood shall be considered permitted uses in the RAA, RA, NS, and CS districts subject to the following conditions:

- (1) A land use permit renewable on an annual basis shall be secured from the Township Zoning Administrator.
- (2) In the RAA and RA districts, storage of firewood shall be restricted to the side and rear yards.
- (3) All sales shall be conducted in a manner so as not to create a traffic hazard or a nuisance to neighboring properties.
- (4) Adequate parking and ingress and egress to the premises shall be provided.
- (5) Signs shall conform to the provisions of the district in which firewood sales are located.

(Zoning Ord. 2020, § 8.22, 1-5-2021)

Sec. 36-235. Apartments in the NS, CS, and OH zoning districts.

The following conditions shall apply to all buildings containing residential uses in the NS, CS, and OH districts:

- (1) One-family dwellings, two-family dwellings, and buildings consisting solely of multiple-family dwellings are prohibited.
- (2) The gross square footage available for apartments within a building or structure shall not exceed the gross square footage available for business occupancy within the building.

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- (3) All construction within the building shall comply with adopted building and fire codes for mixed use buildings.
 - (4) When a building is used for both business and residential occupancy, the uses shall be located as follows:
 - a. Apartments may only occupy areas above the first story and shall not be located on the same story as a business, office or parking use.
 - b. No business, office or parking use shall be located on the same story or above any story that contains a residential use.
 - (5) Each building that contains a business and a residential use shall provide and maintain an enclosed entrance to the interior for the exclusive use of the occupants of the residential portion of the building that is separate from the access commonly used for business activity.
 - (6) All accessory structures, such as garages or storage sheds, related to the apartments shall be so designated on the site plan and subject to approval by the planning commission.
 - (7) A parking area shall be reserved on the same lot or parcel as the principal building and designated for the exclusive use of the apartment occupants. Two parking spaces shall be required for each apartment.
 - (8) Modifications to a building or a site that includes residential uses are subject to the requirements for site plan review as stated in article III of this chapter.
 - (9) The conversion of an approved apartment to a use permitted for the zoning district in section 36-36 shall not require special use approval. The conversion of an approved apartment to another use shall be considered an immediate and a complete abandonment of the residential use. No residential occupancy shall be allowed following such a conversion unless a special use approval is approved by the Township.

(Zoning Ord. 2020, § 8.23, 1-5-2021)

Sec. 36-236. Bed and breakfast inn development standards.

- (a) Bed and breakfast inn establishments shall be located in residential buildings that have frontage on a roadway which is capable of safely accommodating the additional traffic, as determined by the planning commission. Bed and breakfast inn establishments with access from a private road shall have the approval of the association or representative of all lots that have rights of access or maintenance responsibility.
- (b) Use.
 - (1) Residential buildings proposed as bed and breakfast inn operations shall require a building inspection by the zoning administrator, fire chief and building inspector prior to any approval or uses as a bed and breakfast inn operation. Any code violation shall be corrected prior to approval or uses as a bed and breakfast operation.
 - (2) The dwelling unit in which the bed and breakfast inn takes place shall be the principal residence of the owner and said owner shall be on the premises when the bed and breakfast inn operation is active.
 - (3) Dining facilities for the purpose of serving meals shall not exceed a seating capacity of 2½ times the number of sleeping rooms in the bed and breakfast establishment. No restaurant shall be permitted. Food service shall be limited to continental breakfast served to at no extra cost to the transient tenants.
 - (4) The sale and/or display of merchandise, other than souvenirs of the inn, is prohibited.

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- (5) Each operator shall keep a log of the names of all persons staying at the bed and breakfast in operation. The log shall show the name, arrival and departure dates of all guests. Such log shall be available for inspection by Township officials at any time.
 - (6) The maximum stay for any guests/occupants of bed and breakfast inn establishments shall be 21 days.
 - (7) Bed and breakfast inns may not offer boating amenities, such as docking facilities, boat rental or boating tours, to guests. This provision shall not preclude the resident owner from docking or utilizing a boat for their own personal use.
 - (8) Bed and breakfast inns may offer wedding and indoor concert events if approved as a part of their special use permit.
- (c) Site development.
- (1) A structure utilized for a bed and breakfast inn must be located at least 200 feet from any adjacent residence, measured between principal structures.
 - (2) A structure utilized for a bed and breakfast inn that is within 500 feet from the shoreline of any lake or river must be connected to a public sanitary sewer. A structure utilized for a bed and breakfast inn that is further than 500 feet from the shoreline of any lake or river must meet all of the following conditions:
 - a. A sanitary septic system must be provided which has been reviewed by the Livingston County Health Department and approved for the number of rooms proposed in the bed and breakfast inn.
 - b. The sanitary septic system must be located further than 500 feet from a body of water. Ponds which are completely contained within the subject parcel and not contiguous to any off-site body of water may be within 500 feet of the structure utilized for a bed and breakfast inn and/or the sanitary septic system.
 - (3) A structure or premises utilized for a bed and breakfast inn must have at least two exits to the outdoors from such structure or premises, and rooms utilized for sleeping shall have a minimum size of 100 square feet for two occupants with an additional 30 square feet for each additional occupant, to a maximum of four occupants per room.

Each sleeping room used for the bed and breakfast inn operation shall have a separate smoke detector alarm. Lavatories and bathing facilities shall be available to all persons using any bed and breakfast inn operation. In no case shall there be less than one lavatory and bathing facility for each four sleeping rooms.
 - (4) Bed and breakfast inn operations shall be limited to eight guest sleeping rooms.
 - (5) Applicants shall submit a site plan, landscape plan and a floor plan of the residential dwelling unit illustrating that the proposed operation meeting the requirements of article III of this chapter.
 - (6) Minimal outward modification of the structure may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which the bed and breakfast inn is located. Any modifications are subject to architectural review by the planning commission at the time of special use permit review.
 - (7) Parking shall meet the requirements of article IX of this chapter for boardinghouses and lodgings. The parking areas shall not be located with the required yard setbacks. Landscape buffer strip, designed in accordance with section 36-278 shall be provided between the parking lot and all adjacent residentially zoned land.

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- (8) Signs for a bed and breakfast establishment shall meet the requirements for section 36-214 for the district in which it is located.
- (9) Bed and breakfast inn operations that want to hold wedding and indoor concert events shall meet the following regulations:
- a. Maximum duration. No more than 20 events shall be allowed on a site per calendar year.
 - b. Location. Events shall not be allowed on property in or adjacent to any developed residential areas except on bed and breakfast sites greater than two acres.
 - c. Noise. Events shall be required to meet the regulations of the Hamburg Township noise ordinance.
 - d. Hours of operation. Events shall only take place between 8:00 a.m. and 11:00 p.m. No amplified music shall be allowed after 10:00 p.m.; setup and cleanup of the event and workers and attendees to the event shall not arrive or leave the site before or after the hours of operation.
 - e. Number of attendees. Events shall be limited to a maximum of 150 persons, or the maximum occupancy of the space where the event is held, whichever is less.
 - f. Distance to neighboring structures. If an event is held outdoors all temporary structures and outdoor venues shall be at least 200 feet from an adjacent residential structure.
 - g. Parking. Parking may be provided, either on or off-site, and shall meet the requirements under section 36-344. If parking is provided off-site, a shuttle service must be provided.
 - h. Clean-up. Adequate site and surrounding area clean-up shall be done within 48 hours following the event.
 - i. Lighting. All exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary, and it shall be so arranged to reflect light away from any residential use. In no case shall any lighting become a nuisance as regulated in the Township nuisance ordinance. Lighting shall meet the applicable requirements under section 36-295.
 - j. Temporary sign. One temporary sign may be allowed in addition to the signs allowed for bed and breakfast establishments in article XIII of this chapter for the district in which they are located. The sign shall not exceed eight square feet in size, shall only be placed on the private property where the event is being held, shall only be erected the day of the event and shall be removed within 24 hours following the event.
 - k. Yearly approval. In addition to the initial special land use permit, the owners of the establishment shall submit a land use permit application on a yearly basis which includes the following information for the zoning administrator to review. Should the zoning administrator deem necessary, the yearly application may be sent to the planning commission for consideration.
 1. A list of the approximate dates that the bed and breakfast will be used for events, including the type of event.
 2. A plot plan that depicts the location of all event venues, bathroom facilities, parking, drop off areas, and any other information deemed by the zoning administrator to be necessary in the review of the project.
 3. The name and phone number of a contact person that will be at the events.
 4. A signed agreement with the property owner of any land to be used for off-site parking.

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- I. Any of the requirements in subsection (c)(9)a through k of this section may be altered, as necessary, to meet the requirements of the special use permit process (section 36-36).

(Zoning Ord. 2020, § 8.24, 1-5-2021)

Sec. 36-237. Adult foster care large and/or small group home.

- (a) The lot shall be at least 1,500 feet from any other state-licensed residential facility.
- (b) Minimum lot size shall meet the requirement of the district, but in no case shall be less than one acre in size.
- (c) The required buffer zone "C," as described in section 32-281(e), shall be provided around the perimeter of the property.
- (d) The applicant shall demonstrate to the satisfaction of the planning commission that adequate off-street parking will be provided.

(Zoning Ord. 2020, § 8.26, 1-5-2021)

Sec. 36-238. Accessory dwelling unit.

It is the intent to address the identified need of providing and preserving affordable and secure housing for all the population of the Township, while preserving the appearance and character of the Township's residential areas; by permitting, as an accessory use, the creation of a separate self-contained dwelling unit within, incidental and subordinate to, an existing single-family residence. The creation of such accessory dwelling units will promote the general welfare of the Township, without increasing the number of residential buildings, by allowing all the population to continue to live in the Township, either in their present home or in the accessory dwelling units permitted hereunder.

Sec. 36-239. Accessory dwelling unit regulations.

The following regulations shall apply to all accessory dwelling units whether on conforming or nonconforming lots:

- (1) The principal dwelling or the accessory dwelling unit must be declared the main residence of the owner of the property.
- (2) The accessory dwelling unit shall be a maximum of 40 percent of the gross floor area of the principle structure, not to exceed 1,000 square feet.
- (3) The number of off-street parking spaces for the accessory dwelling unit shall be not less than one and shall not block the required parking for the main residence.
- (4) The accessory dwelling unit shall have a maximum of two bedrooms.
- (5) The occupancy of the accessory dwelling unit shall be no more than two persons.
- (6) Accessory dwelling units and the principal structure must be connected to sewer if available.
- (7) Access to an attached accessory dwelling unit shall be limited to a common entrance foyer or exterior entrance to be located on the side or rear of the building;
- (8) Detached accessory dwelling must be located closer to the principal residence on the subject site than the principal residence on an adjacent property.

- (9) The principal residence and the accessory dwelling unit shall share the same vehicular access to the property.
- (10) Accessory dwelling units shall not be permitted on lots within the waterfront residential and natural rivers districts that abut a waterbody or have access to a waterbody.
- (11) All zoning district bulk and setback requirements shall apply to the site.
- (12) Accessory dwelling units are allowed on conforming lots of record in the following circumstances (See Table 1):
 - a. In the RAA Single-family Low Density Residential, RA Single-family Medium Density Residential, VC Village Center, and VR Village Residential Zoning Districts with review and approval by the Zoning Administrative under subsection (14) of this section.
 - b. Attached units in the WRF Waterfront Residential and NR Natural Rivers Districts with review and approval by the zoning administrative under subsection (14) of this section.
 - c. Detached units in the WRF Waterfront Residential and NR Natural Rivers Districts on lots greater than two acres with review and approval by the zoning administrative under subsection (14) of this section.
 - d. Detached units in the WRF Waterfront Residential and NR Natural Rivers districts on lots less than two acres with review and approval by the planning commission under subsection (14) of this section.
- (13) Accessory dwelling are allowed on a nonconforming lots of record in the following circumstances (See Table 1):
 - a. In the RAA Single-family Low Density Residential, RA Single-family Medium Density Residential, VC Village Center, and VR Village Residential with planning commission review and approval under subsection (13) of this section.
 - b. In WFR Waterfront Residential and NR Natural River District with the following requirements:
 - 1. Attached accessory units with planning commission review and approval under subsection (14) of this section.
 - 2. Detached units shall require special use approval under section 36-36.
 - 3. Accessory dwelling units are subject section 36-291.
 - 4. The accessory dwelling unit must meet the requirements under subsection (14) of this section.

Table 1: ADU Reviewing Body

ZA: zoning administrator

PC: planning commission

SUP: special use permit

<i>Zoning District</i>	<i>Conforming Lots</i>	<i>Nonconforming Lots</i>
Country Estates (CE)	ZA	PC
Single-family Low Density Residential (RAA)	ZA	PC Single-family Medium Density Residential
(RA)	ZA	PC
Waterfront Residential (WFR)	ZA/PC*	PC/SUP**

Natural Rivers (NR)	ZA/PC*	PC/SUP**
Village Center (VC)	ZA	PC
Village Residential (VR)	ZA	PC

*ZA approval for attached ADUs on conforming lots and detached ADUs on conforming lot greater than two acres.

**PC approval of attached ADUs on nonconforming lots and SUP approval of detached ADUs on nonconforming lots.

- (14) Accessory dwelling units shall be reviewed to ensure compliance to the following standards:
- a. Architectural design, style and appearance of the principal residential building must be maintained; in considering this factor the existing facade, roof pitch, building materials, colors and windows of an attached or detached accessory dwelling unit shall be consistent with the principal structure;
 - b. The proposed development does not impair the existing views, block access to light and air, or infringe on the privacy of neighbors in a substantial fashion. In considering this factor, decision makers shall balance the importance of minimizing impacts on neighboring properties and the applicant's ability to develop the property;
 - c. The proposed development is compatible with existing land uses in the area, would not be detrimental to the safety or convenience of vehicular or pedestrian traffic.
- (15) If public water and sewer are not available to the residence, the use of private water and septic systems for the accessory dwelling unit shall be subject to the approval of the County Health Department. The accessory dwelling unit shall comply with all applicable housing, building, fire and health code requirements.
- (16) The zoning administrator may defer a decision on an ADU application to the planning commission for any reason. A decision by the zoning administrator on an ADU application is appeals to the planning commission.
- (17) Private restrictions on the use of property shall remain enforceable and take precedence over these additional district regulations. Private restrictions include, but are not limited to, deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. The interpretation and enforcement of the private restriction is the sole responsibility of the private parties involved.

(Zoning Ord. 2020, § 8.27.1, 1-5-2021)

Sec. 36-240. Application procedure.

- (a) The applicant shall submit the following information for review:
- (1) A plat plan showing the location of the proposed accessory dwelling unit, lot identification (address and property number), size of lot, dimension of lot lines, existing improvements on the lot, location of structures on adjacent lots, abutting streets, driveways, and parking areas.
 - (2) Sufficient architectural drawings or clear photographs to show the exterior building alterations proposed.
 - (3) Interior floor plans showing the floor area of the proposed accessory dwelling unit and the primary dwelling.

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- (4) Any additional information deemed necessary by the Township for review.
 - (b) Prior to granting approval, the approving body must determine that a proposed accessory dwelling unit meets the standards in section 36-239(13).

(Zoning Ord. 2020, § 8.27.2, 1-5-2021)

Sec. 36-241. Duration and revocation.

- (a) The approval of an accessory dwelling unit shall expire within one year after the date of such approval, unless a land use permit has been issued and construction has commenced.
- (b) The permit and any other form of approval for an accessory dwelling unit issued shall be subject to revocation by the Township upon a finding by the Township or its lawfully authorized designee, that there is in fact noncompliance with the conditions and requirements contained in section 36-239.

(Zoning Ord. 2020, § 8.27.3, 1-5-2021)

Sec. 36-242. Showroom and sales of new and used automobiles and motorcycles.

The sale of automobiles and motorcycles in the CS and VC Districts shall be subject to the following conditions:

- (1) Uses are subject to site plan review as outlined in article III of this chapter.
- (2) Site for uses shall not exceed 40,000 square feet in size in the VC district.
- (3) Sales of vehicles and motorcycles shall be in conjunction with an indoor showroom and sales office.
- (4) Sites shall be limited to one access drive unless the site provides frontage on more than one street. Access may be provided through rear access drives in addition to a preliminary entrance.
- (5) Parking and display areas shall be hard surfaced and shall be graded and drained to dispose of stormwater without negatively impacting neighboring property. The Township Planning Commission may recommend a gravel surface for part of the display or storage area for low intensity activities.
- (6) All loading and truck maneuvering shall be accommodated on site.
- (7) No storage or display of vehicles shall be permitted in any landscape greenbelt area.
- (8) Display pods shall be prohibited.
- (9) Site and display lighting shall be shielded and meet the requirements of section 36-295.
- (10) Uses within the village shall use lighting as specified by the planning commission for uniformity within the village center district.
- (11) Banners, flags and pendants shall be prohibited except for grand opening advertisements. Such advertisements shall be temporary and require a permit. Such permit shall be for a duration not to exceed 14 days.
- (12) Signage shall meet the requirements of article XIII of this chapter and general requirements.
- (13) Sites must provide adequate off-street parking as defined in section 36-334.
- (14) Sites must provide a landscape buffer as outlined in section 36-281.
- (15) Sites must provide a 20-foot greenbelt along M-36, and provide for pedestrian circulation along frontage of arterial streets as outlined in the village center plan.

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- (16) Plans shall include the layout for parking of display vehicles, and customer parking. Parking spaces shall include bumper blocks for the preservation of all greenbelt areas.
 - (17) Loudspeakers and paging systems shall be prohibited.
 - (18) The sales showroom building may include an area for vehicle repair, provided that the repair activity is incidental so the primary sales of vehicles. All work shall be constructed within a completely enclosed building.
 - (19) All washing of vehicles shall take place on site within an area that captures all runoff for treatment on site within an approved stormwater management system approved by Hamburg Township.

(Zoning Ord. 2020, § 8.28, 1-5-2021)

Sec. 36-243. Agricultural commercial/tourism business.

- (a) *Intent.* It is the intent of the Township to allow, as a permitted use or with a special land use permit, uses of a commercial/tourism nature that are complementary and accessory to the primary agricultural land use in the CE and RAA Zoning District. It is also the intent to:
 - (1) Promote and maintain local farming and the provision of open space within the Township.
 - (2) Maintain both an agricultural heritage and rural character.
 - (3) Encourage new agriculturally based businesses that contribute to the general economic conditions of the Township and surrounding region.
- (b) *Purpose.* The purpose of this designation is to provide a clear understanding of the expectations for agricultural commercial/tourism businesses for operators, local residents, other businesses, and local officials.
- (c) *Minor agricultural commercial/tourism business type allowed.* The following agricultural commercial/tourism businesses may be permitted after review by the zoning administrator, pursuant to section 36-34.
 - (1) Seasonal outdoor mazes of agricultural origin such as straw bales or corn.
 - (2) Direct marketing of agricultural products or agricultural related products at a farm market, on-site farm market.
 - (3) U-pick operations, pumpkin patches and Christmas tree lots.
 - (4) Stables with up to six horses.
 - (5) Greenhouses.
 - (6) The processing, storage, and retail or wholesale marketing of agricultural products into a value-added agricultural product in a farming operation if at least 50 percent of the stored, processed, or merchandised products are produced by the farm operator.
 - (7) Organized meeting space for weddings, parties, or events with attendance 40 or less.
 - (8) Uses in subsections (c)(1) through (7) of this section may include any or all of the following ancillary agriculturally related uses and some non-agriculturally related uses so long as the general agricultural character of the farm is maintained.
 - a. Value-added agricultural products or activities such as educational tours of processing facilities, etc.
 - b. Bakeries selling baked goods containing some products grown on site.

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- c. Playgrounds or equipment typical of a school playground, such as slides, swings, etc. (not including motorized vehicles or rides).
 - d. Petting farms, animal display, and pony rides.
 - e. Wagon, sleigh, and hayrides.
 - f. Nature trails.
 - g. Open air or covered picnic area with restrooms.
 - h. Educational classes, lectures, seminars.
 - i. Historical agricultural exhibits.
 - j. Kitchen facilities, for the processing, cooking, and/or baking of goods containing at least 25 percent produce grown on site.
 - k. Gift shops for the sale of agricultural products and agriculturally related products. Gift shops for the sale of non-agriculturally related products such as antiques or crafts, are limited to 25 percent of gross sales.
- (d) *Major agricultural commercial/tourism business type allowed.* The following agricultural commercial/tourism businesses may be permitted after special land use review, pursuant to section 36-36.
- (1) All uses allowed in subsection (c) of this section.
 - (2) Cider mills or wineries.
 - (3) Stables with more than six horses.
 - (4) Restaurant operations related to the agricultural use of the site.
 - (5) Small scale entertainment venue or amphitheater.
 - (6) Family-oriented animated events (e.g., fun houses, haunted houses and hayrides, or similar uses).
 - (7) Organized meeting space for weddings, parties, or events with attendance greater than 40.
 - (8) Overnight facilities.
- (e) *Supplemental regulations—All agricultural commercial/tourism business types.* The following supplemental regulations are required for all major and minor agricultural commercial/tourism business type uses in subsections (c) through (d) of this section
- (1) Must be an accessory use to a residential use of the property.
 - (2) Buffer plantings may be required along the property line where there is an abutting residentially zoned property. Greenbelt transition strips are intended to screen views of the proposed operation from the adjacent home or property. Buffer plantings shall meet the standards of section 36-281.
 - (3) Must provide off-street parking to accommodate use as outlined in article IX of this chapter.
 - a. Parking facilities may be located on a grass or gravel area for seasonal uses such as farm markets, U-pick operations, and agricultural mazes.
 - b. All parking areas shall be defined by either gravel, cut lawn, sand, or other visible marking.
 - c. All parking areas shall be located in such a manner to avoid traffic hazards associated with entering and exiting the public roadway.
 - d. Paved or unpaved parking areas shall not be located in required setbacks or buffer areas.

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- e. Paved or gravel parking areas must meet all stormwater management design and landscape screening requirements as set forth in this zoning ordinance.
 - (4) Hours of operation shall be limited to between 8:00 a.m. and 11:00 p.m. No amplified music shall be allowed after 10:00 p.m.; setup and cleanup of the event and workers and attendees to the event shall not arrive or leave the site before or after the hours of operation.
 - (5) Signs must meet the regulations for the zoning district (article XIII of this chapter).
 - (6) All other local, state, and federal regulations apply.
 - (f) *Supplemental regulations—Minor agricultural commercial/tourism business types.* The following supplemental regulations are required for all minor agricultural commercial/tourism business type uses in subsection (c) of this section:
 - (1) Minimum lot area of ten acres.
 - (2) All uses permitted by this section shall be accessed on any public road within the Township with the approval of the county road commission of MDOT for ingress and egress to the site.
 - (3) A 50-foot open buffer shall be provided on all sides between the nearest location of the activity to the nearest adjacent residential property. Agricultural commercial/tourism business activities shall not be allowed within this buffer area. Where possible, crops shall remain within this buffer area to help maintain the agricultural character of the site.
 - (4) No structure used for the indoor commercial aspect of the approved uses shall have an indoor commercial space larger than 1,000 square feet except stables.
 - (g) *Supplemental regulations—Major agricultural commercial/tourism business types.* The following supplemental regulations are required for all major agricultural commercial/tourism business type uses in subsection (d) of this section:
 - (1) Minimum lot area of 40 acres.
 - (2) All uses permitted by this section shall be accessed on a public Arterial roadway within the Township with the condition that the increase in traffic shall not create a nuisance, to nearby residents by way of traffic or noise or increase the public cost in maintaining the roadway.
 - (3) A 100-foot open buffer shall be provided on all sides between the nearest location of the activity to the nearest adjacent residential property. Agricultural commercial/tourism business activities shall not be allowed within this buffer area. Where possible, crops shall remain within this buffer area to help maintain the agricultural character of the site.
 - (4) Agricultural commercial/tourism business that hold weddings, outdoor and indoor concerts and other events with attendance greater than 40 people shall meet the following regulations:
 - a. *Maximum duration.* No more than 20 events shall be allowed on a site per calendar year.
 - b. *Noise.* Events shall be required to meet the regulations of the Hamburg Township noise ordinance.
 - c. *Number of attendees.* Events shall be limited to a maximum of 150 persons, or the maximum occupancy of the space where the event is held, whichever is less.
 - d. *Distance to neighboring structures.* If an event is held outdoors all temporary structures and outdoor venues shall meet the open buffer setback listed above.
 - e. *Clean-up.* Adequate site and surrounding area clean-up shall be done within 48 hours following the event.

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- f. *Lighting.* All exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary, and it shall be so arranged to reflect light away from any residential use. In no case shall any lighting become a nuisance as regulated in the Township nuisance ordinance. Lighting shall meet the applicable requirements under section 36-295.
- g. *Yearly approval.* In addition to the initial special land use permit, the owners of the establishment shall submit a land use permit application on a yearly basis which includes the following information for the zoning administrator to review. Should the zoning administrator deem necessary, the yearly application may be sent to the planning commission for consideration.
1. A list of the approximate dates that the venue will be used for events including the type of event;
 2. A plot plan that depicts the location of all event venues, bathroom facilities, parking, drop off areas, and any other information deemed by the zoning administrator to be necessary in the review of the project;
 3. The name and telephone number of a contact person that will be at the events;
 4. A signed agreement with the property owner of any land to be used for off-site parking;
 5. Any of the requirements in subsection (g)(4)1 through 4 of this section may be altered, as necessary, to meet the requirements of the special use permit process (section 36-36).
- (h) *Planning commission waiver.* The planning commission shall have the ability to waive or modify any of the regulations in this section, provided that the following criteria are met. A waiver granted under this section shall apply for the lifespan of the business in question but shall not be transferable to any other business or premises.
- (1) The applicant provides all requested information and pays all applicable application and review fees, to be determined by the Township Board fee schedule.
 - (2) The proposed commercial/agricultural tourism business does not endanger the public health, safety, and welfare of the community.
 - (3) A commercial/agricultural tourism business that meets the required regulations of this article would not meet the needs of the use on the subject site.
 - (4) The commercial/agricultural tourism business utilizes a well thought out layout, high quality materials and design.
 - (5) The commercial/agricultural tourism business shall be in harmony and consistent with the architecture of the surrounding building and relate to the features of these buildings in terms of location, scale, size, color, lettering, materials, and texture.
 - (6) The commercial/agricultural tourism business shall be consistent with the character of the surrounding area.
 - (7) The commercial/agricultural tourism business shall not be a nuisance to any residential uses.
- (i) *Application requirements.*
- (1) The following additional operation information must also be provided as applicable:
 - a. Ownership of the property.
 - b. Months (season) of operation.
 - c. Hours of operation.

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- d. Anticipated number of retail customers.
 - e. Maintenance plan for disposal, etc.
 - f. Any proposed signs.
 - g. Any proposed lighting.
 - h. Maximum number of employees at any one time.
 - i. Restroom facilities.
 - j. Verification that all outside agency permits have been granted, i.e., federal, state and local permits.
 - k. Plot plan showing all areas of the property to be used, including all structures and parking areas on site must be clearly identified.
- (2) The planning commission has the authority to require that a special land use permit or a waiver granted for an agricultural commercial or tourism business may be reviewed annually by the planning commission at a regularly scheduled meeting. The evaluation will review any violations of the special use permit or waiver, other zoning violations, whether the violations have been resolved or are recurring, and complaints by neighboring property owners. If violations of the special use permit or waiver continue the approvals may be revoked by the planning commission. To ensure that the special land use or activity authorized shall continue to be:
- a. Compatible with adjacent uses of land, the natural environment, the capacities of public services and facilities affected by the land use; and
 - b. Consistent with the public health, safety, and welfare of the local unit of government.

(Zoning Ord. 2020, § 8.29, 1-5-2021)

Sec. 36-244. Collection bins.

- (a) *Intent.* It is the intent of the Township to allow collection bins as a permitted use if specific regulations are met. These regulations are created to promote the general health, safety, and welfare of Hamburg Township citizens by providing minimum standards for the placement, operation, and maintenance of collection bins within the Township to ensure that the bins remain clean and safe, do not create hazards to pedestrians or to vehicular traffic, and remain free of graffiti, blight, and the accumulation of material outside the collection bin.
- (b) *Purpose.* The purpose of these regulations is to provide a clear understanding of the expectations for collection bin operators, local residents, other businesses, and local officials.
- (c) *Application.* Collection bins are allowed in the NS, CS, VC, LI and GI zoning districts with approval of a land use permit (section 36-34).
- (d) *Regulations.* The following regulations apply to all collection bins:
 - (1) Collection bins shall be fabricated of durable and waterproof materials.
 - (2) Collection bins are required to be placed on a paved or concrete surface.
 - (3) Collection bins must be level and stable.
 - (4) Collection bins shall be locked with a tamper resistant locking mechanism so contents cannot be accessed by anyone other than those responsible for retrieval of the contents. Collection bins shall be tightly covered at all times to prevent the harboring of rodents and the scattering of debris.

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- (5) Collection bins shall be maintained in good condition and appearance with no structural damage, holes, visible rust, or graffiti. The area surrounding the bin shall be maintained free from any overflow items, furniture, rubbish, debris, hazardous materials, and noxious odors.
 - (6) Collection bins shall be no larger than 84 inches high, 60 inches wide and 60 inches deep.
 - (7) No more than two collection bins shall be allowed per property.
 - (8) Collection bins shall not be permitted:
 - a. On any unimproved lot or parcel that is not currently used or occupied or where the principal building or structure has been closed or unoccupied for more than 30 days.
 - b. Within a landscaped area.
 - c. Within the required main building setbacks for the zoning district.
 - d. Within a parking space required as a part of the approved site plan or required to meet the parking requirements for the principal building or structure.
 - e. Within 1,000 feet of another collection bin on a separate property as measured along a straight line from one bin to the other.
 - f. Within 500 feet from the property line of any lot used or zoned for residential purposes or within 50 feet of any entrance driveway.
 - g. Within a designated fire lane, or adjacent to a handicap parking space.
 - (9) Collection bins shall not cause a visual obstruction to vehicular or pedestrian traffic as determined by the Township, or block access to required parking, emergency vehicle routes, building entrances or exits, easements, pedestrian walkways and dumpsters or trash enclosure areas.
 - (10) Collection bins located in the VC district shall only be located on properties with direct access to M-36.
 - (11) Collection bins shall prominently display the following information in at least one-half-inch typeface and no larger than one-inch typeface:
 - a. Name, address, email, and 24-hour telephone number of the person responsible for servicing and maintaining the collection bin.
 - b. The type of material that may be deposited.
 - c. The frequency of pickup.
 - d. A notice that no materials shall be left outside the collection bin.
 - e. If the collection bin is owned and operated by a for-profit or a not-for-profit company.
 - (12) Collection bins may include a six square foot sign on two sides of the collection bin in addition to the information required in subsection (d)(11) of this section. The sign must be flat, either painted directly on the bin or affixed flat to the bin and projecting no more than two inches from the side of the bin.
- (e) *Violations.* Collection bins in violation of these regulations shall be addressed as stated in article IV of this chapter. Fines and penalties for these violations shall be issued to the owner of the property where the collection bin is located and the owner or operator of the bin.

(Zoning Ord. 2020, § 8.30, 1-5-2021)

Secs. 36-245—36-273. Reserved.

ARTICLE VIII. ENVIRONMENTAL PROVISIONS

Sec. 36-274. Intent and general purpose.

It is the intent and purpose of this article to carry out the recommendations of the master plan and the commitment of the Township to prevent physical harm, impairment and/or destruction of natural features. Through the provisions of this article the Township works to accomplish these goals with protective regulations for resources such as floodplains, wetlands, watercourses, wildlife, natural topography, and vegetation. These regulations recognize there is a special relationship between natural features and the adjoining land in terms of: spatial relationship; interdependency in terms of physical location, plant species, and an encouragement of diversity and richness of plant and animal species; overland and subsurface hydrology; water table; water quality; erosion or sediment deposition.

(Zoning Ord. 2020, § 9.0, 1-5-2021)

Sec. 36-275. Creation or alteration of water bodies.

(a) *Intent.* The intent of this section is as follows:

- (1) To promote and maintain in the interest of the public health, safety and general welfare, a harmonious and compatible land use balance within the Township and to prevent any undesirable nuisance conditions which could arise with the indiscriminate development of any channel, pond, lake, river, creek, stream, wetland, or other natural or artificial water body;
- (2) To provide for the protection, preservation, proper maintenance and use of Township water resources in order to minimize disturbance to them;
- (3) To establish standards for agricultural, scenic, and recreational ponds;
- (4) To prevent damage caused by erosion, scarification, sedimentation, turbidity or siltation;
- (5) To provide for the protection of soils capable of providing necessary filtration for the maintenance of aquifer stability;
- (6) To protect against loss of wildlife, fish or other beneficial aquatic organisms, or vegetation, and also against the destruction of the natural habitat thereof;
- (7) To minimize the phenomenon of environmental deterioration;
- (8) To secure safety from the dangers of flood and pollution, to prevent loss of life, property damage and other losses and risks associated with flood conditions;
- (9) To protect individual and community riparian rights;
- (10) To preserve the location, character and extent of natural water bodies.

(b) *Special use permit required.* Except for activities which comply with subsection (c) of this section, the creation or alteration of a water body requires a special use permit from the Township in accordance with the provisions of section 36-36. An application for a special use permit may be obtained from the zoning administrator.

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- (1) All applications for the creation or alteration of a water body shall comply with the intent of this section.
 - (2) If a permit from the state is required, applicants must submit two completed copies of the state permit application at the time of application for a Township special use permit. The state and Township permits may be processed concurrently.
 - (3) If a final wetlands determination is required per section 36-37, the zoning administrator shall forward the completed application to the environmental consultant for review and recommendation prior to the hearing by the planning commission.
 - (4) If a final wetlands determination is not required, the zoning administrator shall forward the completed application to the planning commission according to the procedures in section 36-36.
 - (5) Planning commission approval of a Township special use permit for the creation or alteration of a water body shall be granted contingent upon the approval of any applicable state permit and subject to any conditions established by the state.
- (c) *Exemptions from special use requirements.*
- (1) The following activities that create or alter a water body shall be exempt from the special use permit requirements of section 36-36. when conducted in compliance with applicable federal, state, and local regulations and affecting only single-family residential dwellings:
 - a. Filling or dredging activities involving a total of 30 cubic yards or less during a 24-month period.
 - b. Construction of a sea wall.
 - c. Filling or dredging of wetlands conducted as part of an activity allowed within a wetland under the Natural Resources and Environmental Protection Act, Act 451 of 1994 (MCL 324.101 et seq.), as amended.
 - d. Filling or dredging of wetlands conducted as part of an activity which has received a wetland use permit from the state under the Natural Resources and Environmental Protection Act, Act 451 of 1994 (MCL 324.101 et seq.), as amended.
 - (2) These activities shall be subject to the following minimum standards:
 - a. Any fill, dredging, or construction shall not extend beyond the bulkhead line as established by review of the state.
 - b. Shoreline fill, dredging, or construction of bulkheads or seawalls shall be permitted for the following:
 1. To stabilize the shoreline;
 2. To improve access to the water;
 3. To protect or improve the natural flow of water; and
 4. To improve the aesthetic value of the property.
 - c. In no case shall shoreline fill, dredging, or construction of bulkheads or seawalls impede the natural flow of water or obstruct the access of boaters to deeper waters.
 - d. No bulkheads, seawalls, or fill shall project beyond an existing bulkhead, seawall or shoreline in such a manner as to interfere with the normal flow or water, result in the deposit of debris, or cause a hindrance to navigation.
 - e. Bulkheads, seawalls, or fill shall not be constructed to exceed six inches above the finished grade, or two feet above the ordinary high water mark, whichever is higher.

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- f. Proposed fill shall avoid the appearance of being added on. Any extension of land shall blend into the existing shoreline in a natural appearing manner including the use of natural materials such as rocks, rip-rapping materials, and native shoreline plant life.
 - g. Fabric for soil containment shall be used when appropriate.
 - h. Prior to final inspection of the project for shoreline filling or construction of bulkheads or seawalls, the land shall be graded and seeded so as to provide proper drainage within the applicants property, away from buildings and to leave the surface fit for other land uses permitted in the district. The grade must be established with 90 days of the completion of construction.
 - i. Stabilization of shoreline fill, dredging, or construction of bulkheads or seawalls within the natural rivers district shall utilize natural materials approved by the zoning administrator. This requirement may be waived where it is demonstrated by the applicant that alternative materials are necessary.

These activities shall require a land use permit. Application for a land use permit may be obtained from the zoning administrator. Applicants must submit two completed copies of the state permit application (where applicable) at the time of application for a Township land use permit. The zoning administrator may if deemed necessary forward the completed application to the environmental consultant for review. Following review by the environmental consultant and subject to the approval and conditions of any applicable state permit, the zoning administrator may issue a land use permit.

- (d) *Standards for agricultural, scenic, or recreational ponds.* In addition to any conditions the state may place on an applicable permit, water bodies created or altered to serve as a pond for agricultural, recreational or scenic purposes shall be subject to the following minimum standards:
 - (1) A new artificial or manmade pond must be located on a parcel which is at least one acre in area.
 - (2) Following the procedures stated in this section, construction of a new pond or the alteration of an existing water body may be approved by action of the zoning administrator. Construction of a new pond in excess of 0.5 acres or the alteration affecting more than 0.5 acres shall be subject to the review of the Township Engineer.
 - (3) All earth excavated during construction of the pond shall be disposed of on the parcel, unless it is determined by the zoning administrator or the state that the parcel could not adequately accommodate the spoils. The placement and final disposition of any spoils removed from the parcel must be approved by the Township Zoning Administrator.
 - (4) The creation or alteration of a pond within a single parcel must provide minimum yard setbacks from the pond equal to those required for a structure as stated in section 36-186. including footnotes. Setbacks from other natural features do not apply.
 - (5) The creation or alteration of a pond which encompasses parts of more than one parcel shall be approved only if the owners of all properties involved are joint applicants on the land use permit. Minimum yard setbacks equal to those required for a structure in section 36-186. (including footnotes) shall be maintained to all adjacent unaffected parcels.
 - (6) Each pond shall be constructed or altered in compliance with the design standards established by the U.S. Department of Agriculture and state through the soil conservation service.
 - (7) Any application for an alteration or creation of a pond which proposes stabilized side slopes steeper than five horizontal to one vertical shall include a written statement by the applicant detailing proposed safety measures to be taken by the applicant in the construction and operation of the pond.

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- (8) Written evidence shall be provided from the County Health Department or a licensed professional engineer that the distance and soil conditions separating the pond from any septic system is sufficient to prevent contamination. In no case shall a pond be located closer than 100 feet to any septic system.
 - (9) For the protection of the general public, appropriate safety measures such as warning signs, rescue equipment, fencing and/or safety ramps may be required to be installed as deemed necessary by the zoning administrator upon review.
 - (10) No pond shall be maintained or operated in any manner which causes it to become a public nuisance.

(Zoning Ord. 2020, § 9.2, 1-5-2021)

Sec. 36-276. Purpose.

The purpose of this article is to promote the public health, safety and welfare by establishing minimum standards for the design installation and maintenance of landscaping. Landscaping enhances the visual image of the Township, preserving natural features, improving property values, and alleviating the impact of noise, traffic, and visual distraction associated with certain uses. Screening is important to protect less intensive uses from the noise, light, traffic, litter and other negative impacts of more intensive, nonresidential uses. Accordingly, these provisions are intended to set minimum standards for design and use of landscaping, greenbelts, and screening, and the protection and enhancement of the Township's environment. More specifically, the intent of these provision is to:

- (1) Improve the appearance of off-street parking areas, vehicular use areas, and property abutting public rights-of-way;
- (2) Protect and preserve the appearance, character, and value of the neighborhoods which abut nonresidential areas, parking areas, and other intensive use areas, thereby protecting the public, health, safety and general welfare;
- (3) Integrate the various elements of a site;
- (4) Integrate and link a development with the surrounding environment;
- (5) Reduce soil erosion and depletion;
- (6) Increase soil water retention, thereby helping to prevent flooding;
- (7) Remove air pollutants, and control glare and reflection;
- (8) Assist in directing safe and efficient traffic flow and prevent vehicular and pedestrian circulation conflicts; and
- (9) Create a more desirable microclimate.

(Zoning Ord. 2020, § 9.4.1, 1-5-2021)

Sec. 36-277. Scope of application.

- (a) No site plan, condominium, or subdivision plat shall be approved unless it shows landscaping consistent with the requirements of this section. A land use permit shall not be issued for any use that requires site plan approval or any division of land that requires condominium, or subdivision plat approval until the required landscape plan is submitted and approved.
- (b) No land use permit for construction of a new single-family or two-family dwelling shall be issued unless the required greenbelt along the street frontage is provided consistent with the requirements of section 36-

281(b)(5). Lots with an existing principle single-family or two-family residential structure shall be specifically exempted, provided said structure is retained.

(Zoning Ord. 2020, § 9.4.2, 1-5-2021)

Sec. 36-278. General provisions.

Whenever a landscape buffer strip, greenbelt, or planting screen is required by this chapter, the provisions of this section shall be met.

- (1) *Minimum requirements.* The requirements in this section are minimum requirements. Applicants are encouraged to provide additional landscaping to improve the function, appearance, and value of property.
- (2) *Design creativity.* Creativity in landscape design is encouraged. In several instances, the standards are intentionally flexible to encourage flexibility and creative design. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings, depending on the designer's desired visual effect and the intent of the Township to coordinate landscaping on adjacent properties.
- (3) *Plant quality.* Plant materials used in compliance with the provisions of this chapter shall be nursery grown, free of pests and diseases, hardy in Livingston County, in conformance with the standards of the American Association of Nurserymen and shall have passed inspections required under state regulations. Plastic and other non-living materials shall not be considered acceptable to meet the landscaping requirements of this chapter.
- (4) *Installation.*
 - a. The required landscaping shall be planted with permanent living plant materials prior to the date of occupancy and shall be continuously maintained in a sound, healthy, and vigorous growing condition.
 - b. If the development is completed, at such time that the requirements of subsection (4)a of this section, cannot be complied with, the owner shall provide a performance guarantee, satisfactory to the Township, to ensure installation of required landscaping in the next planting season, in accordance with section 36-74.

(Zoning Ord. 2020, § 9.4.3, 1-5-2021)

Sec. 36-279. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Berm means a continuous, raised earthen mound with a flattened top and sloped sides, capable of supporting live landscaping materials, and with a height, width, and slope which complies with the requirements of this chapter.

Buffer zone means a strip of land often required between certain zoning districts reserved for plant material, berms, walls or fencing to serve as a visual barrier.

Bush means a woody plant of one to 13 feet in height with several erect, spreading or prostrate stems and a general bushy appearance.

Common open space means designated areas unoccupied and unobstructed from the ground upward except for living plant material, recreational or grounds maintenance facilities, sidewalks, bike paths, necessary drives and

other improvements shown on the approved site plan within a PUD, open space community, subdivision or condominium projects designed and intended for the use and enjoyment of the public or residents of the development and/or for the protection of natural features.

Critical root zone means a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the trees survival. Critical root zone is one foot of radial distance for every inch of tree caliper, with a minimum of eight feet.

Grass, ornamental, means members of Gramineae, six inches to 15 feet in height, with individual spreads of nine inches to seven feet which are used for enhancement and screening purposes in commercial strips to provide summer to fall interest and winter effects.

Grass, turf, means any family of plants with narrow leaves normally grown as permanent lawns in southern Michigan.

Greenbelt means a strip of land of definite width and location reserved for the planting of a combination of shrubs, trees and ground cover to serve as an obscuring screen or buffer for noise or visual enhancement, in accordance with the requirements of this chapter. In some cases a wall or fence may be permitted as part of the greenbelt.

Ground cover means low-growing plants (including turf and ornamental grass, perennials and annuals) that form a dense, extensive growth, and tend to prevent weeds and soil erosion.

Shrub means a woody plant with one, erect spreading stem and less than 15 feet in mature height with flowers conspicuous or not.

Tree means a woody plant with an erect perennial trunk, which at maturity is 15 feet or more in height, which has a more or less definite crown of foliage. For purposes of this chapter, the following definitions of types of trees shall apply:

Canopy tree means a deciduous tree which has a mature crown spread of greater than 15 feet and a mature height of 40 or more feet in southern Michigan, and which has a trunk with at least five feet of clear stem at maturity.

Deciduous tree means a tree which has foliage that is shed at the end of the growing season.

Evergreen tree means a tree which has foliage that is lost throughout the year and may or may not show winter color effects.

Ornamental tree means a deciduous tree which is typically grown because of its shape, flowering characteristics, or other attractive features, and which grows to a mature height of 25 feet or less.

(Zoning Ord. 2020, § 9.4.4, 1-5-2021)

Sec. 36-280. Existing plant material.

- (a) *Consideration of existing elements in the landscape design.* In instances where healthy plant material exists on a site prior to its development, the planning commission may permit substitution of such plant material in place of the requirements set forth in this section.
- (b) *Preservation of existing plant material.* Site plans shall show all existing trees which are located in the portions of the site that will be built upon or otherwise altered, and are six inches or greater in caliper, measured 12 inches above grade.
 - (1) Trees shall be labeled "To Be Removed" or "To Be Saved" on the site plan. If existing plant material is labeled "To Be Saved" on the site plan, protective measures should be implemented, such as the

placement of a tree guard at the dripline around each tree. No vehicle or other construction equipment shall be parked or stored within the dripline of any tree or other plant material intended to be saved.

- (2) In the event that healthy plant materials which are intended to meet the requirements of this article are cut down, damaged or destroyed during construction, said plant material shall be replaced with the same species as the damaged or removed tree or approved substitute, in accordance with the following schedule, unless otherwise approved by the zoning administrator based on consideration of the site and building configuration, available planting space, and similar considerations:

<i>Damaged Tree*</i>	<i>Replacement Tree</i>	<i>Replacement Ratio</i>
Less than 6 inches	2½ to 3 inches	1 for 1
More than 6 inches	2½ to 3 inches	1 replacement tree for each 6 inches in caliper or fraction thereof of damaged tree

*Caliper measured 12 inches above grade

(Zoning Ord. 2020, § 9.4.5, 1-5-2021)

Sec. 36-281. Greenbelts and buffer zones.

- (a) *General site requirements.* All developed portions of the site shall conform to the following general landscaping standards, except where specific landscape elements, such as a greenbelt, berms, or screening are required:
- (1) All unpaved portions of the site shall be planted with grass, ground cover, shrubbery, or other suitable live plant material, which shall extend to any abutting street pavement edge.
 - (2) Open or natural areas should be maintained through the use of open space community (planned unit development) regulations.
- (b) *Required greenbelt along street frontage.*
- (1) Within all multiple family residential, mobile home park, commercial and industrial districts, a 20-foot-wide greenbelt shall be planted along the public right-of-way including the equivalent of one canopy tree and four shrubs, rounded upward, for every 40 linear feet of frontage, planted within the greenbelt. The width of this greenbelt may be reduced by the planning commission in the village center zoning district.
 - (2) The planning commission may require the provision of a planting berm at least three feet in height in addition to the plant materials required along the public right-of-way parallel to a major arterial.
 - (3) The planning commission may approve substitution of evergreen trees for up to 50 percent of the required trees.
 - (4) The planning commission may require the preservation of existing trees and vegetation within the 20-foot-wide greenbelt along any arterial street right-of-way.
 - (5) All single or two-family residential lots, that fall under the scope of application of section 36-277, shall provide the following street tree plantings within 20 feet of the front lot line:
 - a. Along any arterial street: three canopy trees per lot.
 - b. Along any collector or local street: two canopy trees per lot.

- c. Substitution for preserving existing trees within the required front yard setback may be allowed in accordance with section 36-280.
- (c) *Landscaping in cul-de-sacs, at entrances and within medians.* Cul-de-sacs, site entrances and boulevard medians shall be landscaped with species tolerant of roadside conditions. The landscape plan shall be approved by the planning commission in consideration of sight distance, size of planting area, location of sidewalks, maintenance of adequate overhead clearance, accessibility to fire hydrants, visibility to approved signs and compatibility with the visual character of the surrounding area.
- (d) *Berms.* Where required, berms shall conform to the following standards:
- (1) *Dimensions.* Unless otherwise indicated or appropriate, required berms shall be measured from the grade of the parking lot or flat ground adjacent to the berm, and shall be constructed with slopes no steeper than one foot vertical for each three feet horizontal (33 percent slope), with at least a two-foot flat area on top. Berms may undulate in height, subject to review and approval of berm design as shown on the site plan. Unless otherwise indicated, the minimum height of required berms shall be three feet.
 - (2) *Protection for erosion.* Any required berm shall be planted with sod, ground cover, adequately mulched plant bed areas or other suitable live plant material to protect it from erosion so that it retains its height and shape. The use of railroad ties, cement blocks, and other types of construction materials to retain the shape and height of a berm shall be reviewed and approved by the planning commission.
 - (3) *Required plantings.*
 - a. Berms located in the front yard of nonresidential parcels shall be landscaped in accordance with the requirements for required greenbelt along street frontage, section 36-280(b).
 - b. Berms used for screening other than in the front yard shall be landscaped in accordance with the requirements for required buffer zones, section 36-280(e).
- (e) *Required buffer zones.* In order to provide protective screening and buffers between land uses, the planning commission shall require a greenbelt, and wall or berm to be provided by the applicant in accordance with the following:

<i>Required Buffer Zones</i>				
Proposed Use:	Adjacent to Single-Family District	Adjacent to Multiple Family or Mobile Home Park	Adjacent to Commercial District	Adjacent to Industrial District
Single-Family Residential	None	None	None	C ¹
Multiple Family Residential	B	B	C	C
Mobile Home Park	B	B	C	C
Commercial	B	B	C	None
Industrial	A	A	B	None

Footnote:

1. Buffer zone may be included in lot area. Buffer zone requirement applies to applications for subdivision plat or condominium site plan approval. Single-family residential lots of record existing prior to the effective date of the ordinance from which this article is derived are exempt from this requirement.

<i>Description of Required Buffer Zones</i>			
Buffer Zone	Minimum Width	Minimum Wall/Berm	Minimum Plant Materials
A	50 feet	6-foot high continuous wall ¹ or required berm	1 canopy tree, 2 evergreen trees and 4 shrubs per each 20 linear feet along the property line, rounded upward.
B	20 feet	6-foot high continuous wall ¹ or required berm	1 canopy tree, 1 evergreen tree and 4 shrubs per each 30 linear feet along the property line, rounded upward.
C	10 feet	None required	1 canopy or evergreen tree or 4 shrubs per each 20 linear feet along the property line, rounded upward.

Note: The planning commission may waive or reduce the above requirement if equivalent screening is provided by existing or planned parks, parkways, recreation areas, or by existing woodlands on the lot, and topographic or other natural conditions. Existing quality trees (hickory, oak, maple, ash) with a caliper at least eight inches shall count as two trees toward the above requirements.

Footnote:

1. Where a six-foot-high continuous wall is required, such wall shall be a masonry wall, except that the planning commission may allow the substitution of a six-foot-high pressure-treated wood fence.

- (f) *Waivers and modifications.* The planning commission may waive or modify the fencing or landscape buffering requirements upon a determination that a solid fence or landscaping buffer will not be necessary or effective for screening. In making such a determination, the following shall be considered:
- (1) Need for security;
 - (2) Abutting district or existing use;
 - (3) Extent that existing natural vegetation provides the desired screening;
 - (4) Topography which would eliminate the benefits of required landscaping;
 - (5) Building heights and views in relation to existing topography and vegetation as well as views from adjacent uses;

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- (6) Similar conditions existing such that no good purpose would be served by providing the required landscaping plan.

(Zoning Ord. 2020, § 9.4.6, 1-5-2021)

Sec. 36-282. Natural open space.

- (a) Notwithstanding required open space preservation/design as part of the site plan review process, the planning commission may additionally require that portions of a site not included within a proposed development area be protected from damage during construction and maintained in a natural condition until such time as required for use. Said preservation measures may be required by the planning commission in areas which are important for one or more of the following:
 - (1) Preservation of the Township's rural character.
 - (2) Maintenance of wildlife habitat or migration routes.
 - (3) Protection of fragile ecosystems such as wetlands, streams and wildlife habitats.
 - (4) Maintenance of air quality by filtering out airborne particulate matter.
 - (5) Minimization of stormwater runoff and preservation of areas for groundwater recharge.
 - (6) Buffering between potentially incompatible land uses.
- (b) For areas of a site not proposed for immediate use, the planning commission may require that any combination of the following methods of natural area preservation be employed by an applicant as a condition of site plan approval.
 - (1) Provide a silt fence to prevent any construction related debris from impacting natural areas not included within the development area during construction;
 - (2) Provide adequate protective barricading outside the critical root zone for individual trees and woodland areas not included within the development area during construction;
 - (3) Avoid storage of any equipment, debris, refuse or materials within natural areas not included within the development area during construction and operation of the site;
 - (4) Avoid alteration, blockage or removal of any on-site natural watercourse passing through any natural area not included within the development area during construction and operation of the site; and
 - (5) Avoid alteration, blockage or removal of any on-site wildlife habitat area within natural areas not included within the development area during construction and operation of the site.

(Zoning Ord. 2020, § 9.4.7, 1-5-2021)

Sec. 36-283. Parking lot landscaping.

- (a) All of the required parking lot trees shall be placed within the parking lot envelope, described as the area including the parking lot surface and extending 18 feet from the edge of the parking lot, as illustrated in Figure 36-283. Where a parking lot contains 50 or more parking spaces, a minimum of one-third of the trees shall be placed in landscape islands within the interior of the parking area.
 - (1) In an industrial district one canopy tree shall be required for each 3,000 square feet of the total of the paved driveway and parking lot surface. In all commercial and multiple family districts, one canopy tree shall be required for each 2,000 square feet of paved driveway and parking lot surface, provided that in no case less than two trees provided.

- (2) Each tree shall be surrounded by an open land area a minimum of 150 square feet to provide for adequate infiltration of water and air and surrounded by a minimum unobstructed area of six feet around the diameter of the trunk for protection. If irrigation is provided, the open land area can be reduced to a minimum of 75 square feet. Tree plantings shall also be protected from automobiles with curbing or other suitable device.
- (b) In no case shall the required parking area landscaping be credited toward required greenbelts, or buffers.
- (c) Landscaping shall be installed such that, when mature, it does not obscure traffic signs or lighting, obstruct access to fire hydrants, interfere with adequate sign distance for motorists, nor disrupt drainage patterns on the site or adjacent properties.
- (d) Landscaping shall be dispersed throughout the parking lot in order to break up large expanses of pavement and help direct smooth traffic flow within the lot.
- (e) Landscaped areas shall be covered by grass or other living ground cover. Woodchips or similar material is permitted for planting beds immediately surrounding plant material. Such material should be identified on the landscape plan. Mulches shall be three inches depth around woody plants and one-half inch depth around herbaceous plants, and in both cases shall not be placed within 2½ inches of mainstem or clump crown.

(Zoning Ord. 2020, § 9.4.8, 1-5-2021)

Sec. 36-284. Landscape standards.

The following specifications shall apply to all plant material proposed in accordance with the landscaping requirements of this chapter:

- (1) *Size.* The following table specifies the minimum required plant sizes at planting:

<i>Minimum Plant Material Size</i>			
Plant Type	Minimum Caliper ¹	Minimum Height	Minimum Spread
Deciduous Canopy Trees	2½ inches	4 feet ² first branch	—
Deciduous Ornamental Trees	2 inches	4 feet ³	—
Evergreen Trees	—	6 feet	2½ feet
Shrubs	—	2 feet	2 feet

Footnotes:

- 1. Measured 12 inches above grade.
- 2. Trees planted along pedestrian routes (i.e., sidewalks, plazas, etc.) shall not have branches lower than six feet. Trees planted within the street line and sidewalk or along bikeways shall maintain a vertical clearance to obstructions of a minimum of ten feet.
- 3. Clumped trees (i.e., birch) shall have a minimum height of six feet above grade.
- (2) *Spacing.* Planting in informal groupings to create a naturalistic appearance is desirable. Wherever possible, plant materials shall not be placed closer than four feet from the fence line or property line.

The following guidelines are for on-center spacing of plant materials used together in informal groupings:

<i>Plant Material Types</i>	<i>Evergreen</i>	<i>Narrow Evergreen Trees</i>	<i>Large Deciduous Trees</i>	<i>Deciduous Ornamental Trees</i>	<i>Large Shrubs</i>	<i>Small Shrubs</i>
Evergreen Trees	Min. 10' Max. 20'	Min. 12'	Min. 20'	Min. 12'	Min. 12'	Min. 5'
Narrow Evergreen Trees	Min. 12'	Min. 5' Max. 10'	Min. 15'	Min. 10'	Min. 5'	Min. 4'
Deciduous Canopy Trees	Min. 20'	Min. 15'	Min. 20' Max. 30'	Min. 15'	Min. 5'	Min. 3'
Deciduous Ornamental Trees	Min. 12'	Min. 10'	Min. 15'	Min. 8' Max. 15'	Min. 6'	Min. 3'
Large Shrubs	Min. 12'	Min. 5'	Min. 5'	Min. 6'	Min. 4' Max. 6'	Min. 5'
Small Shrubs	Min. 5'	Min. 4'	Min. 3'	Min. 3'	Min. 5'	Min. 3' Max. 4'

- (3) *Mixing of species.* The overall landscape plan shall not contain more than 33 percent of any one plant species. The use of trees native to the area and Southeast Michigan, and mixture of trees from the same species associates, is encouraged. Botanical genera containing trees native to southeast Michigan are identified with an asterisk (*) in the table of recommended plant materials.
- (4) *Suggested plant materials.* The following table lists recommended plant materials for required landscaping. Plant materials of equal or better quality may be substituted for suggested plant materials.

<i>Recommended Plant Materials</i>	
<i>Common Name</i>	<i>Genus</i>
<i>Deciduous Canopy Trees</i>	
1. Oaks*	Quercus
2. Hard Maples (Except Japanese)*	Acer
3. Hackberry*	Celtis
4. Planetree (Sycamore)*	Platanus
5. Birch*	Betula
6. Beech*	Fagus
7. Gingko (male)	Ginkgo
8. Honeylocust (Thornless Cultivars only)*	Gleditsia
9. Sweetgum	Liquidambar
10. Hophornbeam (Ironwood)*	Ostrya

11. Linden	Tilia
12. Ashes*	Faxinus
13. Hickory*	Carya
14. Hornbeam (Blue Beech)*	Carpinus
Please note: Although the use of ashes is suggested, due to recent disease and pest problems associated with ashes in the area, it is recommended that more disease resistant ash cultivars be used and that no one cultivar be planted as the dominant tree type.	
<i>Deciduous Ornamental Trees</i>	
1. Amelanchier*	Amelanchier
2. Redbud*	Cercis
3. Dogwood (Tree Form)*	Cornus
4. Hawthorn*	Crataegus
5. Flowering Crabapple (Disease Resistant Cultivars)	Malus
6. Flowering Plum (Tree Form)	Prunus
7. Flowering Pear	Pyrus
8. Magnolia	Magnolia
9. Hornbeam*	Carpinus
10. Rose of Sharon	Hibiscus
<i>Evergreen Trees</i>	
1. Fir	Abies
2. Hemlock	Tsuga
3. Spruce	Picea
4. Pine*	Pinus
5. Douglas Fir	Pseudotsuga
Please note: Dwarf, Globe, Pendulous species/Cultivars are not permitted.	
<i>Narrow Evergreens</i>	
1. Juniper*	Juniperus
2. Arborvitae	Thuja
Please note: Dwarf, Globe, Spreading Species/Cultivars are not permitted.	
<i>Large Shrubs</i>	
1. Deciduous	
a. Dogwood (Shrub Form)*	Cornus
b. Cotoneaster	Cotoneaster
c. Forsythia	Forsythia
d. Mock-Orange	Philadelphus
e. Sumac*	Rhus
f. Lilac	Syringa
g. Viburnum*	Viburnum

h. Witchhazel*	Hamamelis
i. Euonymus	Euonymus
j. Privet	Ligustrum
k. Ninebark*	Physocarpus
2. Evergreens	
a. Juniper (Hetz, Pfitzer, Savin)	Juniperus
b. Yew (Pyramidal Japanese)	Taxus
<i>Small Shrubs</i>	
1. Deciduous	
a. Barberry	Berberis
b. Boxwood	Buxus
c. Quince	Chaenomeles
d. Cotoneaster	Cotoneaster
e. Euonymus*	Euonymus
f. Forsythia	Forsythia
g. Hydrangea	Hydrangea
h. Holly*	Ilex
i. Privet	Ligustrum
j. Potentilla*	Potentilla
k. Currant*	Ribes
l. Lilac	Syringa
m. Viburnum*	Viburnum
n. Weigela	Weigela
2. Evergreens	
a. Fir	Abies
b. False Cypress	Chamaecyparis
c. Juniper (Low Spreading)*	Juniperus
d. Spruce	Picea
e. Pine	Pinus
f. Yew (Globe, Spreading, Upright)*	Taxus
g. Arborvitae (Globe/Dwarf)	Thuja

- (5) *Undesirable plant material.* Use of the following plant materials (or their clones or cultivars) is not encouraged because of susceptibility to storm damage, drainage conflicts, disease, and other undesirable characteristics.
- a. Box Elder.
 - b. Soft Maples (Silver).
 - c. Elms (American, Siberian, Slippery, Red, and Chinese).
 - d. Poplars.
 - e. Willows.

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- f. Horse Chestnut (nut bearing).
 - g. Tree of Heaven.
 - h. Catalpa.
 - i. Ginkgo (female).
 - j. Cottonwood.
 - k. Black Locust.
 - l. Mulberry.
 - m. Honey Locust (with thorns).

The planning commission, however, may allow trees from this list when associated with an appropriate ecosystem, such as a wetland area.

(6) *Ground cover/grass.*

- a. *Ground cover.* Ground cover used in lieu of turf grasses in whole or in part shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after three complete growing seasons.
- b. *Grass.* Grass area shall be planted using species normally grown as permanent lawns in Livingston County. Grass, sod, and seed shall be clean and free of weeds, pests, and diseases. Grass may be sodded, plugged, sprigged or seeded. When grass is to be established by a method other than complete sodding or seeding, nurse grass seed shall be sown for immediate effect and protection until complete coverage is otherwise achieved. Straw or other mulch shall be used to protect newly seeded areas.
- c. *Mulch.* Mulch used around trees, shrubs, and vines shall be three inches depth around woody plants and not be placed within 2½ inches of main stem or clump crown and installed in a manner as to present a finished appearance.

(Zoning Ord. 2020, § 9.4.9, 1-5-2021)

Sec. 36-285. Performance standards.

No use otherwise allowed shall be permitted within any district which does not conform to the following standards of use, occupancy, and operation, which standards are hereby established as the minimum requirements to be maintained within said area:

- (1) *Fire and explosion hazards.* All buildings, storage and handling of flammable materials and other activities shall conform to Township building and fire ordinances and to any applicable state and federal regulations or requirements. No use or building shall in any way represent a fire or explosion hazard to a use on adjacent property or to the public on a public street. Any activity involving the use or storage of flammable material shall be protected by adequate firefighting and fire suppression equipment and by such safety devices as are normally used in the handling of any such material.
- (2) *Smoke.* It shall be unlawful for any person, firm, or corporation to permit the emission of any smoke from any source whatever to a density greater than that density described as No. 1 on the Ringlemann Chart, provided that the following exceptions shall be permitted: smoke, the shade or appearance of which is equal to but not darker than No. 2 of the Ringlemann Chart for a period or periods, aggregating four minutes in any 30 minutes. For the purpose of grading the density of smoke, the Ringlemann Chart, as now published and used by the United States Bureau of Mines, which is hereby

made a part of this chapter, shall be the standard. However, the umbrascope readings of smoke densities may be used when correlated with Ringlemann's Chart.

- (3) *Dust, dirt, and fly ash.* No person, firm, or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose, or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using said process or furnace or combustion device, recognized and approved equipment, means, methods, device or contrivance to reduce the quantity of gasborne or airborne solids of fumes emitted into the open air, which is operated in conjunction with said process, furnace, or combustion device so that the quantity of gasborne or airborne solids shall not exceed 0.20 grain per cubic foot of the charring medium at the temperature of 500 degrees Fahrenheit. For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed 50 percent of full load. The foregoing requirements shall be measured by the ASME Test Code for dust-separating apparatus. All other forms of dust, dirt, and fly ash shall be completely eliminated insofar as escape or emission into the open air is concerned. The building inspector may require such additional data as is deemed necessary to show that adequate and approved provisions for the preventions and elimination of dust, dirt, and fly ash have been made.
- (4) *Odor.* The emission of odors which are generally agreed to be obnoxious to any considerable number of persons at their place of residence shall be prohibited.
- (5) *Gasses.* SO₂, as measured at the property line, shall not exceed an average of 0.3 ppm over a 24-hour period; provided, however, that a maximum concentration of 0.5 ppm will be allowed for a one-hour period out of a 24-hour period; H₂S shall not exceed 0.1 ppm; fluorine shall not exceed 0.1 ppm; nitrous fumes shall not exceed five ppm; CO shall not exceed 15 ppm.
- (6) *Airborne matter, general.* In addition to subsections (1) through (5) of this section, there shall not be discharged from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment or nuisance to the public or which endanger the comfort, repose, health, or safety of persons or which cause injury or damage to business or property.
- (7) *Glare and radioactive materials.* Glare from any process (such as or similar to arc welding, or acetylene torch cutting) which emits harmful ultraviolet rays shall be performed in such a manner as not to be seen from any point beyond the property line, and as not to create a public nuisance or hazard along lot lines. Radioactive materials and wastes and including electromagnetic radiation such as X-ray machine operation, shall not be emitted to exceed quantities established as safe by the U.S. Bureau of Standards, when measured at the property line.
- (8) *Noise.* The emission of measurable noises from the premises shall not exceed 65 decibels as measured at the boundary property lines, except that where normal street traffic noises exceed 65 decibels during such periods, the measurable noise emanating from premises may equal, but not exceed, such traffic noises. In addition, objectionable sounds of an intermittent nature, or characterized by high frequencies, even if falling below the aforementioned decibel readings, shall be controlled so as not to become a nuisance to adjacent uses.
- (9) *Vibration.* Machines or operations which cause vibration shall be permitted in industrial districts, but no operation shall cause a displacement exceeding 0.003 of one inch as measured at the property line.
- (10) *Waste disposal.* All solid, liquid, and sanitary waste shall be treated and disposed in accordance with the standards of the Township of Hamburg, Livingston County Health Department, Michigan Department of Natural Resources and Michigan Department of Public Health and other applicable agencies.
- (11) *Lighting.* All exterior lighting shall be so installed that the surface of the source of light shall not be visible from the nearest residential district boundary, and it shall be so arranged to reflect light away

from any residential use. In no case shall any lighting become a nuisance as regulated in the Township nuisance ordinance.

(Zoning Ord. 2020, § 9.5, 1-5-2021)

Sec. 36-286. Regulation of floodplain areas; purpose.

- (a) The floodplains of Hamburg Township are subject to periodic inundation of floodwaters which result in loss of property, health and safety hazards, disruption or commerce and governmental services and impairment or tax base.
- (b) It is the purpose of this section to comply with the provisions and requirements of the National Flood Insurance Program, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, Tuesday, October 26, 1976, and redesignated at 44FR 31177, May 31, 1979.
- (c) The provisions of this section are intended to:
 - (1) Help protect human life, prevent or minimize material losses, and reduce the cost to the public of rescue and relief efforts;
 - (2) Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;
 - (3) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
 - (4) Protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding;
 - (5) Permit reasonable economic use of property located within a designated floodplain area.

(Zoning Ord. 2020, § 9.6.1, 1-5-2021)

Sec. 36-287. Delineation of floodplain areas.

- (a) Designated floodplain areas shall overlay existing zoning districts delineated on the zoning district map of Hamburg Township. The boundaries of the floodplain areas are identified in the report entitled, "The Flood Insurance Study, Hamburg Township," with accompanying flood insurance rate maps dated September 17, 2008 prepared by FEMA. The study and accompanying maps are adopted by reference, appended, and declared to be part of this chapter.
- (b) The standard applied to establish the floodplain area is the base floodplain delineated by the base flood. In areas associated with riverine flooding, a floodway is designated within the floodplain area.
- (c) Where there are disputes as to the location of a floodplain area boundary, the zoning board of appeals shall resolve the dispute in accordance with section 36-136(b).

(Zoning Ord. 2020, § 9.6.2, 1-5-2021)

Sec. 36-288. Application of regulations.

- (a) In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within

designated floodplain areas. Conflicts between the requirements of this section and other requirements or this chapter or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases the more stringent requirement shall be applied.

- (b) Upon application for land use permits in accordance with section 36-34, the zoning administrator shall determine whether said use is located within a designated floodplain area utilizing the documents cited in section 36-287. The issuance of a land use permit within the floodplain area shall comply with the following standards:
 - (1) The requirements of this section shall be met.
 - (2) The requirements of the underlying districts and all other applicable provisions of this chapter shall be met.
 - (3) All necessary development permits shall have been issued by appropriate local, state and federal authorities, including a floodplain permit, approval, or letter of no authority from ENGLE under authority of part 31 of Public Act No. 451 of 1994 (MCL 324.3101 et seq.). Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
- (c) Floodplain management administrative duties.
 - (1) With regard to the National Flood Insurance Program, and the regulation or development within the flood hazard area zone as prescribed in sections 36-286 through 36-290, the duties of the zoning administrator shall include, but are not limited to:
 - a. Notification to adjacent communities and the Department of Natural Resources of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
 - b. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of floodproofed structures, the elevation to which the structure was floodproofed;
 - c. Recording of all certificates of floodproofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance, the increased danger to life and property, and that the cost of flood insurance will increase commensurate with the increased flood risk and may reach amounts in excess of \$25.00 for \$100.00 of insurance coverage per year. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.
 - (2) All records and maps pertaining to the National Flood Insurance Program shall be maintained in the office of the zoning administrator and shall be open for public inspection.
 - (3) It shall be the responsibility of the zoning administrator to obtain and utilize the best available flood hazard data for purposes of administering this chapter in the absence of data from FEMA.

(Zoning Ord. 2020, § 9.6.3, 1-5-2021)

Sec. 36-289. Floodplain standards and requirements.

- (a) The following general standards and requirements shall be applied to all uses proposed to be located within the floodplain area:

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- (1) All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall:
 - a. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - b. Be constructed with materials and utility equipment resistant to flood damage;
 - c. Be constructed by methods and practices that minimize flood damage.
 - (2) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.
 - (3) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. On-site waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.
 - (4) All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
 - (5) Adequate drainage shall be provided to reduce exposure to flood hazards.
 - (6) The Township Engineer or his representative shall review development proposals to determine compliance with the standards in this section and shall transmit his determination to the zoning administrator.
 - (7) Land shall not be divided in a manner creating parcels or lots which cannot be used in conformance with the requirements of this article.
 - (8) The flood-carrying capacity of any altered or relocated watercourse not subject to state or federal regulations designed to ensure flood-carrying capacity shall be maintained.
 - (9) Available flood hazard data from federal, state, or other sources shall be reasonably utilized in meeting the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.
- (b) The following specific standards shall be applied to all uses proposed to be located within the floodplain area but not within the floodway portion of the floodplain area:
- (1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated at least one foot above the base flood level.
 - (2) All new construction and substantial improvements of nonresidential structures shall have either:
 - a. The lowest floor, including basement, elevated at least one foot above the base flood level.
 - b. Be constructed such that below base flood level, together with attendant utility and sanitary facilities, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied, and that the floodproofing methods employed are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood in the location of the structure.
- (c) Mobile home standards. The following general standards and requirements shall be applied to mobile homes located within floodplain areas:
- (1) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties in accord with the following specifications:

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- a. Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations, except that on mobile homes less than 50 feet in length one tie per side shall be required.
 - b. Frame ties shall be provided at each corner of the home with five additional ties per side at intermediate points, except that on mobile homes less than 50 feet in length four ties per side shall be required.
 - c. All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.
 - d. All additions to a mobile home shall be similarly anchored.
- (2) An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the Livingston County Sheriff Department for mobile home parks and mobile home subdivisions.
 - (3) Mobile homes within Zones A-3 on the flood insurance rate map shall be located in accord with the following standards:
 - a. All mobile homes shall be placed on stands or lots which are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level.
 - b. Adequate surface drainage away from all structures and access for a mobile home hauler shall be provided.
 - c. In the instance of elevation on pilings, lots shall be large enough to permit steps, piling foundations shall be placed in stable soil no more than ten feet apart; and reinforcement shall be provided for piers more than six feet above ground level.
 - d. In mobile home parks and mobile home subdivisions which exist at the time this subsection is adopted, where repair, reconstruction or improvement of streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities, and pads before the repair, the standards in subsections (a) through (c) of this section shall be complied with.
- (d) The following standards shall be applied to all uses proposed to be located within the floodway portion of the floodplain area:
 - (1) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited. Exception to this prohibition shall only be made upon certification by a registered professional engineer or the Department of Natural Resources that the development proposed will not result in any increases in flood levels during a base flood discharge, and compliance with Public Act No. 245 of 1929, as amended by Public Act No. 167 of 1968 (MCL 125.523 et seq.).
 - (2) The placement of mobile homes shall be prohibited.
 - (3) The uses of land permitted in an underlying zoning district shall not be construed as being permitted within the regulatory floodway, except upon compliance with the provisions of this section.

(Zoning Ord. 2020, § 9.6.4, 1-5-2021)

Sec. 36-290. Warning and disclaimer of liability.

- (a) The degree of flood protection required by provisions of this section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions.
- (b) These provisions do not imply that areas outside the floodplain or land uses permitted within such districts will be free from flooding or flood damages nor shall the Township or any officer or employee thereof be

liable for any flood damages that result from reliance on the provisions of this section or any administrative decision lawfully made thereunder.

(Zoning Ord. 2020, § 9.6.5, 1-5-2021)

Sec. 36-291. Engineering and design standards.

Proposed development shall conform to the adopted Hamburg Township Engineering and Design Standards. These standards set minimum design requirements intended to help protect the health, safety, and environmental resources of the Township.

(Zoning Ord. 2020, § 9.7, 1-5-2021)

Sec. 36-292. Common use (keyhole) ordinance.

- (a) *Intent.* Special use provisions in accordance with section 36-36 are established to regulate land uses adjoining water bodies in any zoning district. The purpose of these regulations is to protect the public health safety and welfare which could be threatened by the over-usage of inland lakes, and avoid situations which may create a nuisance, impair important irreparable natural resources and destroy property values. These regulations are intended to reinforce the implementation of part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.).
- (b) *Common use lot (keyhole) defined.* A common use riparian lot (keyhole) shall be defined as any private site, platted lot or other parcel held in common by a subdivision, association, similar agency or group of individuals, or held in common by virtue of the terms of a plat of record; which provides common use riparian access to non-riparian lots or landowners.
- (c) *Applicability.* These regulations shall apply to the following common use lots:
 - (1) Those lots created after the effective date of the ordinance from which this chapter is derived.
 - (2) Those lots of record existing prior to the effective date of the ordinance from which this section is derived that did not provide common use access to a water body (riparian rights to non-riparian landowners) prior to the effective date of the ordinance from which this section is derived.
 - (3) Lots that have been providing common use access to a water body for a defined geographical area or a specific number of lots through an association or subdivision/condominium deed prior to the effective date of the ordinance from which this section is derived, and where it is proposed to expand the geographical area or number of lots that are provided common use access to a water body through said common use access lot.

Lots of record existing prior to the effective date of the ordinance from which this article is derived that have been providing common use access to a water body for a defined geographical area or a specific number of lots may continue to provide riparian rights subject to the marina operating permit requirements of the Michigan Department of Natural Resources under part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.).

- (d) *Uses subject to special use permit.* The following uses shall be permitted in any district upon approval of the planning commission and subject to conditions as specified under section 36-36.
 - (1) Recreational sites, including bathing beaches, playgrounds, boat launching sites, and other recreational areas.
 - (2) Scenic sites.
 - (3) Trails, bicycle paths and access routes, other than dedicated streets.

- (4) Boat docks provided that all of the requirements of section 36-291 are met.
- (e) *Area and bulk requirements.* Waterfront sites dedicated to common use shall conform in all respects to the area and bulk requirements of the adjacent districts which they are intended to serve.
- (f) *General requirements.*
- (1) The deed to such lot or parcel shall specify the non-riparian lots or parcels which shall have rights to its use.
 - (2) Such riparian lot or parcel shall have a minimum frontage of 150 feet, measured by a straight line which intersects each side lot line at the water's edge; a minimum lot depth of 100 feet, measured as the minimum distance between the water's edge and the lot line which is opposite the water's edge; and a minimum area of 30,000 square feet.
 - (3) For uses other than boat docks, such riparian lot shall have the minimum amount of riparian frontage identified in the following table for each non-riparian lot served:

<i>Zoning District</i>	<i>Riparian Frontage per Lot Served</i>
WFR	50 feet/lot
NR	100 feet/lot
All other districts	75 feet/lot

Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

- (g) *Boat docks.*
- (1) The maximum number of boats which can be docked, moored or stored at a common use riparian parcel shall be one boat for the required riparian frontage identified in the following table:

<i>Zoning District</i>	<i>Riparian Frontage per Boat</i>
WFR	50 feet/boat
NR	100 feet/boat
All other districts	75 feet/boat

Riparian frontage shall be measured by a straight line which intersects each side lot line at the water's edge. Artificially created shoreline may not be used to increase the calculated riparian frontage.

- (2) The boat dock facility must obtain a permit for marina operation from the Michigan Department of Natural Resources in accordance with Administrative Rules of part 301 of Public Act No. 451 of 1994 (MCL 324.30101 et seq.). Design for a boat dock facility shall meet all of the Michigan Department of Natural Resources standards for marinas.

(Zoning Ord. 2020, § 9.8, 1-5-2021)

Sec. 36-293. Natural features setback requirements.

- (a) *Intent and purpose.* It has been determined that, in the absence of such a minimum setback, intrusions in or onto natural features would occur, resulting in harm, impairment and/or destruction of natural features contrary to the public health, safety and general welfare and the intent and purpose of this article. This regulation is based on the police power, for the protection of the public health, safety and welfare, including

the authority granted in the Township Rural Zoning Act. The setback requirements shall achieve the following objectives in relation to the required setback areas:

- (1) Protect unique wildlife habitat and habitat transition, including, without limitation, feeding, nesting, resting and traveling areas for numerous animals.
- (2) Protection of surface water runoff and water quality for pollution prevention purposes, and assistance in beneficial water recharge for drinking, irrigation and other purposes.
- (3) Provide water storage area in storm events.
- (4) Provide areas for recreational or other functional uses which are unique due to geographic relationship to natural features.
- (5) Preserve aesthetic views and areas for the enjoyment of natural resources.
- (6) Preserve threatened and endangered species habitat, including upland species.
- (7) Reduce the need for on-site and off-site stormwater storage capacity based upon the availability of a greater area or absorption and a smaller impervious area.
- (8) Stabilize and protect soil resources, including the prevention of erosion and prohibition of loss due to moving water resulting in destruction of upland, structures and infrastructure and infrastructure on the upland, and prevention of the alteration of the course of moving waters.

(b) *Authorization and prohibition.*

- (1) The natural features setback shall be an area or feature with boundaries and limitation determined in accordance with the standards and provisions in this article in relation to respective types of natural features.
- (2) In conjunction with the review of plans submitted for authorization to develop property or otherwise undertake an operation in or on, or adjacent to, a natural feature setback shall be determined, and authorizations and prohibitions established, by the body undertaking the plan review.
- (3) Within an established natural feature setback, unless and only to the extent determined to be in the public interest by the body undertaking plan review, there shall be no deposit of any material; removal of any soils, minerals and/or vegetation; dredging, filling or land balancing; constructing permanent or temporary structures; or, undertaking seasonal or permanent operations. This prohibition shall not apply with regard to those activities exempted from this prohibition, below.
- (4) In determining whether proposed construction or operations are in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the construction or other operation, taking into consideration the local, state and national concern for the protection and preservation of the natural feature in question. If, as a result of such a balancing, there remains a debatable question whether the proposed project and/or operation is clearly in the public interest, authorization for the construction and/or operation within the natural feature setback shall not be granted. The following general criteria shall be applied in undertaking this balancing test:
 - a. The relative extent of the public and private need for the proposed activity.
 - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity.
 - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the natural feature and/or natural feature setback provides.

- d. The probable impact of the proposed construction and/or operation in relation to the cumulative effect created by the other existing and anticipated activities in the natural feature to be protected.
- e. The probable impact in recognized historic, cultural, scenic, ecological, or recreational values, and on fish, wildlife and the public health.
- f. The size and quantity of the natural feature setback being considered.
- g. The amount and quantity of the remaining natural feature setback.
- h. Proximity of the proposed construction and/or operation in relation to the natural feature, taking into consideration the degree of slope, general topography in the area, soil type and the nature of the natural feature to be protected.
- i. Economic value, both public and private, of the proposed construction and/or operation, and economic value, both public and private, if the proposed construction and/or operation were not permitted.
- j. The necessity for the proposed construction and/or operation.

(c) *Setback standards.*

- (1) The point of measurement in establishing the natural features setback shall be from the delineated boundary of the natural feature. The delineated boundary shall be determined by a qualified individual such as an environmental scientist. The applicant or the applicant's agent shall supply a written description of the natural feature and the name, address, telephone number, a resume and list of experience of the applicant's agent, firm or individual preparing the determination. If required an NFIS is required, this information may be included with the report and will be subject to review and approval of the ZA.
- (2) Unless otherwise determined by the body undertaking the plan review, the following setbacks shall apply to any new development excluding the following: open space developments; developments within the Village Center (VC), Village Residential (VR), Neighborhood Service (NS), Community Service (CS), Limited Industrial (LI), and General Industrial (GI) districts. All terms related to natural features setback standards are defined in section 36-6. The zoning administrator or body undertaking plan review may reduce or eliminate the following setbacks upon review of a request which details the future protection of the natural feature and or mitigation of the natural feature.
 - a. A 50-foot setback from the boundary or edge of any regulated wetland. Wetland boundary as determined by the applicant consistent with section 36-294.
 - b. A 50-foot setback from any watercourse, including, but not limited to, streams and creeks, excluding rivers and lakes. The setback shall be measured from an established high water mark.
 - c. A 50-foot setback from the outlet of areas constructed to receive, control and filter stormwater runoff prior to entering any fragile ecosystem (i.e., wetlands, lakes, streams) defined as a stormwater first flush or sediment forebay area in the Township stormwater ordinance. The setback shall be measured from the edge of the forebay.

<i>Required Natural Features Setbacks</i>		
Type of Natural Feature	Width of Setbacks	Point of Measurement
Regulated Wetland	50 feet	Delineated wetland boundary
Non-Regulated Wetland		
Watercourse	50 feet	High Water Mark

Stormwater Forebay	50 feet	Edge of Forebay
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(Zoning Ord. 2020, § 9.9, 1-5-2021)

Sec. 36-294. Wetland determination.

- (a) *Filing procedure/wetlands determination.* Any person desiring a land use permit for any activity requiring a Township permit or land use review such as: constructing a building, filing a tentative preliminary plat, submitting a site plan, a planned unit development, condominium or site condominium, a special use permit or requesting a lot split shall apply to the zoning administrator for a preliminary wetland determination.
- (b) *Preliminary wetland determination.* If the zoning administrator or the planning commission determines, after reviewing available wetland maps, the USDA soil survey maps, and other related information, that the proposed activity may encroach into a MDNR regulated wetland as defined, then a final wetland determination shall be conducted by the applicant prior to further processing of the land use permit application. If the zoning administrator or the planning commission determines that a site is buildable that there is no potential for the activity to impact a MDNR regulated wetland, and finds all other applicable Township requirements satisfied, the zoning administrator can issue a land use permit without submittal of a final wetland determination.
- (c) *Final wetland determination.* If the zoning administrator or the planning commission determines the proposed activity may encroach into a EGLE regulated wetland area, the applicant shall arrange to have a final wetland determination completed by an experienced wetland consultant before the land use permit can be processed. The study shall be prepared by an experienced consultant in the delineation and composition of wetlands. This does not preempt any responsibility of the applicant to also apply to MDNR for the required wetland permits.
 - (1) *Required information (final wetland determination).* The applicant or his agent shall supply the following information for a final wetland determination. The wetland boundary shall be flagged on-site at an interval of not more than 25 feet to permit on-site inspection and verification by Township officials.
 - a. The name, address and telephone number of the applicant.
 - b. The name, address, telephone number, a resume and list of experience of the applicant's agent, firm or individual preparing the wetland determination
 - c. The owner of the property if different from the applicant, and the applicant's interest in the property.
 - d. A legal description of the property, including the total area, exclusive of public road right-of-way, accurate to the nearest hundredth of an acre.
 - e. Written and graphic descriptions of the proposed activity.
 - f. An accurate graphic description of the wetlands complete with all of the following. The zoning administrator or the planning commission may reduce the requirements for minor projects at his discretion.
 - 1. A written summary of how and when the wetland was delineated;
 - 2. Major plant species and animal breeding habitat that are present and an estimation of how the wetland functions or relates to its general environment;
 - 3. The presence of any hills or springs;

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4. An accurate measurement of the wetland area in acres and square feet, to the nearest hundredth of an acre; and
 5. Any proposed remedial or mitigating actions to be completed as part of the activity proposed in the land use request.
- (2) *Submittal review process.* Upon receipt of the final wetland determination, the zoning administrator or the planning commission shall review the proposed activity to determine if it encroaches into a regulated wetland. The zoning administrator or the planning commission may refer final wetland determinations to an environmental consultant for review and comment, as described in sections 36-38 through 36-40. If the proposed activity is determined to encroach into a state-regulated wetland, the applicant shall be required to produce written evidence of compliance with the Natural Resources and Environmental Protection Act, Public Act No. 451 of 1994 (MCL 324.101 et seq.) or any other applicable state and/or federal regulation, in the form of a permit or a letter of non-jurisdiction from the state. The applicant shall provide the zoning administrator with a copy of any application to the state for a wetland use permit, at the time that the application is filed with the state. The zoning administrator shall forward a copy of the state wetland use permit application to an environmental consultant review under the provisions of sections 36-38 through 36-40.

(Zoning Ord. 2020, § 9.10, 1-5-2021)

Sec. 36-295. Outdoor lighting.

- (a) *Intent.* The purpose of this section is to improve the travel conditions for persons and vehicles on public ways by reducing glare, to reduce light trespass, to protect the general health, safety and welfare of the public in Hamburg Township, to decrease the expense of lighting, to decrease light pollution that unnecessarily contributes to a sky glow and to improve the aesthetics of the Township in general while providing adequate nighttime safety, utility, and security.
- (b) *Applicability.* The standards in this section shall apply to any light source that is visible from any property line, or beyond, for the site from which the light is emanating. The zoning administrator may review any building or site to determine compliance with the requirements under this section. Whenever a person is required to obtain a land use permit, building permit, electrical permit for outdoor lighting or signage, a special land use permit, subdivision approval, minor site plan approval, or site plan approval from the Township, the applicant shall submit sufficient information to enable the zoning administrator and/or planning commission to determine whether the proposed lighting will comply with this section.
- (c) *Submittal requirements.* The following information must be included for all site plan submissions. The planning commission may waive or modify any of the following submission requirements. Where site plan approval is not required, some or all of the items may be required by the zoning administrator prior to lighting installation:
 - (1) Location of all freestanding, building-mounted and canopy light fixtures on the site plan and building elevations.
 - (2) Photometric grid overlaid on the proposed site plan indicating the overall light intensity throughout the site (in footcandles) as deemed necessary by the zoning administrator.
 - (3) Specifications and details for the type of fixture being proposed including the total lumen output, type of lamp and method of shielding.
 - (4) Use of the fixture proposed.
 - (5) Any other information deemed necessary by the planning commission or zoning administrator.

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- (d) *General standards.* Unless exempted under subsection (f) of this section, all lighting must comply with the following standards for the CS, NS, VC, and MD zoning districts:
- (1) Exterior lighting shall be fully shielded and directed downward toward the Earth's surface, away from residential uses, roads, glass, water or other reflective materials which would create excessive off-site glare or incident rays.
 - (2) The zoning administrator and/or planning commission may approve decorative light fixtures as an alternative to shielded fixtures when it can be proven that there will be no off-site glare and the proposed fixtures will improve the appearance of the site.
 - (3) Lights on poles shall not be taller than the building whose area they illuminate nor taller than 15 feet whichever is shorter. Lights on poles may exceed 15 feet up to 20 feet if the fixtures are located a minimum of 75 feet from any planned, zoned or used residential areas.
 - (4) Lighting shall not be of a flashing, moving or intermittent type.
 - (5) Except where used for security purposes, all outdoor lighting fixtures, existing or hereafter installed and maintained shall be turned off between 11:00 p.m. and sunrise, except when used for commercial and industrial uses, such as in sales, assembly and repair areas, where such use is open for business after 11:00 p.m. but only for so long as such use open for business. Businesses with light fixtures used for security purposes are encouraged to use a motion detection device which is directed to detect motion within the property.
 - (6) Any light fixture must be placed in such a manner that no light emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at ground level.
 - (7) The intensity of light within a site shall not exceed ten footcandles or one footcandle at any property line, except where it abuts a residentially used or zoned site whereby a maximum of 0.5 footcandle is permitted. The only exception is with gas station canopy and automobile dealership lighting, where a maximum of 20 footcandles is permitted within the site but the above standards shall apply to intensity at the property line.
 - (8) Any canopy structure used at a business location must have recessed lights with diffusers which do not extend below the surface of the canopy.
 - (9) All lighting within the VC Village Center and VR Village Residential zoning districts must comply with the lighting guidelines and standards outlined in section 36-187(i)(1).
- (e) *Sign lighting standards.* Unless exempted under subsection (f) of this section, all sign lighting must comply with the following standards:
- (1) Indirect illumination of signs, canopies and buildings is permitted provided a maximum 125-watt bulb is utilized and there is no glare.
 - (2) The use of laser light source, searchlights or any similar high intensity light for outdoor advertisement or entertainment is prohibited.
 - (3) Luminous tube and exposed bulb fluorescent lighting is prohibited as part of a sign, provided the proposed luminous tube or exposed bulb fluorescent lighting is determined to be consistent with the architectural character of the building.
 - (4) Internally illuminated signs shall have a minimum of 60 percent of the sign face composed of an opaque surface which allows no light to transmit through.

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- (f) *Installation and operation cost.* The cost of installing and operating approved roadway lighting on any public road shall be through a financial method approved by the Township Board of Trustees or by the county road commission. The costs of all other lighting systems shall be borne by the developer/property owner.
- (g) *Exceptions.* In a proposal that requires planning commission review, the planning commission may waive any of the provisions stated in subsection (d) of this section. In a proposal that does not require planning commission review, the zoning administrator may waive any of the provisions stated in subsection (d) of this section. A waiver may be granted only after a request for such an exception has been made and reviewed. Requests for such an exception shall include, but not be limited to, a description of the lighting plan, a description of the efforts that have been made to comply with the provisions of these regulations and the reasons such an exception is necessary. In reviewing a request for such exception, safety, design, and other factors deemed appropriate along with the following shall be considered:
- (1) The new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens.
 - (2) If a lighting recommendation or regulation applies, the minimum/maximum illuminance specified by the recommendations or regulation is used.
 - (3) If no lighting recommendations or regulation applies, the minimum illuminance adequate for the intended purpose is used, giving full consideration to safety, energy conservation, glare, and minimizing light trespass.
 - (4) For roadway lighting, a determination is made that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warning signs, informational signs, or other passive means.
 - (5) Adequate consideration has been given to conserving energy and minimizing glare, light pollution, and light trespass.
- (h) *Exemptions.* Exemptions from the provisions of this section are permitted only when:
- (1) Federal or state laws, rules and regulations take precedence over these provisions.
 - (2) Fire, police, rescue, or repair personnel need light for temporary emergency situations.
 - (3) There are special requirements, such as sports facilities and monument or flag lighting; all such lighting shall be selected and installed to shield the lamp from direct view to the greatest extent possible, and to minimize upward lighting and light trespass.
 - (4) A determination has been made by the Township Zoning Board of Appeals established through an open, public hearing process, that there is a compelling safety interest that cannot be addressed by any other method.
 - (5) Decorative lighting is used on a temporary basis during recognized holidays.
- (i) *Lamp or fixture substitution.* Should any light fixture regulated under this article, or the type of light source therein, be changed after the permit has been issued, a change request must be submitted to the zoning administrator for his approval, together with adequate information to ensure compliance with this Code, which must be received prior to substitution.

(Zoning Ord. 2020, § 9.11, 1-5-2021)

Secs. 36-296—36-328. Reserved.

ARTICLE IX. PARKING, LOADING AND DRIVEWAYS

Sec. 36-329. Purpose.

Off-street parking and loading shall be provided in all districts in accordance with the provisions herein at the time any structure or use is established, constructed, altered, or expanded.

(Zoning Ord. 2020, § 10.1, 1-5-2021)

Sec. 36-330. Off-street parking.

- (a) Off-street parking for residential uses shall be located on the same lot or parcel as the residence they are intended to serve.
- (b) Off-street parking for nonresidential uses shall be located on the same lot or parcel or within 300 feet of the building it is intended to serve provided the provisions of section 36-331 are met.
- (c) A minimum area of 200 square feet shall be provided for each vehicle parking space and each space shall be designated and reserved for parking.
- (d) A suitable means of ingress and egress shall be provided and located to minimize traffic congestion and interference with pedestrian movement. The location of all entrances and exits and directional signs, shall be approved by the planning commission, and where required by the county road commission and the Michigan Department of Transportation.
- (e) Parking areas with a capacity of four or more vehicles shall be hard-surfaced (either concrete, bituminous asphalt or other stabilized engineered surface) prior to occupancy and shall provide adequate drainage facilities to dispose of all collected surface water. The requirement for paving may be waived by the planning commission through subsection (h) of this section.
- (f) Except for single-family residential lots, lighting shall be provided for use when a parking area is in operation. The installation of such lighting shall be hooded or shielded as to reflect the light away from abutting or neighboring property.
- (g) When required off-street parking in a nonresidential district abuts a residential district, there shall be located a landscaped buffer strip 15 feet wide and parallel to the mutual boundary. The buffer strip shall be composed of trees and/or foliage. In lieu of a buffer strip, the planning commission may permit or require a solid fence or wall between six and eight feet in height shall be located along the mutual boundary.
- (h) Federal and state requirements regarding handicapped parking and access shall apply. Where the planning commission determines that a gravel off-street parking lot or loading area would be preferable to hard surface paving for environmental and drainage reasons, a gravel parking lot and/or loading area may be permitted. This determination will be based upon the following criteria:
 - (1) The types of uses to be conducted in the storage area;
 - (2) The types and amounts of hazardous materials to be used at the site;
 - (3) The extent of natural vegetation to filter dust generated by a gravel parking or loading area;
 - (4) The existence of adjacent uses which may be impacted by dust generated by a gravel parking or loading area;
 - (5) Existing hydrologic and ecologic features such as adjacent wetland complexes which may be better protected by the reduced runoff resulting from gravel parking or loading area;
 - (6) Existing soil permeability sufficient to provide desired infiltration;

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- (7) The potential for, or ability to minimize, erosion and sedimentation from a gravel parking or loading area.

(Zoning Ord. 2020, § 10.2.1, 1-5-2021)

Sec. 36-331. Collective parking.

- (a) The collective provision of off-street parking for two or more structures or uses is permitted, provided that the number of spaces provided collectively is not less than the sum of the requirements for various individual uses.
- (b) The total of such off-street parking facilities required for joint or collective use may be reduced by the zoning administrator in accordance with the following rules and standards:
 - (1) Uses for which the collective off-street parking facilities are to serve do not operate during the same hours of the day or night.
 - (2) Not more than 50 percent of the off-street parking facilities required for theaters, churches, bowling alleys, dance halls, and establishments for sale and consumption of alcoholic beverages, food, or refreshments may be supplied by off-street parking facilities provided for other buildings.
 - (3) The required off-street parking for a particular use may be reduced by its proportionate share of any publicly owned parking lot within 300 feet of street travel, or for which it has been assessed.

(Zoning Ord. 2020, § 10.2.2, 1-5-2021)

Sec. 36-332. Off-street loading.

- (a) Uses involving the receipt or distribution by vehicles of materials or merchandise shall provide and permanently maintain adequate space for standing, loading, and unloading services in order to avoid undue interference with public use of the streets or alleys, and thus, help relieve traffic congestion.
- (b) Every such building or structure housing such a use and having over 5,000 square feet of gross floor area shall be provided with at least one truck standing, loading, and unloading space on the premises not less than 12 feet in width, 25 feet in length, and 14 feet in height. One additional truck space of these dimensions shall be provided for every additional 20,000 square feet or fraction thereof of gross floor area in the building.
- (c) Off-street loading space and access drives shall be paved, drained, lighted, and shall have appropriate bumper or wheel guards where needed. Any light used for illumination shall be so arranged as to reflect the light away from adjoining premises and streets. The requirement for paving may be waived by the planning commission through section 36-330(h).
- (d) When required off-street loading in a nonresidential district abuts a residential district, there shall be located a landscaped buffer strip 15 feet wide and parallel to the mutual boundary. The buffer strip shall be composed of trees and/or foliage. In lieu of a buffer strip, the planning commission may permit or require a solid fence or wall between six and eight feet in height shall be located along the mutual boundary.
- (e) Loading spaces shall not be construed as supplying off-street parking space.

(Zoning Ord. 2020, § 10.2.3, 1-5-2021)

Sec. 36-333. Collective loading.

The collective provision of off-street loading space for two or more structures or uses is permitted, provided that the loading space collectively is not less than the sum of the requirements for the various individual uses.

(Zoning Ord. 2020, § 10.2.4, 1-5-2021)

Sec. 36-334. Parking space requirements.

The minimum number of off-street parking spaces required for any structure or use which is established, constructed, altered, or expanded is set forth in Table 36-334, Schedule of Parking Space 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 similar in character to the use not listed shall apply. When units of measurements determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded and fractions over one-half shall require one parking space.

Table 36-334. Schedule of Parking Space Requirements

<i>Use</i>	<i>Required Spaces</i>
1. One-family dwellings	Two parking spaces for each family dwelling unit.
2. Multiple dwellings	One and one-half parking spaces per dwelling unit.
3. Auto courts, motels, tourist homes	One parking space for each individual living or sleeping unit, plus two spaces for operating personnel.
4. Boardinghouses and lodgings, fraternities, private clubs	Two parking spaces for each three beds.
5. Hotels	One parking space for each two sleeping rooms, plus one additional space for each two employees.
6. Auditoriums (incidental to schools), churches, theaters, buildings for similar uses with fixed seats	One parking space for each four seats, plus additional spaces equal in number to 50 percent of the number of employees.
7. Auditoriums (other than incidental to schools), lodge halls, or buildings of similar uses without fixed seats	One parking space for each six persons permitted in such edifice as determined in the capacity limitations, thereof, by the fire marshal.
8. Convalescent home orphanage, or similar use	One parking space for each four beds plus one space for each two employees.
9. Hospitals, sanitariums	One parking space for each three patient beds; plus one space for each staff or visiting doctor; plus one space for each two employees.
10. Clinics	Four spaces for each doctor plus one space for each employee.
11. Elementary and junior high schools	One parking space for each two employees (including teachers and administrators).
12. High schools and colleges	One parking space for each two employees (including teachers and administrators) plus one

	for each ten students in addition to the requirements of the auditorium.
13. Stadium and sports areas	One parking space for each four seats.
14. Dance halls, pool and billiard rooms, exhibition	One parking space for each three persons permitted in such edifice as determined in the capacity limitations, thereof, by the fire marshal.
15. Bowling alleys	Five parking spaces for each alley plus one space for each employee.
16. Mortuaries or funeral homes	One parking space for each 25 square feet of floor area in the slumber rooms, parlors, chapels, or individual funeral service rooms.
17. General office building	One parking space for each 400 square feet of gross floor area excluding auto parking within or on the building.
18. Bank, professional office building	One parking space for each 200 square feet of floor area plus one parking space for each professional person working within the building.
19. Retail stores, except as otherwise specified herein	One parking space for each 150 square feet of floor area excluding auto parking space within or on the building.
20. Establishment for sale and consumption inside a building of alcoholic beverages, food, or refreshments	One parking space for each four-patron seat, plus one parking space for each two employees.
21. Drive-in and drive-through restaurants	One parking space for each 50 square feet of eating area, plus one parking space per employee, plus ten stacking spaces for each drive-through window.
22. Drive-through banks and other drive-through establishments	Four stacking spaces for drive-through window or transaction station, in addition to the requirements for the remainder of the use.
23. Gasoline filling and service stations	One parking space for each repair and service stall, plus one space for each employee in the two shifts which have the greatest number of employees.
24. Furniture and appliance stores, personal services (except beauty parlors and barbershops), household equipment or furniture repair shops, clothing or shoe repair or service shops, hardware stores	One parking space for each 400 square feet of floor area.
25. Beauty shops and barbershops	Two parking spaces for each beauty and/or barbershop chair.
26. Automotive sales and service garages	One parking space for each 200 square feet of floor area.
27. Warehouses, wholesale stores	One parking space for each 800 square feet of floor area.

28. Libraries, museums, post offices	One parking space for each 800 square feet of floor area plus one parking space for each two employees.
29. Fruit and vegetable stands	Five parking spaces, plus one parking space for each 25 square feet of floor area.
30. Industrial establishments, including manufacturing, research and testing labs, creameries, bottling works, printing and engraving shops	One parking space for each employee expected to work on the two shifts which have the greatest number of employees every day, plus ten parking spaces for visitor parking purposes.
31. Auction for the sale of livestock	Two square feet of parking area for each one square feet of buildings, pens, and all enclosed area on the premises of the auction facility.

(Zoning Ord. 2020, § 10.3, 1-5-2021)

Sec. 36-335. Purpose.

- (a) The intent of this section is to establish standards for driveway spacing and the number of driveways for application during the site plan review process. The standards of this section are intended to promote safe and efficient travel within the Township; minimize disruptive and potentially hazardous traffic conflicts; separate traffic conflict areas by reducing the number of driveways; provide efficient spacing standards between driveways, and between driveways and intersections; implement the master plan, the and other subarea plan recommendations; protect the substantial public investment in the street system; and to ensure reasonable access to properties, though not always the most direct access.
- (b) The standards herein apply to site plans and plats along roads which are under the jurisdiction of the county road commission or Michigan Department of Transportation (MDOT). Both of those agencies have driveway design and permit requirements; however, those general standards may not be sufficient to meet the particular traffic issues and objectives of Hamburg Township. Therefore, the driveway standards herein may be more restrictive than those provided by the road agencies. Construction within the public right-of-way under the jurisdiction of the county or MDOT still must also meet the permit requirements of the road agency. Where any conflicts arise, the more stringent standard shall apply.

(Zoning Ord. 2020, § 10.8.1, 1-5-2021)

Sec. 36-336. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Arterials, collectors and local roads means roads as are classified in the Township master plan. Arterial roads are as follows:

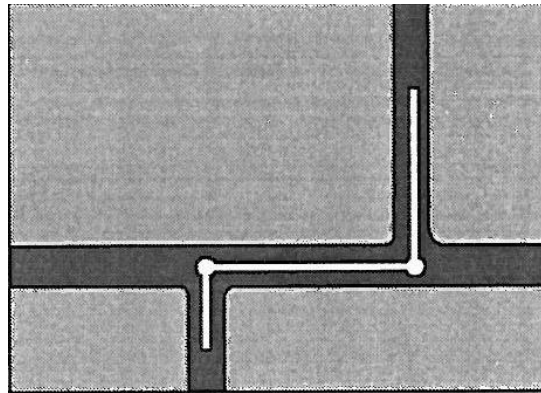
- (1) M-36;
- (2) Hamburg Road;
- (3) Winans Lake Road;
- (4) Chilson Road;

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- (5) Strawberry Lake Road;
 - (6) Pettysville Road;
 - (7) McGregor Road; and
 - (8) Whitewood/Shehan Road.

Commercial driveway, for the purposes of this section, means any vehicular access except those serving one- or two-dwelling units or an essential public service use, building or structure.

Offset means the distance between the centerline of the subject driveway and the centerline of driveways on the opposite side of the street.

Offset of Access Points



(Zoning Ord. 2020, § 10.8.2, 1-5-2021)

Sec. 36-337. General standards for driveway location.

- (a) Driveways shall be located so as to minimize interference with the free movement of traffic, to provide adequate sight distance, and to provide the most favorable driveway grade.
- (b) Driveways, including the radii but not including right turn lanes, passing lanes and tapers, shall be located entirely within the right-of-way frontage, unless otherwise approved by the county or the Michigan Department of Transportation and upon written certification from the adjacent property owner agreeing to such encroachment.

(Zoning Ord. 2020, § 10.8.3, 1-5-2021)

Sec. 36-338. Standards for the number of commercial driveways.

The number of commercial driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. A single means of direct or indirect access shall be provided for each separately owned parcel. Where possible, this access shall be via a shared driveway or a service drive. Where it is not possible to provide shared access, this access may be by a single driveway. Additional driveways may be permitted for a property only under one of the following:

- (1) One additional driveway may be allowed for properties with a continuous frontage of over 500 feet, and one additional driveway for each additional 500 feet of frontage, if the planning commission determines there are no other reasonable access opportunities.

- (2) Two one-way driveways may be permitted along a frontage of at least 125 feet, provided the driveways do not interfere with operations at other driveways or along the street.
- (3) The planning commission may determine additional driveways are justified due to the amount of traffic generated by the use without compromising traffic operations along the public street, based upon a traffic impact study submitted by the applicant.

(Zoning Ord. 2020, § 10.8.4, 1-5-2021)

Sec. 36-339. Driveway spacing standards.

(a) *Between driveways.*

- (1) The minimum spacing between two commercial driveways on the same side of the road shall be determined based upon posted speed limits along the parcel frontage. The minimum spacings indicated below are measured from centerline to centerline.

Table 36-339(a)

<i>Posted Speed Limit (MPH)</i>	<i>Minimum Driveway Spacing (in feet)</i>
25	125
30	155
35	185
40	225
45+	300

- (2) For sites with insufficient street frontage to meet the above criterion, the planning commission may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road.
- (b) *Offsets.* To reduce left-turn conflicts, new commercial driveways should be aligned with driveways or streets on the opposite side of the roadway where possible. If alignment is not possible, driveways should be offset a minimum of 250 feet along an arterial roadway and 150 feet along other roadways. Longer offsets may be required depending on the expected inbound left-turn volumes of the driveways, or sight distance limitations.
- (c) *Spacing from intersections.* Minimum spacing requirements between a proposed commercial driveway and an intersection either adjacent or on the opposite side of the street may be set on a case-by-case basis by the planning commission during site plan review but in no instance shall be less than the distances listed below. The following measurements are from the near edge of the proposed driveway, measured at the throat perpendicular to the street, to the near lane edge of the intersecting street or pavement edge for uncurbed sections:

Table 36-339(b)

<i>Minimum Commercial Driveway Spacing from Street Intersections</i>		
<i>Location of Driveway</i>	<i>Minimum Spacing for a Full Movement Driveway</i>	<i>Minimum Spacing for a Channelized Driveway Restricting Left Turns</i>
Along arterial from intersection with another arterial	300 feet	300 feet

Along arterial from intersection with a collector or local street	250 feet	125 feet
Along collector or local street from an intersection with an arterial	125 feet	75 feet
Along a collector from intersection with a non-arterial	125 feet	125 feet
Along a local street or private road from intersection with a non-arterial intersection	75 feet	75 feet

For sites with insufficient street frontage to meet the above criterion, the planning commission may require construction of the driveway along a side street, a shared driveway with an adjacent property, construction of a driveway along the property line farthest from the intersection or require a service/frontage road.

(Zoning Ord. 2020, § 10.8.5, 1-5-2021)

Sec. 36-340. Standards for shared driveways and service/frontage roads.

The use of service roads, in conjunction with driveway spacing, is intended to preserve traffic flow along major thoroughfares and minimize traffic conflicts, while retaining reasonable access to the property. Where noted above, or where the planning commission determines that reducing the number of access points may have a beneficial impact on traffic operations and safety while preserving the property owner's right to reasonable access, access from a side street, a shared driveway or service road connecting two or more properties or uses may be required. In particular, service drives, frontage roads or at least a connection between uses may be required in the following cases:

- (1) Where the driveway spacing standards of this section cannot be met.
- (2) Where recommended in the Township master plan and other corridor or sub-area master plans.
- (3) When the driveway could potentially interfere with traffic operations at an existing or potential traffic signal location.
- (4) The site is along an arterial, particularly along segments experiencing congestion or a relatively high number of accidents.
- (5) The property frontage has limited sight distance.
- (6) The fire department recommends a second means of emergency access.

(Zoning Ord. 2020, § 10.8.6, 1-5-2021)

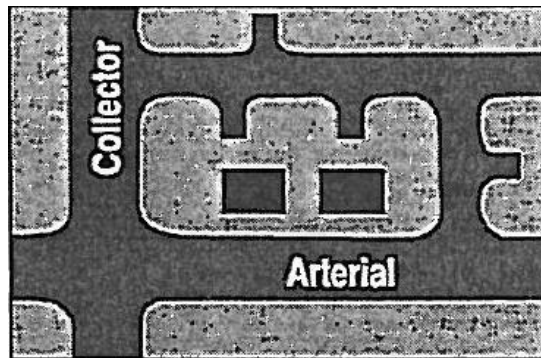
Sec. 36-341. Design standards for service drives.

Service roads, as an alternate to numerous individual driveways serving a series of uses or lots, shall be designed according to the following additional standards:

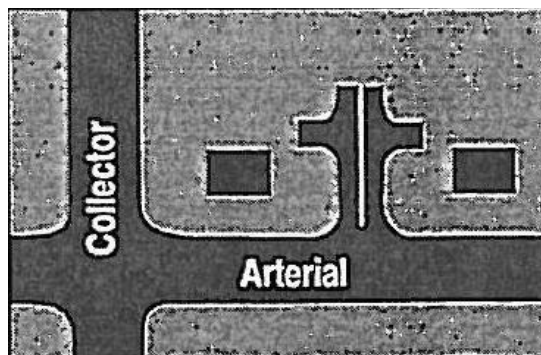
- (1) *Location.* Service roads shall generally be parallel or perpendicular to the front property line and may be located either in front of, adjacent to, or behind, principal buildings and may be placed in required yards. In considering the most appropriate alignment for a service road, the planning commission shall consider the setbacks of existing and/or proposed buildings and anticipated traffic flow for the site.

- (2) *Access easement.* The service road shall be within an access easement permitting traffic circulation between properties. This easement shall be at least 40 feet wide.
- (3) *Construction and materials.* Service roads shall have a base, pavement, and curb and gutter in accordance with Township standards, except the width of the service road shall be 26 feet wide, measured from curb edge to edge.
- (4) *Parking.* The service road is typically intended to be used exclusively for circulation, not as a parking maneuvering aisle. The planning commission may require the posting of "no parking" signs along the service road. In reviewing the site plan, the planning commission may permit temporary parking in the easement area where a continuous service road is not yet available, provided that the layout allows removal of the parking in the future to allow extension of the service road. The planning commission may approve angled or parallel parking.
- (5) *Access points.* The planning commission shall approve the location of all accesses to the service/frontage road, based on the driveway spacing standards of this article. The throat depth of the access points shall be considered adequate to minimize conflicts with traffic on the public road, in consideration of expected traffic volumes.
- (6) *Temporary access.* The planning commission may approve temporary access points where a continuous service road is not yet available, and a performance bond or escrow is created to ensure elimination of temporary access when the service road is continued.
- (7) *Elevation.* The site plan shall indicate the proposed elevation of the service/frontage road at the property line and the Township shall maintain a record of all service road elevations so that their grades can be coordinated.
- (8) *Maintenance.* Each property owner shall be responsible for maintaining the service/frontage road.

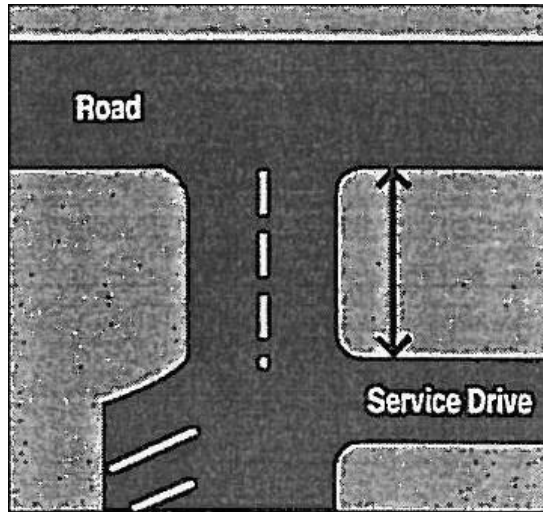
Rear Service Drives



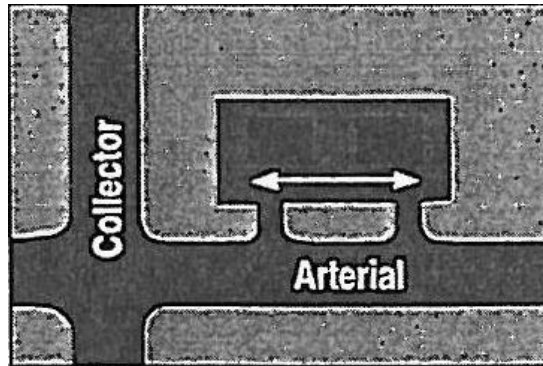
Shared Driveway



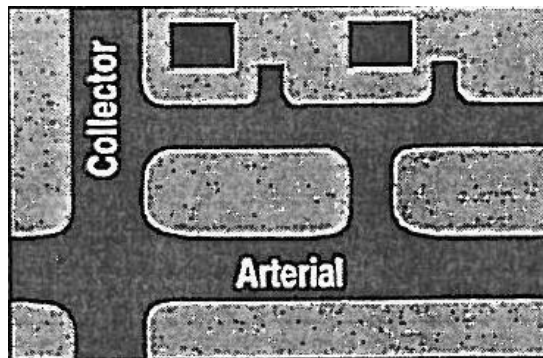
Throat Depth



Parking Lot Connections (Retrofit)



Frontage Roads



(Zoning Ord. 2020, § 10.8.7, 1-5-2021)

Sec. 36-342. Commercial driveway design.

Commercial driveways shall be designed according to the standards of the county road commission or MDOT, as applicable, and in accordance with the following:

- (1) For high traffic generators, or for commercial driveways along roadways experiencing or expected to experience congestion, all as determined by the planning commission, two egress lanes may be required (one being a separate left turn lane).
- (2) Where a boulevard entrance is desired by the applicant or planning commission, a fully curbed island shall separate the ingress and egress lanes. The radii forming the edges on this island shall be designed to accommodate the largest vehicle that will normally use the driveway. The minimum area of the island shall be 180 square feet. The planning commission may require landscaping on the section outside the public right-of-way. Such landscaping shall be tolerant of roadway conditions. Direct alignment of boulevard entrances is discouraged.
- (3) All commercial driveways shall provide an unobstructed clear vision area between a height of three feet and ten feet in a triangular area measured ten feet back from the point of intersection of the driveway and the street right-of-way.

(Zoning Ord. 2020, § 10.8.8, 1-5-2021)

Sec. 36-343. Standards for shared residential driveways (residential zoning districts).

- (a) The number of residential driveways shall be the minimum necessary to provide reasonable access for regular traffic and emergency vehicles, while preserving traffic operations and safety along the public roadway. A single means of direct or indirect access shall be provided for each separately owned parcel. Where possible along arterials and collectors, access shall be via a shared driveway. Where it is not possible to provide shared access, this access may be by an individual driveway.
- (b) A lot split for a parcel that has frontage along an arterial road that will result in more than one parcel with access to said arterial, shall meet the following shared access requirements:

Table 36-343

<i>Road Type</i>	<i>One Driveway for Each</i>
M-36	500 feet of frontage
Other Arterials	250 feet of frontage
Other Roads	Based on minimum lot width (frontage) of the zoning district

- (1) All lots created that do not provide the above required frontage shall have shared access from the single driveway meeting the standards of subsection (b) of this section, a private road meeting the standards of the Township private road ordinance or a public street.
 - (2) The planning commission may approve additional driveways where safe traffic operations will be maintained based upon vehicular speeds, traffic volumes relationship to other access points, sight distance and comments of MDOT or the county road commission.
- (b) Two single-family lots may have access from a private driveway when the following conditions are met:
- (1) The driveway surface shall be a uniform minimum 16 feet wide, measured edge to edge. The width may be reduced to 12 feet if the length of the shared driveway is less than 300 feet or if there are significant topographic, wetland, or other natural features on the site and 16-foot-wide passing flares are provided at least every 300 feet.
 - (2) The driveway shall be constructed of materials suitable to accommodate emergency vehicles.

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- (3) There shall be a recorded shared access easement. The applicant shall provide record of the shared access agreement and documentation that shared access agreement has been recorded with the County Register of Deeds prior to the issuance of a land use permit.
 - (4) The driveway shall be maintained by the landowners to ensure adequate access for emergency vehicles. (It is the landowners' responsibility to maintain this access.)

(Zoning Ord. 2020, § 10.8.9, 1-5-2021)

Sec. 36-344. Modification of standards for special situations.

During site plan review, the planning commission shall have the authority to modify the standards of this article upon consideration of the following:

- (1) The standards of this section would prevent reasonable access to the site.
- (2) Access via a shared driveway or service/frontage road is not possible due to the presence of existing buildings or topographic conditions.
- (3) Roadway improvements (such as the addition of a traffic signal, a center turn-lane or bypass lane) will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- (4) The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- (5) The proposed location and design is supported by the county road commission or MDOT as an acceptable design under the conditions. The planning commission may also request the applicant provide a traffic impact study to support the requested access design.
- (6) The modification shall be of the minimum amount necessary, but in no case shall spacing of a full-access driveway be less than 60 feet, measured centerline to centerline.
- (7) Where there is a change in use or expansion at a site that does not comply with standards herein, the planning commission shall determine the amount of upgrade needed in consideration of the existing and expected traffic pattern and the capability to meet the standards herein to the extent practical. (See also section 36-369.)

(Zoning Ord. 2020, § 10.8.10, 1-5-2021)

Secs. 36-345—36-361. Reserved.

ARTICLE X. NONCONFORMING LOTS, BUILDINGS, STRUCTURE, USES AND SITES

Sec. 36-362. Intent.

- (a) Nonconforming buildings and uses are buildings and uses which do not conform to one or more of the provisions and/or requirements of this article or any subsequent amendments, but which were lawfully established prior to the time of adoption of this chapter (December 4, 1968) or subsequent amendment thereto (effective date of the ordinance from which this chapter is derived hereafter). Nonconforming uses are not considered to be compatible with the current or intended land use of the district in which they are located. Nonconforming uses are considered to present a greater public burden than nonconforming buildings; therefore, the intent of this article to gradually eliminate nonconforming uses or decrease their nonconforming status, but to permit certain nonconforming uses to continue under certain conditions,

discouraging their expansion or enlargement. Nonconforming lots and buildings are typically those established prior to the current zoning standards.

- (b) However, some nonconforming uses do not pose a potential risk to the surrounding area and should be permitted to remain and improve over time. Accordingly, this article establishes two classes of nonconforming structures and uses of land. Class A nonconforming status may be granted by the Township, allowing the property or use to be perpetuated and improved subject to specific conditions designed to enhance the character of the neighborhood and protect adjacent properties. Class B nonconformities are not desirable, and the intent of this article is to eliminate Class B nonconformities as rapidly as possible.
- (c) The Township intends to allow continued use of these lots and buildings in certain cases. Accordingly, this section establishes regulations that govern the completion, restoration, reconstruction and expansion of nonconforming buildings which do not increase the footprint or otherwise increase the nonconforming situation.

(Zoning Ord. 2020, § 11.1, 1-5-2021)

Sec. 36-363. Nonconforming uses.

- (a) *Illegal nonconforming use.* Those alleged nonconforming uses which cannot be proved conclusively to have been existing prior to the effective date of the ordinance from which this chapter is derived shall be declared illegal nonconforming uses and shall be discontinued following the effective date of the ordinance from which this chapter is derived.
- (b) *Continuation of an existing legal nonconforming use.* The lawful use of a building or land existing at the time of the effective date of the ordinance from which this chapter is derived may be continued although such use does not conform to the provisions of this chapter; however, no accessory use, building or structure shall be established.
- (c) *Nonconforming existing uses of land.* A nonconforming use of land or a conforming building may be continued within the area of land occupied by the use at the effective date of the ordinance from which this article is derived.
- (d) *Modifying uses.* In the event that a nonconforming use is modified or altered to eliminate, remove or lessen any or all of its nonconforming characteristics, then said nonconforming characteristics shall not be reestablished or increased. Any new use shall conform to the provisions of this chapter.
- (e) *Changing uses.* If no structural alternations are made, a nonconforming use of a building may be changed to another nonconforming use similar in nature to the original nonconforming use or a more conforming use upon receipt of a change of use permit as described in section 36-34(a)(1)c.
- (f) *Discontinuance.* In the event that a nonconforming use is discontinued for a period of one year, the use of the property shall thereafter conform to a use permitted in the zone in which it is located.

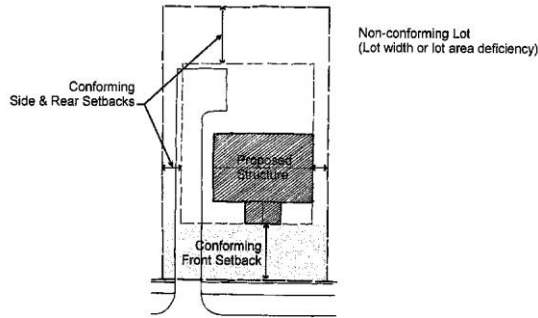
(Zoning Ord. 2020, § 11.2, 1-5-2021)

Sec. 36-364. Nonconforming buildings and structures.

Where a lawful building or structure exists at the effective date of the ordinance from which this chapter is derived that could not be built under the present regulations by reason of restrictions on area, lot coverage, height, yards, landscape buffer, off-street parking, loading space, minimum setback, or other characteristics of the structure or its location on the lot, such building or structure may continue to be used, provided it remains otherwise lawful, subject to the following provisions:

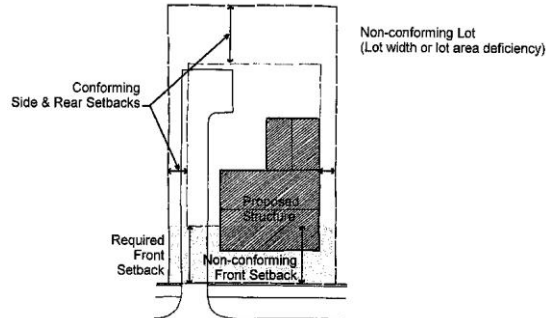
- (1) *Permitted expansion of residential buildings.* A residential nonconforming building may be allowed to expand provided the expansion is within a yard which retains compliance with the required setbacks and height, (e.g., a home with a nonconforming front yard setback may be expanded in the rear so long as the rear yard setback remains conforming, see diagrams B, C and D) this includes expansions to upper levels (e.g., a second level is added to an existing single story house with a nonconforming side yard setback the second story must not encroach into the required setback even if the existing main level already encroaches into the setback, see diagram F).
- a. Any other expansion shall be prohibited unless a variance is granted by the zoning board of appeals.

Diagram A: Conforming, nonconforming or lot of legal record with conforming proposed structure



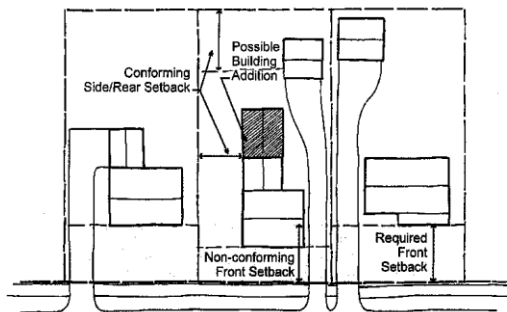
- b. The development will not require a variance from the zoning board of appeals.

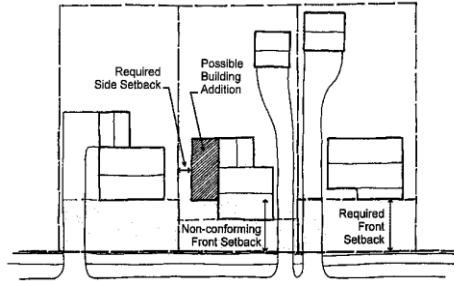
Diagram B: Conforming, nonconforming or lot of legal record with nonconforming proposed structure



- c. The development will require a variance from the zoning board of appeals.

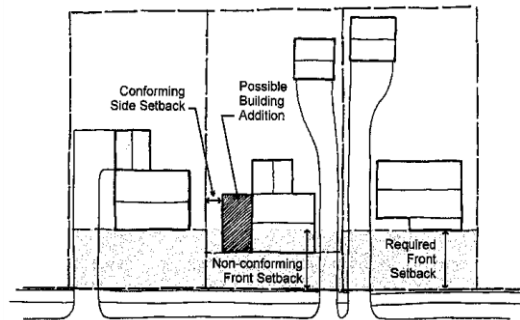
Diagrams C and D: Expansion of a nonconforming structure with conforming addition.





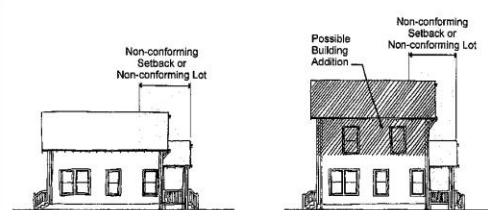
- d. Neither require a variance from the zoning board of appeals.

Diagram E: Expansion of a nonconforming structure with an addition that does not comply with the zoning regulations



- e. The development will require a variance from the zoning board of appeals.

Diagram F: Addition of a second story to a nonconforming structure



- f. This addition will require a variance from the zoning board of appeals.
- (2) *Permitted expansion of nonresidential nonconforming buildings.* Nonresidential nonconforming buildings shall not be expanded except to the extent permitted by the zoning board of appeals pursuant to the authority granted in article V of this chapter. A building necessary for an existing agricultural activity may be enlarged, altered, or rehabilitated if the purpose is to maintain or improve the agricultural activity.
 - (3) *Permitted repairs.* Nothing in this chapter shall prevent the repair, reinforcement, reconstruction, building construction, or other such improvements of a nonconforming building, or part thereof, rendered necessary by wear and tear, deterioration, flood, fire or vandalism provided that a land use and building permit shall be obtained for such work, the work does not increase or alter the footprint and the work does not consist of the removal of more than 50 percent of the exterior perimeter walls of the nonconforming structure, except as provided in this section.

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- (4) *Permitted replacement.* A nonconforming building and its accessory structures and uses damaged by natural disaster (i.e., tornado, flood, fire,) or by vandalism may be repaired or replaced subject to the following:
- a. A land use and building permit obtained for the replacement shall not increase or alter the footprint (as defined in this chapter) of the nonconforming structure, except as provided in this section.
 - b. The replacement of a nonconforming building shall commence within one years of the date of damage and work shall be diligently pursued toward completion. Failure to complete replacement or diligently work toward completion shall result in the loss of legal, nonconforming status unless good cause for the delay is accepted at a hearing before the board of zoning appeals.
 - c. Should a structure be replaced by any other means, it shall not be reconstructed, except in conformity with the zoning regulations. Any improvements that do not meet the zoning regulations shall obtain zoning board of appeals approval under the established variance procedures of this chapter.
 - d. Replacement as used in this section of this chapter means removal of more than 50 percent of the exterior perimeter walls of the existing structure, based on the linear feet.

(Zoning Ord. 2020, § 11.3, 1-5-2021)

Sec. 36-365. Buildings under construction.

If a building permit has been issued for a nonconforming building prior to the effective date of the ordinance from which this chapter is derived, such proposed building shall be permitted, provided:

- (1) Construction is begun within 60 days after the effective date of the ordinance from which this chapter is derived.
- (2) The construction is continuous until the building is complete.

(Zoning Ord. 2020, § 11.4, 1-5-2021)

Sec. 36-366. Change of tenancy or ownership.

In the event there is a change in tenancy, ownership, or management, an existing nonconforming use, lot or structure shall be allowed to continue provided there is no change in the nature or character of such nonconformity.

(Zoning Ord. 2020, § 11.5, 1-5-2021)

Sec. 36-367. District changed.

Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district or another classification, the foregoing provisions shall also apply to any existing uses, lots of record and/or structures that become nonconforming as a result of the boundary changed.

(Zoning Ord. 2020, § 11.6, 1-5-2021)

Sec. 36-368. Nonconforming lots of record.

- (a) *Permitted construction of residential buildings.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected upon any parcel of land which was a single lot of record at the effective date of the ordinance from which this chapter is derived. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district. Yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district in which the lot is located. Variances for yard requirements shall be obtained through approval of the zoning board of appeals.
- (b) *Permitted expansion of residential buildings.* Conforming single-family dwellings and customary accessory buildings located upon any parcel of land which was a single lot of record at the effective date of the ordinance from which this chapter is derived which fails to meet the requirements for area or width, or both, that are generally applicable in the district, may be allowed to expand provided that the expansion complies with all height, bulk and other requirements not involving area or width, or both, of the lot, for the district in which the lot is located. Variances for yard requirements shall be obtained through approval of the zoning board of appeals.
- (c) *Contiguous nonconforming lots under the same ownership.* Two or more contiguous, nonconforming lots under the same ownership shall be considered one parcel. The applicant shall not be permitted to make improvements to the parcel prior to combining such lots to create one conforming lot of record unless the nonconformity is only for area or width, or both.

(Zoning Ord. 2020, § 11.7, 1-5-2021)

Sec. 36-369. Nonconforming sites.

The intent of this section is to permit improvements and minor modifications, as described in article III of this chapter, to a conforming use and building which does not meet all of the various site improvement related regulations of this zoning ordinance. The purpose is to allow gradual compliance with the site related requirements for sites which predate the various zoning ordinance standards for landscaping, paving and other non-safety site related items. Such improvements or expansions may be permitted without a complete upgrade of all site elements under the following conditions:

- (1) The applicant is proposing reasonable site improvements in relation to the scale and construction cost of the building improvements or expansion.
- (2) The applicant has addressed safety-related site issues.
- (3) For landscaping, the applicant shall bring the site toward conformity at twice the rate of building or parking lot expansions (for example, a five percent building expansion will provide at least ten percent of the required landscaping).
- (4) The improvements or minor expansion will not increase noncompliance with site requirements.
- (5) A plot plan shall be submitted in accordance with section 4.8.9.

(Zoning Ord. 2020, § 11.8, 1-5-2021)

Sec. 36-370. Purchase or condemnation.

In order to accomplish the elimination of nonconforming uses and structures which constitute a nuisance or are detrimental to the public health, safety and welfare, the Township may acquire by purchase, condemnation or otherwise, private property for the purpose of removal or the nonconforming use.

(Zoning Ord. 2020, § 11.9, 1-5-2021)

Sec. 36-371. Class a nonconforming designation.

It is the intent of this section to recognize that certain nonconforming structures and uses of land may not have a significant adverse impact upon nearby properties or the public health, safety and welfare, and to allow the planning commission to establish a Class A nonconforming status for these nonconforming structures or uses of land, subject to the following procedure and standards:

- (1) *Procedure.* The procedure for considering all Class A nonconforming designations shall be as follows:
 - a. *Application.* Application for consideration of a Class A designation for a nonconforming structure or use of land may be initiated by the Township, owner, operator, or person having beneficial use of the lot occupied by the nonconforming structure or use of land. The application shall include the applicant's name, address, and telephone numbers, and the reason for the request.
 - b. *Public hearing.* A public hearing shall be held for all requests for a Class A nonconforming designation in accordance with the procedures set forth in section 36-40.
- (2) *Conditions for approval of a Class A designation.* Subsequent to a public hearing, the planning commission may grant a Class A designation upon finding that all of the following conditions exist:
 - a. The structure or use of land is nonconforming as defined in this chapter.
 - b. The nonconformity does not significantly depress the value of nearby properties.
 - c. The nonconformity is not contrary to public health, safety and welfare.
 - d. No useful purpose would be served by strictly applying the requirements for a Class B nonconformity under this chapter.
- (3) *Effect of approval of a Class A designation.* Class A nonconformities shall be permitted to be perpetuated and expanded in accordance with an approved site plan, subject to the provisions of this section and any conditions of approval. Class A nonconforming structures shall be permitted to be perpetuated, expanded, improved or rebuilt if damaged or destroyed in accordance with an approved site plan, subject to the provisions of this section and any conditions of approval.
- (4) *Cessation or removal of Class A nonconforming structures or uses of land.* The procedure for considering all Class A nonconforming designations shall be as follows:
 - a. When a Class A nonconforming structure is permanently removed, or when a Class A nonconforming use of land is replaced by a conforming use, the designation shall be deemed removed. Any subsequent structure or use of land shall conform to the provisions for the district where it is located.
 - b. No Class A nonconforming structure or use of land shall be resumed if it has been discontinued for six consecutive months or 18 months in any three-year period.
- (5) *Rescinding approval of a Class A designation.* Failure of the owner, operator or person having beneficial use of a lot occupied by a Class A designated nonconforming structure or use of land to maintain or

improve the site in accordance with the provisions of this section, an approved site plan or any conditions of approval shall be grounds for the planning commission to rescind the Class A designation. Such action shall be subject to the following:

- a. *Public hearing.* Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in section 36-40, at which time the owner, operator, or person having beneficial use of land shall be given an opportunity to present evidence in opposition to rescission.
 - b. *Determination.* Subsequent to the hearing, the decision of the commission with regard to the rescission shall be made and written notification provided to said owner, operator or person having beneficial use of land occupied by Class A designated nonconforming structure or use of land.
- (6) *Conditions of Class A designation.* The planning commission may attach reasonable conditions to Class A nonconforming designation, including the following:
- a. *Signs.* If the application was initiated by the by the owner or person having beneficial use of the lot occupied by the nonconforming structure or use of land. The planning commission may require that all signs on the structure or land in question be brought into compliance with the city's sign regulations.
 - b. *Plans for site improvements.* If the application was initiated by the owner or person having beneficial use of the lot occupied by the nonconforming structure or use of land, the planning commission may require that a site plan for improvements be submitted for review that addresses the priorities for site improvements listed in section 36-369.
 - c. *Other conditions.* The planning commission may attach conditions to the approval to ensure that the structure or use of land does not become contrary to the purpose of this article and chapter, or the public health, safety and welfare.

(Zoning Ord. 2020, § 11.10, 1-5-2021)

Secs. 36-372—36-400. Reserved.

ARTICLE XI. AMENDMENTS

Sec. 36-401. Initiation of amendments.

Proposals for amendments to the text of this chapter and the boundaries of the zoning district map may be initiated by the Township Board or the planning commission, upon their own resolution, or by petition of one or more owners of property to be affected by the proposed amendment.

(Zoning Ord. 2020, § 12.1, 1-5-2021)

Sec. 36-402. Procedures for amendment.

- (a) *Application.* Petitions for amendments by individual property owners shall be submitted to the zoning administrator on a standard application form provided and shall be accompanied by a fee in accordance with the duly adopted schedule of fees, to cover administrative and publication costs. No part of such fee shall be returnable to the petitioner if the public hearing is held.

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- (b) *Referral to planning commission.* All proposals for amendment shall be referred to the planning commission for their review and recommendation. The planning commission shall consider each proposal for amendment in terms of its own judgment on particular factors related to the individual proposal, the most likely effect on the community's physical development, and conformance with the Township master plan. The planning commission may recommend any additions or modifications to the original amendment proposal.
- (c) *Action of the Township Board.*
- (1) Upon receipt of recommendation from the planning commission and the county planning commission, the Township Board shall consider the proposed amendment. The Township Board may hold any additional hearings it deems necessary. Notice of a public hearing held by the Township Board shall be published in a newspaper of general circulation in the Township not more than 15 days nor less than five days before the hearing.
 - (2) If the Township Board shall deem any changes to the proposed amendment advisable, it shall refer the same to the planning commission for a report within a time specified by the Township Board. After receiving the report, the Township Board shall grant a hearing on the proposed amendment to a property owner who by certified mail addressed to the Township Clerk requests a hearing. The Township Board shall request the planning commission to attend the hearing.
 - (3) Thereafter, the Township Board may adopt the amendment with or without changes by majority vote in accordance with procedures of Public Act No. 110 of 2006, as amended.
 - (4) No application for a rezoning which has been denied by the Township Board shall be resubmitted for a period of one year from the date of the last denial, except on grounds of newly discovered evidence or proof of changed conditions found upon inspection by the Township Board to be valid.

(Zoning Ord. 2020, § 12.2, 1-5-2021)

Sec. 36-403. Notice of adoption.

Amendments adopted by the Township Board shall be filed with the Township Clerk and one notice of amendment adoption shall be published in a newspaper of general circulation in the Township within 15 days after adoption. The notice of amendment adoption shall contain the following information: either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment; the effective date of the amendment; and the time and place where a copy of the amendment may be purchased or inspected.

(Zoning Ord. 2020, § 12.3, 1-5-2021)

Sec. 36-404. Conformance to court decree.

An amendment for the purpose of conforming a provision of this chapter to the decree of a court of competent jurisdiction as to any specific lands may be adopted by the Township Board and the notice of the adopted amendment published without referring the amendment to any other board or agency provided for in this Act.

(Zoning Ord. 2020, § 12.4, 1-5-2021)

Secs. 36-405—36-422. Reserved.

ARTICLE XII. PLANNED UNIT DEVELOPMENT (PUD)

Sec. 36-423. Intent.

- (a) It is the intent of this article to offer an alternative to traditional subdivisions through the use of planned unit development legislation, as authorized by Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended for the purpose of:
- (1) Encouraging the use of Township land in accordance with its character and adaptability;
 - (2) Ensuring the permanent preservation of open space, agricultural lands, and other natural resources;
 - (3) Providing recreational facilities within a reasonable distance of all residents of an open space community development;
 - (4) Allowing innovation and greater flexibility in the design of residential developments;
 - (5) Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
 - (6) Ensuring compatibility of design and use between neighboring properties; and
 - (7) Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.
- (b) These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This article is not intended as a device for ignoring the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which this chapter has been based.
- (c) These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards yet allow for modifications from the general standards to ensure appropriate, fair, and consistent decision making.
- (d) The open space community district is established as an overlay district applicable to the following single-family residential districts RAA, RA, WRF, and NR.

(Zoning Ord. 2020, § 14.1.1, 1-5-2021)

Sec. 36-424. Scope.

For the purposes of this article, the term "open space community" means a predominately single-family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development. Multifamily and commercial uses may be allowed as stated in section 36-426.

(Zoning Ord. 2020, § 14.1.2, 1-5-2021)

Sec. 36-425. Eligibility criteria.

To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

- (1) *Recognizable benefits.* An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the Township. The benefits can be provided through site design elements in excess of the requirements of this chapter, such as high quality architectural design, variety of housing types and sizes, providing additional amenities for public use, extensive landscaping, provide transition areas from adjacent residential land uses, unique site design features, unified access, preservation of woodlands and open space, particularly along major thoroughfares, and buffering development from lakes, rivers, streams and wetlands. This benefit should accrue, in spite of any foreseeable detriments of the proposed development.
- (2) *Open space.* The proposed development shall provide at least one of the following open space benefits:
 - a. *Significant natural assets.* The site contains significant natural assets such as woodlands, individual trees over 12-inch diameter, measured at breast height, rolling topography with grades exceeding 15 percent, significant views, natural drainageways, water bodies, floodplains, regulated or nonregulated wetlands, or natural corridors that connect quality wildlife habitats which would be in the best interest of the Township to preserve and which might be negatively impacted by conventional residential development. This determination shall be made by the planning commission after review of a site analysis plan, prepared by the applicant that inventories these features. If animal or plant habitats of significant value exist on the site, the planning commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
 - b. *Recreation facilities.* If the site lacks natural features, it can qualify if the development will preserve an existing recreation facility or provide usable recreation facilities to which all residents of the development shall have reasonable access. Such recreation facilities include areas such as a neighborhood park, golf course, passive recreational facilities, soccer fields, ball fields, bike paths or similar facilities which provide a feature of community-wide significance and enhance residential development.
 - c. *Creation of natural features.* If the site lacks existing natural features, it can also qualify if the development will create significant woodland features. The creation of significant woodland features shall be considered providing perimeter buffer plantings and interior street tree plantings at a rate of twice what is required by this chapter.
- (3) *Guarantee of open space.* The applicant shall guarantee to the satisfaction of the Township Planning Commission that all open space portions of the development will be maintained in the manner approved. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the open space community plan.
- (4) *Cohesive neighborhood.* The proposed development shall be designed to create a cohesive community neighborhood through common open space areas for passive or active recreation and resident interaction. All open space areas shall be equally available to all residents of the open space community.

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- (5) *Unified control.* The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project unless it is stated in the development agreement. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed. In the event, all or any portion of the development changes ownership or control prior to completion of the project, the terms and conditions of the planned unit development shall be binding on any successor owner of all or any portion of the property.
 - (6) *Density impact.* The proposed type and density of use shall not result in an unreasonable increase in the need for or impact to public services, facilities, roads, and utilities in relation to the use or uses otherwise permitted by this chapter and shall not place an unreasonable impact to the subject and/or surrounding land and/or property owners and occupants and/or the natural environment. The planning commission may require that the applicant prepare an impact statement documenting the significance of any environmental, traffic or socio-economic impact resulting from the proposed open space community. An unreasonable impact shall be considered an unacceptable significant adverse effect on the quality of the surrounding community and the natural environment in comparison to the impacts associated with conventional development. The planning commission may require that the applicant prepare a quantitative comparison of the impacts of conventional development and the open space community plan to assist in making this determination (such as an overlay of conceptual development plans on a natural features map illustrating other site development options to demonstrate the impacts that have been minimized to the extent practical). If the cumulative impact creates or contributes to a significant problem relative to infrastructure demand or environmental degradation, mitigation shall be provided to alleviate the impacts associated with the open space community.
 - (7) *Township master plan.* The proposed development shall be consistent with and further the implementation of the Township master plan.

(Zoning Ord. 2020, § 14.1.3, 1-5-2021)

Sec. 36-426. Project characteristics.

A proposed open space community shall comply with the following:

- (1) *Location.* An open space community may be approved within any of the following zoning districts: RAA, RA, NR, or WFR.
- (2) *Permitted uses.* An open space community is generally restricted to single-family detached or attached residential dwellings.
 - a. Unless modified by the planning commission following the standards herein, all residential dwellings shall meet the yard, lot width, and bulk standards required by article VI of this chapter, except that single-family attached dwellings may have zero side lot lines.
 - b. If projects that qualify under the standards of section 36-427, a commercial or a multiple-family component may be allowed by the planning commission.
- (3) *Dwelling density.* The number of dwelling units allowable within an open space community project shall be determined through preparation of a parallel plan.
 - a. The applicant shall prepare and present to the planning commission for review, a parallel design for the project that is consistent with state, county and Township requirements and design criteria for a tentative preliminary plat. The parallel plan shall meet all standards for lot size (as

shown in the table in subsection (3)b of this section), lot width and setbacks as normally required under section 36-186, public roadway improvements and private parks, and contain an area which conceptually would provide sufficient area for stormwater detention. Lots in the parallel plan shall provide sufficient building envelope size without impacting wetlands regulated by the state. This design shall include all information as required by the guidelines adopted by the planning commission pursuant to section 36-449(a).

- b. The parallel plan shall be prepared with the following minimum lot areas. The parallel plan is only used to determine allowable density for an open space community project. The following parallel plan minimum lot areas incorporate a density bonus for qualifying open space community projects that meet all requirements of this chapter:

Underlying Zoning District Parallel Plan Minimum Lot Size
(square feet)

Zoning District	Original	Meeting Open Space Regulations	Meeting Open Space Regulations with Public Sewer and a Minimum of 60% Open Space
RAA	87,160	60,000	51,000
RA	43,580	30,000	25,500
NR	43,580	30,000	25,500
WFR	43,580	30,000	25,500

- c. The planning commission shall review the design and determine the number of lots that could be feasibly constructed and be economically viable following the parallel design. This number, as determined by the planning commission, shall be the maximum number of dwelling units allowable for the open space community project. The planning commission may grant an additional density bonus of up to 15 percent for exemplary projects that meet the conditions outlined in section 36-427.
- (4) *Open space community plans not requiring public hearing (open space preservation).* An open space community that results in the same number of lots as would be permitted under the existing zoning district and where 50 percent of the land area will remain open space, may be permitted by the planning commission following normal site plan review procedures outlined in article III of this chapter.
 - (5) *Water and sewer service.* If there is public water or sewer service available to the site on which an open space community development is proposed, the planning commission may require connection into the system.
 - (6) *Base zoning regulations.* Unless specifically waived or modified by the planning commission, all zoning ordinance requirements for the underlying zoning district, except for minimum lot area, and other Township regulations, shall remain in full force.
 - (7) *Regulatory flexibility.*
 - a. To encourage flexibility and creativity consistent with the open space community concept, departures from compliance with the standards provided for in this chapter, except for additional density bonuses, may be granted at the discretion of the planning commission as part of the open space community approval process. Such departures may be authorized on the condition that there are features, amenities or planning mechanisms deemed adequate by the planning commission designed into the project for the purpose of achieving the objectives intended to be accomplished with respect to each of the regulations from which a departure is sought. Any

allowed deviations from zoning ordinance standards will require the applicant to provide substitute safeguards for each regulation for which there is noncompliance, in whole or in part, in the development plan.

- b. Any regulatory modification shall be approved through a finding by the planning commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of an open space community plan may be appealed to the zoning board of appeals. This provision shall not preclude an individual lot owner from seeking a variance following final approval of the open space community, provided such variance does not involve alterations to open space areas as shown on the approved open space community site plan.
- c. A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this article. This specification should include ordinance provisions from which deviation are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this chapter shall be considered.

(8) *Open space requirements.*

- a. All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, an approved land improvement, or, if applicable, a commercial use, shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state. Grading in the open space shall be minimal, with the intent to preserve existing topography.
- b. An open space community shall maintain a minimum of 40 percent of the gross area of the site as dedicated upland open space held in common ownership. Such open space may be reduced to 30 percent for lower density projects as described in subsection (8)i of this section, except as noted in subsection (8)c of this section, any undeveloped land area within the boundaries of the site meeting the open space standards herein may be included as required open space. A minimum of 25 percent of the required open space shall be upland area exclusive of wetlands that is accessible to all residents of the open space community.
- c. Areas not considered open space. The following land areas are not included as dedicated open space for the purposes of this article:
 - 1. The area of any street right-of-way.
 - 2. Any submerged land area.
 - 3. Any portion of the project used for commercial purposes.
 - 4. Golf course fairways and greens.
 - 5. The required setbacks surrounding a residential structure that is not located on an individual lot or condominium site.
- d. The common open space may either be centrally located along the road frontage of the development, located to preserve significant natural features, or located to connect open spaces throughout the development. The open space along the exterior public roads shall generally have a depth of at least 100 feet, either landscaped or preserved in a natural wooded condition. The open space along the exterior public roads shall be landscaped with a minimum of one evergreen

tree or canopy tree for each 20 feet of road frontage. Such plantings shall be planted in staggered rows or clustered into groupings to provide a natural appearance. Preservation of existing trees may be credited towards meeting the frontage landscaping requirement. The planning commission may require the provision of a planting berm at least three feet in height in addition to the plant materials required to further help to separate open space areas along the public right-of-way parallel to a major arterial.

- e. Connections with adjacent open space, public land or existing or planned pedestrian/bike paths may be required by the planning commission.
- f. The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the planning commission, such as:
 - 1. Recorded deed restrictions;
 - 2. Covenants that run perpetually with the land; or
 - 3. A conservation easement established pursuant to subpart 11 of part 21 of the Natural Resources and Environmental Protection Act, being MCL 324.2140 et seq. Such conveyance shall ensure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:
 - (i) Indicate the proposed allowable use of the dedicated open space. The planning commission may require the inclusion of open space restrictions that prohibit the following:
 - A. Dumping or storing of any material or refuse;
 - B. Activity that may cause risk of soil erosion or threaten any living plant material;
 - C. Cutting or removal of live plant material except for removal of dying or diseased vegetation;
 - D. Use of motorized off road vehicles;
 - E. Cutting, filling or removal of vegetation from wetland areas;
 - F. Use of pesticides, herbicides or fertilizers within or adjacent to wetlands.
 - (ii) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.
 - (iii) Provide standards for scheduled maintenance of the open space.
 - (iv) Provide for maintenance to be undertaken by the Township of Hamburg in the event that the dedicated open space is inadequately maintained, or is determined by the Township to be a public nuisance, with the assessment of costs upon the property owners.
- g. Continuing obligation. The dedicated open space shall forever remain open space, subject only to uses approved by the Township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation or agricultural purposes, except for easements for utilities and septic systems, shall be strictly prohibited. Open space may include golf course area, provided that it forever remains outdoor recreation or natural undeveloped land. This dedication shall be written and recorded with the development agreement and shall be in a format reviewed and approved by the Township Attorney.

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- h. Allowable structures. Any structure or building accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure or building shall not exceed, in the aggregate, one percent of the required open space area.
 - i. Large lot open space. The planning commission has the discretion to allow lower density open space communities with larger lots and less open space. For these large lot open space communities, the required minimum open space area may be reduced from 40 percent to 30 percent where the total number of dwelling units, determined under this section, is reduced by at least ten percent.
- (9) *Compatibility with adjacent uses.* The proposed location of accessory uses or structures that are of a significantly different scale or character than the abutting residential districts, such as access drives, parking areas, solid waste pick-up points, swimming pools, tennis courts and facilities of a similar nature, shall not be located near the boundary of the development or so as to negatively impact the residential use of adjacent lands.
- (10) *Transition areas.* Where the open space community abuts a single-family residential district, the planning commission may require a transition area. Grading within the transition area shall be minimal unless needed to provide effective buffering or accommodate drainage. If the grade change adjacent to single-family residential is to be varied by more than three feet, the site plan shall include cross sections illustrating existing and proposed grades in relation to existing and proposed building heights. Perspective renderings from adjacent residential units are encouraged. The planning commissions may review the proposed transition area to ensure compatibility. The planning commission may require that the transition area consist of one or more of the following:
- a. A row of single-family lots or condominium sites similar to adjacent single-family development in terms of density, lot area, lot width, setbacks and building spacing.
 - b. Woodlands, natural features or a landscaped greenbelt sufficient to provide an obscuring effect.
 - c. Open or recreation space.
 - d. Significant changes in topography which provide an effective buffer.
- (11) *Architectural and site element design.* Residential facades shall not be dominated by garages; at least 40 percent of residential units shall have side entry garages, garages to the rear of the main structure, alley loaded garages, or recessed garages where the front of the garage is at least five feet behind the front line of the living portion of the principal dwelling. The intent of encouraging rear yard, recessed or side entry garages is to enhance the aesthetic appearance of the development and minimize the aesthetic impact resulting from the close clustering of units allowed under these regulations.
- Signage, lighting, entryway features, landscaping, building materials for the exterior of all structures, and other features of the project, shall be designed and completed with the objective of achieving an integrated and cohesive development, consistent with the character of the community, surrounding development, and natural features of the area. The planning commission may require street or site lighting where appropriate.
- (12) *Access.* Direct access onto a county road or state highway shall be required to an open space community. The nearest edge of any entrance or exit drive shall be located no closer than 200 feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line). Open space communities shall also meet or exceed the access standards contained in sections 36-335 through 36-344. The requirements of this section may be waived or modified by the planning commission in accordance with subsection (7) of this section, upon a finding by the planning commission that safe and reasonable access cannot otherwise be provided in a manner that complies with the standards of this chapter, including the provisions specified above, and that proposed

deviations from these ordinance standards will result in safe and reasonable access to the site. The planning commission may require the submission of a traffic impact study to document the conditions and circumstances that prevent compliance with these standards, and if so it shall be the burden of the applicant to demonstrate that safe and reasonable access is provided by the open space plan.

- (13) *Internal roads.* Internal roads within an open space community may be public or private.
- a. Construction of private roads as a means of providing access and circulation is encouraged. Private roadways within an open space community must meet the design requirements of the Township private road ordinance. The planning commission may modify these requirements, if all of the following findings are made:
 1. There is no potential for the road to connect with abutting land or be extended to serve additional land in the future.
 2. Significant natural features such as mature trees, natural slopes, wetlands or other water bodies would be preserved through allowing a modification to the private road standards.
 - b. Where private roads are developed, a maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, shall be reviewed and approved by the Township Planning Commission.
 - c. Both sides of all internal roads shall be landscaped with street trees. For road frontages of individual lots or condominium sites, a minimum of two canopy trees shall be provided per dwelling. For sections of road that do not abut lots or condominium sites, one canopy trees shall be provided on each side for every 50 feet of road. Existing trees to be preserved within five feet of the road right-of-way or easement may be credited towards meeting this requirement.
- (14) *Pedestrian circulation.* The open space community plan shall provide pedestrian access to all open space areas from all residential areas, connections between open space areas, public thoroughfares, and connections between appropriate on- and off-site uses. Trails within the open space community may be constructed of gravel, woodchip or other similar material, but the planning commission may require construction of eight-foot-wide asphalt bike paths through portions of the development or along the any public right-of-way abutting the open space community. The planning commission may require the construction of sidewalks for open space communities within the area included in the Township village center master plan. Locations for school bus stops shall be provided on the site plan.
- (15) *Natural features.* The development shall be designed to promote the preservation of natural features. If animal or plant habitats of significant value exist on the site, the planning commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas. The planning commission may also require that the project meets the natural features setback requirements of section 36-293.
- (16) *Existing structures.* When a tract contains structures or buildings deemed to be of historic, cultural or architectural significance, as determined by the planning commission, and if suitable for rehabilitation, the structures shall be retained. Adaptive reuse of existing structures for residential use or permitted accessory residential uses shall be permitted.

(Zoning Ord. 2020, § 14.1.4, 1-5-2021)

Sec. 36-427. Optional provisions for exemplary projects.

The planning commission may allow an exemplary open space community to include one or more of the following optional provisions. In order to qualify for an optional provision, the applicant must demonstrate, to the satisfaction of the planning commission, that the proposed project exceeds the minimum standards for open space

community eligibility under section 36-425. In order to qualify for development under the optional provisions of this section, all structures within the project, including single-family dwellings, shall be subject to architectural review by the planning commission. Buildings shall provide harmony with adjacent uses in terms of texture, materials, peaked rooflines and massing, but there shall be a variation of front facade depth and rooflines to avoid monotony. Building elevations shall be required for all structures.

(1) *Density bonus.* An additional density bonus between one percent and up to 15 percent may be allowed at the discretion of the planning commission, based upon a demonstration by the applicant of design excellence in the open space community. In order to qualify for a density bonus, the open space community must be served by public sanitary sewer and have a minimum of 60 percent open space. An additional density bonus no greater than 15 percent may be granted for an exemplary project.

a. Calculation of additional density bonus based on the additional percentage allow by the planning commission up to 15 percent. See the following examples:

If the parallel plan under section 36-426 allows for 100 homes and the planning commission make a determination based on the criteria in this section that the project should receive an additional density bonus for an exemplary project of five percent, ten percent, or 15 percent as examples than for a project that is allowed 100 homes under section 36-426 would be allowed an addition (100 times 0.05=5) 5, (100 times 0.10=10) 10 or (100 times 0.15=15) 15 homes, respectively.

b. To receive an additional density bonus under this section a qualifying project shall include at least one of the following elements. The planning commission may base the percentage of the bonus, between one percent and 15 percent, on the number of elements that are integrated into the project design and the benefit or impact the element/elements will provide to the Township.

1. Inclusion of an integrated mixture of housing types. These housing types may include duplexes, single-family attached dwellings, accessory dwelling units, homes designed to front on common open space areas, homes with access from alleys, homes with a wide range of sizes include smaller more affordable homes and other innovative designs and housing types.
2. Providing perimeter transition areas around all sides of the development that are at least 150 feet in depth.
3. Utilization of sustainable design elements. These elements may include green infrastructure, energy (solar, energy efficient structure orientation, etc.) and water (low flow water fixtures, grey water tanks, rain barrels, etc.) efficient design practices, limiting impervious surfaces, access to alternative transportation options, and other sustainable design elements.
4. Include amenities within the project. These amenities should be easily accessed by the residents of the development, connect the project to surrounding developments and open to everyone within the Township. Amenities may include parks, recreational facilities (playground structure, tot lots, pools, sports courts, picnic areas or similar type improvements.), common buildings (such as pool houses, club houses, gazebos, covered pavilions) trails and other amenities that may be a benefit to the community.
5. A minimum of ten percent of the units shall meet the International Code Council Accessibility Standards for Type B units.
6. A minimum of ten percent of the housing meets the housing and urban development definition of affordable housing.
7. The sewer systems are gravity fed.

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8. Public water is provided.
 9. Cleanup of site contamination.
 10. Other similar elements as determined by the planning commission.
- (2) *Multiple-family component.* In an open space community with a gross area of 15 acres or more, up to 50 percent of the dwelling units may be other than single-family dwellings. Such units shall meet the following design standards:
- a. *Front yard.* The minimum building setback from an internal road shall be 25 feet from the public street right-of-way or private road easement. The planning commission may reduce the setback based upon a determination that off-street parking will be adequate, and that the modification will preserve natural features or that the rear yard buffer will be increased by one foot for each one foot of reduction in the front yard setback. In no instance shall the front yard setback be reduced below a minimum of 15 feet. Buildings that front on two streets must provide the required front yard setback from both streets.
 - b. *Rear yard.* A 35-foot rear yard shall be maintained for all buildings. Where the rear of a building abuts the side or rear of another residential structure, the minimum spacing between the structures shall be the combined total of the two setback requirements.
 - c. *Side yards.* A ten-foot setback shall be maintained to the side of all residential buildings. Where two buildings are located side-by-side, a 35-foot spacing shall be maintained between apartment buildings.
 - d. *Off-street parking lots.* Off-street parking lots serving three or more dwelling units shall provide a ten-foot-wide open green space area around the perimeter of the parking lot.
 - e. *Building setback requirements.* The building setback requirements may be varied provided they are specifically indicated on the open space community plan and the planning commission determines the variation does not negatively impact adjacent properties and provides a recognizable benefit. Building setback requirements on the perimeter of the development shall not be reduced below 35 feet.
- (3) *Commercial component.* An open space community with a gross area of 50 acres or more may incorporate a commercial land use component, provided that all of the following are met:
- a. The commercial component shall be located on a lot of sufficient size to contain all commercial structures, parking, and landscape buffering. The total area occupied by the commercial land uses may not exceed five percent of the gross area of the open space community or five acres, whichever is less.
 - b. All commercial uses shall be compatible with the residential area.
 - c. The planning commission finds that the architectural design of the structures is compatible with the balance of the development.
 - d. All commercial structures are connected to a pedestrian access system servicing the project.
 - e. Vehicular access is available only from an access drive to the open space community that connects directly with M-36.
 - f. If a proposed project cannot provide direct access to M-36, the planning commission may approve a commercial land use component for an open space community project located on any paved county thoroughfare, subject to:

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1. A special land use hearing on the location of the use being held prior to consideration by the planning commission. The hearing shall be conducted according to the procedures stated in section 36-36(b); and
 2. The planning commission making the finding that the overall site layout, including the architectural design and the vehicular circulation pattern, is:
 - (i) Compatible with the surrounding land uses; and
 - (ii) Will not have a significant detrimental effect on the character of surrounding residential uses.
- g. All parking and loading areas serving the commercial uses shall be to the rear or side of the structure and fully screened from view of any public roadway, except that the planning commission may allow up to 25 percent of the minimum number of required parking spaces in the front yard. Where the parking lot is visible from residential units or open space, it shall be planted with a landscape buffer consisting of evergreen trees spaced no more than 15 feet on center.
- h. The allowable commercial uses within such an area shall be recorded as a deed restriction on the property and shall be restricted to the following:
1. Food and beverage stores for the sale of groceries, fruit, meat, baked goods, dairy products, beverages and liquor.
 2. Personal service establishments such as barbershops, beauty salons, laundry pick-up, and similar uses.
 3. Childcare centers.
 4. Offices for the professions or occupations of doctor, dentist, attorney, engineer, accountant, architect, financial consultant or broker, publisher, real estate broker, secretarial services, and similar uses as determined by the planning commission, may be permitted, subject to findings by the planning commission that a use is consistent with the intent of this section and provides no significant negative impact on the open space community project or other surrounding land uses.
- i. No structure within the commercial land use component of an open space community shall be occupied without a valid certificate of occupancy from the Township.
1. A request for a certificate of occupancy for a commercial structure within an open space community shall be reviewed by the zoning administrator to ensure compliance with this section.
 2. A certificate of occupancy may be approved only for uses identified in subsection (3)(h) of this section. Approval shall not be granted to a use that is inconsistent with the intent and/or requirements of this section.
 3. The initial certificate of occupancy for a commercial structure or portion of a commercial structure within the open space community shall not be approved until 50 percent of the physical improvements related to the residential components of the total open space community plan are complete, notwithstanding an approved schedule for project phasing.
 4. A certificate of occupancy may be revoked by action of the zoning administrator, if a use is conducted in a manner that does not comply with the intent of this section and/or any other requirements of this chapter.

(Zoning Ord. 2020, § 14.1.5, 1-5-2021)

Sec. 36-428. Project standards.

In considering any application for approval of an open space community site plan, the planning commission shall make their determinations on the basis of the standards for site plan approval set forth in article III of this chapter, as well as the following standards and requirements:

- (1) *Compliance with the open space community concept.* The overall design and land uses proposed in connection with an open space community shall be consistent with the intent of the open space community concept, as well as with specific design standards set forth herein.
- (2) *Compatibility with adjacent uses.* The proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
 - a. The bulk, placement, and materials of construction of proposed structures.
 - b. Pedestrian and vehicular circulation.
 - c. The location and screening of vehicular use or parking areas.
 - d. The provision of landscaping and other site amenities.
- (3) *Impact of traffic.* The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- (4) *Protection of natural environment.* The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- (5) *Compliance with applicable regulations.* The proposed open space community shall comply with all applicable federal, state, and local regulations.
- (6) *Township master plan.* The proposed open space community shall be consistent with and further the implementation of the Township master plan.
- (7) *Conditions.* Reasonable conditions may be required with the special approval of an open space community, to the extent authorized by law, for the purpose of ensuring that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, protecting the natural environment and conserving natural resources and energy, ensuring compatibility with adjacent uses of land, promoting the use of land in a socially and economically desirable manner, and further the implementation of the Township master plan. Conditions imposed shall be designed to protect natural resources, and the public health, safety and welfare of individuals in the project, those immediately adjacent and the community as a whole; shall be reasonably related to the purposes affected by the open space community; shall be necessary to meet the intent and purpose of this chapter and implement the Township master plan; and be related to the objective of ensuring compliance with the standards of this chapter. All conditions imposed shall be made a part of the record of the special approval.

(Zoning Ord. 2020, § 14.1.6, 1-5-2021)

Sec. 36-429. Elderly Cottage Housing Opportunity (ECHO) Planned Unit Development; intent.

- (a) It is the intent of this section and sections 36-430 to 36-433 to offer an alternative to traditional single-family detached or attached housing developments for elderly persons through the use of planned unit

development legislation as authorized by the Michigan Zoning Enabling Act, Public Act 110 of 2006, as amended for the purpose of:

- (1) Encouraging the construction of more affordable single-family residential detached or attached dwelling for elderly persons units utilizing cluster septic tank drain fields and common water supply systems;
 - (2) Facilitating the construction of affordable single-family residential detached housing units for elderly persons on a smaller scale than conventional multifamily developments that require public infrastructure improvements such as roads, and public water and sewer to accommodate higher density and lower cost dwelling units;
 - (3) Offering an alternative to multifamily residential developments in order to provide affordable housing for elderly persons in a small scale, less dense neighborhood setting;
 - (4) Preserving the rural character and appearance of the Township through the construction of small scale environmentally sensitive elderly person developments on scattered sites.
 - (5) Encouraging the clustering of detached or attached single-family elderly person dwelling units to promote the safety and security of the senior citizen residents.
- (b) These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small elderly person residential nodes contrasting with open space and less intensive land uses. This section is not intended as a device for circumventing the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which this chapter has been based.
- (c) These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards yet allow for modifications from the general standards.

(Zoning Ord. 2020, § 14.2.1, 1-5-2021)

Sec. 36-430. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

ECHO lot means land occupied or to be occupied by ECHO units and accessory buildings permitted herein, together with such open spaces as are required under this chapter and having its principal frontage upon a street.

ECHO unit means a single-family residential dwelling unit with full facilities for residential self-sufficiency in each individual dwelling unit which has a resident who is an elderly person.

ECHO village means a housing development which meets the unique needs of the elderly through the provision of significant facilities and services specifically designed to meet the physical or social needs of such residents.

(Zoning Ord. 2020, § 14.2.2, 1-5-2021)

Sec. 36-431. Zoning.

An ECHO village may be located in the following zoning districts: RAA, RA, RB, RC, CS, VC, VR, OH or MD, or WFR provided the development does not have riparian rights (i.e., does not have shoreline along a lake or river).

(Zoning Ord. 2020, § 14.2.3, 1-5-2021)

Sec. 36-432. Development design standards.

ECHO village housing shall meet the following criteria:

- (1) *On-site sewage disposal and water supply.* On-site sewage disposal and water supply must be approved by the Livingston County Health Department.
- (2) *ECHO village size.* No fewer than four ECHO units nor more than 20 ECHO units shall be permitted per lot.
- (3) *Acreage and density requirements.* An ECHO village development may be approved upon any residentially zoned land with density as permitted below:

<i>District</i>	<i>Minimum Acreage</i>	<i>Minimum Density per ECHO Unit</i>
RAA	3 acres	15,000 square feet
RA	2 acres	10,000 square feet
RB	2 acres	5,000 square feet
WFR	2 acres	10,000 square feet
CS	1 acre	5,000 square feet
RC	1 acre	5,000 square feet
VR	1 acre	5,000 square feet
VC	1 acre	5,000 square feet
MD	1 acre	5,000 square feet

- (4) *Unified control.* The ECHO village shall be initially under single ownership or control, so there is a single person, entity or condominium having proprietary responsibility for the development of the ECHO village as evidenced by a title company licensed to do business in Michigan. In the event, all or any portion of the development changes ownership or control prior to completion of the project, the terms and conditions of this Planned Unit Development shall be binding on any successor owner of all or any portion of the property.
- (2) *Guarantee of open/common space.* At least 15 percent of the total site area shall be reserved as open space. This open space shall be held in common ownership by all residents of the ECHO village. This open space shall be utilized for recreation facilities such as picnic areas, walking trails or other open space uses which provide elderly residences the opportunity to enjoy the natural features of the site. The open space shall be configured to be integrated with the individual units and maximize the proximity of each housing unit to natural open space. If the open space is close and accessible for residents of all individual units, it need not be owned in common. A guarantee to the satisfaction of the Township Planning Commission that all open/common space portions of the development will be maintained in the manner approved shall be provided. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the ECHO village plan.
- (3) *Area, height, bulk and layout regulations.*

Minimum ECHO unit floor area:	400 square feet
Maximum ECHO unit floor area:	980 square feet
Maximum building height:	1 story

Required roof pitch:	4:12 or greater
Minimum building width, any dimension:	14 feet
Distance between roof overhangs of buildings:	10 feet
Handicap ramps:	May encroach into any setback space
Basement:	Optional
Shed:	Optional
Garage:	Optional
Covered parking:	Optional
Minimum setbacks:	15 feet from street or private road right-of-way 10 feet from side and rear lot lines 5 feet from common access drives
Common access drives:	4 feet from all lot lines

- (4) *Attached units.* No more than four units shall be attached in a single structure.
- (5) *Garages.* Detached garages can be located no more than 100 feet of walking distance from the ECHO unit which it serves.
- (6) *Porches.* Each ECHO unit shall have at least one covered porch of at least 24 square feet in area.
- (7) *Common area.* Each ECHO village which contains five or more ECHO units shall have a common area containing at least one gazebo, deck, patio or terrace that shall be covered with a roof, be a minimum of 60 square feet, and be of the same architectural style and design as the ECHO units located on the lot.
- (8) *Storage sheds.* Any storage sheds shall be so designed as to have the same roof pitch and architectural style as the ECHO units in the development. Storage sheds may be linked so as to have common walls; however, each shed must have its own private, lockable access door. The dimensions of any shed servicing an ECHO unit shall conform to other size provisions of this chapter.
- (9) *Water and septic system service.* If there is public water and/or sewer service available to the lot or in the area on which an ECHO development is located, connection into the system may be required.
- (10) *Roads.* The ECHO village shall have paved access designed and constructed to AASHTO standards and shall provide adequate access for emergency vehicles.
- (11) *Parking requirements.* The parking standards for an ECHO village shall be two spaces per unit. Each parking space shall have a minimum size of 180 square feet (ten feet by 18 feet) and may be located either on-site or within 100 feet of the site.
- (12) *Construction drawings required.* Scaled floor plan and building elevation drawings shall be presented for each ECHO unit within the ECHO village that has a different interior layout and square footage of living space.
- (13) *Sidewalks and access ramps.* All pedestrian circulation walkways and sidewalks shall be hard-surfaced with either asphalt, concrete or brick paving and be accessible to the handicapped according to the standards set forth in the Americans with Disabilities Act. Handicapped access ramp structures may encroach into any required setback space.
- (14) *Interior design.* The interior of each ECHO unit shall be designed to provide ease of mobility by seniors who may have mobility limitations. The units shall meet the International Code Council (American National Standards Institute) Accessibility Standards for Type B units.

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- (15) *Design compatibility.* The exterior of each ECHO unit shall be compatible in terms of architectural design, materials and color with the residential structures in the immediate neighborhood within 300 feet of the development parcel or lot. However, all housing units shall be a minimum of 14 feet wide at their least horizontal dimension and attached to a permanent foundation. The roof pitch of an ECHO unit shall be at least a 4:12 pitch. Accessory buildings for an ECHO unit, such as a detached garage and shed, shall also conform to the minimum roof pitch and be architecturally compatible with the design and style of the ECHO unit. Compatibility of design shall be decided by the planning commission.
 - (16) *Waiver of standards.* The planning commission is hereby empowered to waive site design standards and development area requirements if public health and safety are not compromised. The planning commission is further empowered to specify conditions in issuing any special use permits as may be required.

(Zoning Ord. 2020, § 14.2.4, 1-5-2021)

Sec. 36-433. Project standards.

In considering any application for approval of an ECHO village site plan, the planning commission shall make their determinations on the basis of the standards for site plan approval set forth in article III of this chapter, as well as the following standards and requirements:

- (1) Compliance with the ECHO concept. The overall design and land uses proposed in connection with an ECHO village shall be consistent with the intent of the ECHO concept, as well as with the specific design standards set forth herein.
- (2) Compatibility with adjacent uses. The proposed ECHO village site plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
 - a. The bulk, placement, and materials of construction of proposed structures.
 - b. Pedestrian and vehicular circulation.
 - c. The location and screening of vehicular use or parking areas.
 - d. The provision of landscaping and other site amenities.
- (3) Protection of natural environment. The proposed ECHO village shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- (4) Common area and unit maintenance. The ECHO village shall include in the master deed, community bylaws or covenant provisions, as applicable for the maintenance of the common open space, including landscaping maintenance, snow removal and repairs to building exteriors, in a form approved by the Township Attorney.
- (5) Compliance with applicable regulations. The proposed ECHO village shall comply with all applicable federal, state and local regulations.
- (6) Because of the specialized character of such uses, the limited class of occupants and the potentially limited market for such units, the planning commission may require a market study and or surveys of elderly residents in the vicinity of Hamburg Township as to documenting the long-term marketability of the development and which supports both the need and market for the development. The planning commission may require written supporting evidence from national elderly assistance groups, such as

American Association of Retired Persons (AARP), that units of such floor area and density, and developments of such an arrangement are attractive and feasible for the elderly.

- (7) The planning commission may require the submission of letters of endorsement or support for the development from public and private elderly service provider agencies as to the suitability of such dwellings for elderly persons.
- (8) The planning commission may base its action on experience with and competition from similar developments in the area.
- (9) The planning commission may base its approval on the long-term availability of senior services to be provided by the developer, operator, government or private elderly support agencies, such as medical assistance, meals assistance, proximity to shopping, personal services and medical care, transportation (including access to major roads), recreation and other elderly needs.

(Zoning Ord. 2020, § 14.2.5, 1-5-2021)

Sec. 36-434. Cottage housing planned unit development (CHPUD); intent.

- (a) It is the intent of this section and sections 36-435 to 36-438 to offer an alternative to traditional single-family detached and attached housing developments through the use of planned unit development legislation as authorized by the Michigan Zoning Enabling Act, Public Act No. 110 of 2006, as amended for the purpose of:
 - (1) Encouraging the construction of more affordable single-family residential detached or attached dwelling units which utilizing public sewer and public water systems;
 - (2) Facilitating the construction of affordable single-family residential detached or attached housing units on a smaller scale than conventional multifamily developments to accommodate higher density and lower cost dwelling units;
 - (3) Offering an alternative to multifamily residential developments in order to provide affordable housing for persons in a small scale, less dense neighborhood setting;
 - (4) Preserving the rural character and appearance of the Township through the construction of small scale environmentally sensitive developments on sites within the village center master plan area.
 - (5) Encouraging the clustering of detached or attached single-family dwelling units to promote the safety and security of the residents.
- (b) These regulations are intended to preserve a traditional rural character to the land use pattern in the Township through the creation of small residential nodes contrasting with open space and less intensive land uses. This section is not intended as a device for circumventing the zoning regulations of the Township, the standards set forth therein, nor the planning concepts upon which this chapter has been based.
- (c) These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards yet allow for modifications from the general standards.

(Zoning Ord. 2020, § 14.3.1, 1-5-2021)

Sec. 36-435. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

CHPUD means a housing development which meets the unique needs of the residents through the provision of significant facilities and services specifically designed to meet the physical or social needs of such residents.

CHPUD lot means land occupied or to be occupied by CHPUD units and accessory buildings permitted herein, together with such open spaces as are required under this chapter and having its principal frontage upon a street.

CHPUD unit means a single-family residential dwelling unit with full facilities for residential self-sufficiency. (Zoning Ord. 2020, § 14.3.2, 1-5-2021)

Sec. 36-436. Zoning.

A CHPUD may be located in the following zoning districts: RB, VC and VR. (Zoning Ord. 2020, § 14.3.3, 1-5-2021)

Sec. 36-437. Development design standards.

CHPUD housing shall meet the following criteria:

- (1) *Public sewer and public water.* Public sewer and public water shall be provided.
- (2) *CHPUD size.* No fewer than four CHPUD units nor more than 20 CHPUD units shall be permitted per lot.
- (3) *Acreage and density requirements.* A CHPUD development may be approved upon any residentially zoned land with density as permitted below:

<i>District</i>	<i>Minimum Acreage</i>	<i>Minimum Density per CHPUD Unit</i>
RB	1 acre	7,500 square feet
VC	1 acre	4,100 square feet
VR	1 acre	5,450 square feet

- (4) *Unified control.* The CHPUD shall be initially under single ownership or control, so there is a single person, entity or condominium having proprietary responsibility for the development of the CHPUD as evidenced by a title company licensed to do business in the state. In the event, all or any portion of the development changes ownership or control prior to completion of the project, the terms and conditions of this planned unit development shall be binding on any successor owner of all or any portion of the property.
- (5) *Guarantee of open/common space.* At least 50 percent of the total site area shall be preserved as open space. This open space shall be held in common ownership by all residents of the CHPUD. This open space shall be utilized for recreation facilities such as lawns, gardens, plazas, common use buildings, pool areas, picnic areas, walking trails or other open space uses which provide residents the opportunity to enjoy the features of the site. The open space shall be configured to be integrated with the individual units and maximize the proximity of each housing unit to natural open space. The principle common open space area shall be centralized to the project and at least 50 percent of the CHPUD units shall have their main entries on the centralized common space area. A guarantee to the satisfaction of the Township Planning Commission that all open/common space portions of the development will be maintained in the manner approved shall be provided. Documents shall be presented that bind all successors and future owners in fee title to commitments made as a part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the Township and the land uses continue as approved in the CHPUD plan.
- (6) *Area, height, bulk and layout regulations.*

Maximum CHPUD unit floor area:	1,200 square feet
Maximum building height:	2 stories
Distance between walls of buildings:	10 feet
Basement:	Optional
Shed:	Optional
Garage:	Optional
Covered parking:	Optional
Minimum setbacks*:	15 feet from street or private road right-of-way, 10 feet from side and rear lot lines, 5 feet from common access drives
Common access drives:	4 feet from all lot lines

*The setbacks are from the overall CHPUD lot.

- (7) *Attached units.* No more than four units shall be attached in a single structure.
- (8) *Garages/carports.* If provided, garages can be attached or detached from the main structure. Garages may be linked so as to have common walls. Garages/carports may be on common owned property.
- (9) *Porches.* Each CHPUD unit shall have a front porch that is a minimum of six feet deep and 50 percent of the front elevation.
- (10) *Private outdoor space.* Each unit shall have no more than 2,000 square feet of private outdoor space. This space shall include any private outdoor parking areas, open porches, and yard space that is not open for common use.
- (11) *Common area.* Each CHPUD shall have a common area containing at least one common use structure such as a pool house, clubhouse, gazebo, deck, patio or terrace that shall be covered with a roof, of similar architectural style and design as the CHPUD units located on the lot, and a minimum of 100 square feet. Common use structures can be counted towards the common open space area.
- (12) *Storage sheds.* Any storage sheds shall be so designed as to have the same roof pitch and architectural style as the CHPUD units in the development. Storage sheds may be linked so as to have common walls; however, each shed must have its own private, lockable access door. The dimensions of any shed servicing a CHPUD unit shall conform to other size provisions of this chapter. Storage sheds may be located on commonly owned property.
- (13) *Water and sewer system service.* CHPUD developments are required to be serviced by public sewer and public water services.
- (14) *Roads.* The CHPUD shall have paved access designed and constructed to AASHTO standards and shall provide adequate access for emergency vehicles.
- (15) *Parking requirements.* The parking standards for a CHPUD shall be two spaces per unit. Each parking space shall have a minimum size of 180 square feet (ten feet by 18 feet), may be located either on-site or within 100 feet of the site, may be on-street or off-street and may be within a garage or carport structure or unenclosed. If the applicant requests a reduction in the parking requirements the planning commission must make the findings that alternative transportation options have been provided to the future residence of the project.
- (16) *Construction drawings required.* Scaled floor plan and building elevation drawings shall be presented for each CHPUD unit within the CHPUD that has a different interior layout and square footage of living space.

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- (17) *Sidewalks and access ramps.* All pedestrian circulation walkways and sidewalks shall be hard-surfaced with either asphalt, concrete or brick paving and be accessible to the handicapped according to the standards set forth in the Americans with Disabilities Act. Sidewalks and pathways shall be designed to connect the CHPUD units to the common areas on the lot and to connect with adjacent properties. Handicapped access ramps are exempt from the required setbacks.
 - (18) *Interior design.* A minimum of ten percent or at least one, whichever is greater, of the CHPUD units shall meet the International Code Council (American National Standards Institute) Accessibility Standards for Type B units.
 - (19) *Design compatibility.* The exterior of each CHPUD unit shall be compatible in terms of architectural design, materials and color with the residential structures in the immediate neighborhood within 300 feet of the development parcel or lot. However, all housing units shall be a minimum of 14 feet wide at their least horizontal dimension and attached to a permanent foundation. Accessory buildings for a CHPUD unit, such as detached garage, common room and shed structures, shall be architecturally compatible with the design and style of the CHPUD units. Compatibility of design shall be decided by the planning commission.
 - (20) *Waiver of standards.* The planning commission is hereby empowered to waive site design standards and development area requirements if public health and safety are not compromised. The planning commission is further empowered to specify conditions in issuing any special use permits as may be required.

(Zoning Ord. 2020, § 14.3.4, 1-5-2021)

Sec. 36-438. Project standards.

In considering any application for approval of a CHPUD site plan, the planning commission shall make their determinations on the basis of the standards for site plan approval set forth in article III of this chapter, as well as the following standards and requirements:

- (1) *Compliance with the CHPUD concept.* The overall design and land uses proposed in connection with a CHPUD shall be consistent with the intent of the CHPUD concept, as well as with the specific design standards set forth herein.
- (2) *Compatibility with adjacent uses.* The proposed CHPUD site plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
 - a. The bulk, placement, and materials of construction of proposed structures.
 - b. Pedestrian and vehicular circulation.
 - c. The location and screening of vehicular use or parking areas.
 - d. The provision of landscaping and other site amenities.
- (3) *Protection of natural environment.* The proposed CHPUD shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- (4) *Common area and unit maintenance.* The CHPUD shall include in the master deed, community bylaws or covenant provisions, as applicable for the maintenance of the common open space, including landscaping maintenance, snow removal and repairs to building exteriors, in a form approved by the Township Attorney.

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- (5) *Compliance with applicable regulations.* The proposed CHPUD shall comply with all applicable federal, state and local regulations.

(Zoning Ord. 2020, § 14.3.5, 1-5-2021)

Sec. 36-439. General planned unit development (GPUD); intent.

- (a) The intent of the general planned unit development in this section and sections 36-440 to 36-442 is to permit, with Township approval, private or public development which is substantially in accordance with the goals and objectives of the Township master plan which and the Township village center master plan, which may be amended from time-to-time.
- (b) The development permitted under this section and sections 36-440 through 36-450 shall be considered as an optional means of development. The availability of the option imposes no obligation on the Township to encourage or foster its use. The decision to approve its use shall be at the sole discretion of the Township. Consequently, in this section, the development opportunities made available under this section may be referred to as the GPUD.
- (c) A GPUD is intended to permit regulatory flexibility to achieve development that is in accord with the Township's master plans; to achieve economy and efficiency in the use of land, natural resources, energy and in the provision of public services and utilities; to encourage the creation of useful open space particularly suited to the proposed development and parcel on which it is located; and to provide appropriate housing, employment, services and shopping opportunities to satisfy the needs of residents of the Township of Hamburg.
- (d) It is further intended that the development of a GPUD be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing and planned uses in such a way that they will be compatible, with no material adverse impact of one use on another.
- (e) The GPUD option is further intended to permit reasonable development or use of parcels of land that were subdivided and/or developed prior to adoption of the ordinance from which this chapter is derived, or amendment thereto, and which would otherwise be restricted from development or use because of existing or resulting nonconformities.

(Zoning Ord. 2020, § 14.4.1, 1-5-2021)

Sec. 36-440. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

General planned unit development means a specific parcel of land or several contiguous parcels of land, which has been, is being, or will be developed in accordance with a site plan approved by the Township Board, following a recommendation from the planning commission, where the site plan meets the requirements of this section, proposing permitted land uses, density patterns, a fixed system of streets (where necessary), provisions for public utilities, drainage and other essential services and similar features necessary or incidental to development.

Underlying future land use means the future land use designation identified in the Township master plan, or the village center master plan, which the Township Planning Commission has determined is applicable to a parcel of land that is proposed to be developed in accordance with the general planned unit development regulations.

Underlying zoning means the zoning classification assigned in the Hamburg Township zoning ordinance to a parcel of land that is proposed to be developed in accordance with the general planned unit development regulations.

(Zoning Ord. 2020, § 14.4.2, 1-5-2021)

Sec. 36-441. Project characteristics.

- (a) *Location.* A GPUD shall only be created on development sites within the Township which have a portion of the property located within the NS Neighborhood Service, CS Community Service, MD Mixed Use Development, VR Village Residential, or VC Village Center zoning districts.
- (b) *Size.* A GPUD shall only be created on development sites one acre in area or greater.
- (c) *Permitted uses.*
 - (1) Uses that are listed as permitted uses or special uses in the underlying zoning district or uses identified in the underlying future land use category of the Township master plans may be permitted in a GPUD development. Expansion of or renovation to a building containing a use that is not listed as a permitted use or special use may be permitted by the planning commission upon making the determination that:
 - a. The use has operated and will continue to operate in a manner that is compatible with surrounding and nearby land uses;
 - b. The proposed expansion or renovation will not impair the efforts of the Township and property and business owners and residents to further the goals and objectives of the Township master plans; and
 - c. The proposed expansion or renovation will have a recognized and substantial beneficial impact as a result of improved building design, site improvements that are consistent with project standards set forth in section 36-442 and the Township master plans, improved traffic and transportation patterns or other benefits.
 - (2) Uses that are listed as permitted uses or special uses in the VC Village Center Zoning District may be permitted in the GPUD, with the exception that residential uses as described in the VC Village Center shall not be permitted in a GPUD located outside the VC Village Center or VR Village Residential zoning districts. Upon the determination that the inclusion of residential uses shall aid the GPUD in meeting the project standards stated in section 36-442, residential uses shall comply with the density requirements of the underlying zoning district or master plan designation.
 - (3) The Township Board shall make the final determination, based on the recommendation of the planning commission, as to whether a specific use may be permitted in the CGPUD subject to compliance of the proposed uses with the project standards of section 36-442 and approval of a site plan, pursuant to the review procedures in sections 36-444 through 36-450.
- (d) *Regulatory flexibility.*
 - (1) A GPUD proposal shall comply with the height, bulk, density, and setback standards of the underlying zoning district except as specifically modified and noted on the GPUD site plan. Uses listed as special uses shall be subject to applicable height, bulk, density, area and use standards in section 36-36, unless such standards are modified and noted on the GPUD site plan.
 - (2) The Township Board may approve modification or waiver of one or more standards of the underlying district or standards for special uses, after reviewing the recommendation of the planning commission, upon making the determination that any such modification or waiver would be consistent with the land use goals and objectives of the Township and the intent of this section, and upon making the

determination that the modification or waiver would be appropriate because of the particular design and orientation of buildings and uses. Any regulatory modification shall be approved by the Township Board based upon a finding by the planning commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the zoning board of appeals. No part of a GPUD plan may be appealed to the zoning board of appeals.

- (3) A table shall be provided on the site plan which specifically details all deviations from the established zoning area, height and setback regulations, off-street parking regulations, general provisions, or subdivision regulations which would otherwise be applicable to the uses and development proposed in the absence of this GPUD section. This specification should include ordinance provisions from which deviation are sought, and the reasons and mechanisms to be utilized for the protection of the public health, safety, and welfare in lieu of the regulations from which deviations are sought. Only those deviations consistent with the intent of this chapter shall be considered.

(Zoning Ord. 2020, § 14.4.3, 1-5-2021)

Sec. 36-442. Project standards.

In considering any application for approval of a GPUD site plan, the planning commission shall make their determinations on the basis of the standards for site plan approval set forth in article III of this chapter, as well as the following standards and requirements:

- (1) A GPUD shall promote the goals and objectives of the Township master plan, and village center master plan. Including the intent and guidelines related to site design as stated in the transportation section of the master plan, and the village design chapter of the Hamburg Township village center master plan, where applicable. Along with other appropriate site design standards, guidelines, and principles, the following site development elements shall also be reviewed for consistency with the applicable guidelines of the master plan and the village center master plan:
 - a. Sidewalks/pedestrian circulation.
 - b. Parking/loading areas.
 - c. Architecture.
 - d. Signs.
 - e. Street and access design.
 - f. Lighting.
 - g. Landscaping.
- (2) A GPUD shall result in a higher quality of development than could be achieved under conventional zoning.
- (3) A GPUD shall not be created in situations where the same land use objectives can be accomplished by the application of conventional zoning provisions or standards without the need for variances.
- (4) A GPUD may be created only when the proposed land use will not add public service and facility loads beyond those contemplated in the master plan or other applicable plans or policies of the Township unless the applicant can demonstrate to the sole satisfaction of the Township Board that such added loads will be accommodated or mitigated by the proponent as part of the GPUD or by some other means deemed acceptable to the Township Board.

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- (5) Creation of a GPUD shall establish land use patterns which are compatible with and protect existing or planned use. The use of the GPUD option shall not be for the purpose of avoiding applicable zoning requirements of the underlying zoning district.
 - (6) A GPUD shall not be allowed solely as a means of increasing the density or intensity of development.
 - (7) A GPUD shall improve the appearance of the Township through quality building design and site development, the provision of trees and landscaping consistent with or beyond minimum requirements; the preservation of unique and/or historic sites or structures; and the provision of open space or other desirable features of a site beyond minimum requirements.

(Zoning Ord. 2020, § 14.4.4, 1-5-2021)

Sec. 36-443. Review procedures.

The following outlines the procedures and requirements which must be followed for all PUD development to receive approval under this article. Prior to all scheduled planning commission or Township Board meetings, the applicant shall submit ten copies of the completed site plan with the zoning administrator at least 21 days prior to the planning commission or Township Board meeting at which the site plan is to be considered. The zoning administrator shall determine the number of plans the applicant shall provide prior to any scheduled preapplication meeting.

(Zoning Ord. 2020, § 14.5, 1-5-2021)

Sec. 36-444. Preapplication meeting.

An optional preapplication conference can be held with Township Staff including Township Planner and Township Engineer as determined by the zoning administrator to review applicability of the PUD ordinance to the proposed site and uses.

(Zoning Ord. 2020, § 14.5.1, 1-5-2021)

Sec. 36-445. Conceptual review.

The applicant may submit a draft site plan for the optional conceptual review by the planning commission. The draft site plan shall include as much detailed information as needed for the applicant to convey to the planning commission how the applicant would like to utilize the site. Information should include potential building locations, vehicular parking areas, types of uses, road layouts, if applicable, and setbacks from property lines. The conceptual review allows the applicant to present the proposed project to the planning commission, at an early stage in the development process, prior to formal submittal of the project. This process allows the developer to receive comments and feedback from the planning commission based on the information submitted. No formal action is taken by the planning commission at this time.

(Zoning Ord. 2020, § 14.5.2, 1-5-2021)

Sec. 36-446. Preliminary PUD site plan review and public hearing.

- (a) The applicant prepares and submits a preliminary site plan. The preliminary PUD site plan shall contain enough detail to explain the proposed uses, relationship to adjoining parcels, vehicular and pedestrian circulation patterns, open spaces and landscape areas, and building density or intensity. The planning commission shall conduct a public hearing in accordance with section 36-36(b)(2). Following the public

hearing, the planning commission gives direction to the applicant. The plan is revised, if necessary. The planning commission then takes action to recommend approval or denial of the preliminary PUD site plan to the Township Board based upon the preliminary PUD site plan meeting the eligibility requirements as outlined in this article. A recommendation of approval for the preliminary PUD site plan shall be accompanied by a description of the minimum conditions under which the proposal will be considered for final approval. In describing such conditions, the planning commission may identify specific requirements or standards in this chapter which could be waived or modified upon approval of the final PUD site plan.

- (b) The Township Board shall consider the planning commission recommendation and public hearing comments and shall take action to approve, deny or remand the preliminary PUD site plan back to the planning commission for further review.

(Zoning Ord. 2020, § 14.5.3, 1-5-2021)

Sec. 36-447. Final PUD site plan review.

- (a) The applicant shall submit a final PUD site plan which contains all information required for site plan review under section 36-73(6) and approvals from all appropriate county, state and federal agencies, including, but not limited to, the county road commission, county drain commissioner, county health department and the Michigan Department of Transportation.
- (b) The planning commission shall review the submitted final PUD site plan to ensure compliance with all standards and criteria of the Hamburg Township zoning ordinance, the master plan, village center master plan, and the Southeast Livingston County Greenways Plan where applicable. The planning commission then shall take action to recommend approval or denial of the final PUD site plan to the Township Board based upon compliance with the above referenced standards.
- (c) Upon receipt of the report and recommendation of the planning commission, the Township Board shall review all findings. If the Township Board determines that approval would be appropriate, it shall work with the application and the Township Attorney to prepare a development agreement setting forth the conditions upon which such approval is based. Such conditions shall include, where appropriate, identification of the phases and timetable for development, and an estimate of the costs of implementing each phase.
- (d) After approval by resolution of the Township Board, the development agreement shall be executed by the Township and the applicant and recorded in the county records. Approval shall be granted only upon the Township Board determining that all qualification requirements, conditions of approval, and provisions of this and other Township ordinances have been met, and that the proposed development will not adversely affect the public health, welfare and safety. Approval shall further be subjected to the condition that the contract will be properly recorded.
- (e) Approval of a PUD site plan shall be effective upon recording the contract and filing proof of recording with the Township Clerk.
- (f) Once an area has been included, within the boundaries of an approved PUD, no development may take place in the PUD except in accordance with the Township Board-approved PUD site plan.
- (g) Prior to any development within the area involved, an approved PUD site plan may be terminated by the applicant or the applicant's successors or assigns, by filing with the Township and recording in the county records an affidavit so stating. The approval of the plan shall terminate upon such recording.
- (h) No approved plan shall be terminated after development commences except with the approval of the Township Board and of all parties having an equity interest in the land.

(Zoning Ord. 2020, § 14.5.4, 1-5-2021)

Sec. 36-448. General requirements.

- (a) *General application requirements.* The application for approval of a PUD shall be made according to procedures and guidelines adopted by resolution of the planning commission. The required materials shall be submitted to the Township Zoning Administrator with all required fees.
- (b) *Effect of approval.* Approval of a PUD proposal shall not require, nor shall it be construed as an amendment to this chapter. All improvements and uses of the site shall be in conformity with the approved site plan and comply fully with any conditions.
- (c) *Recording of action.* The applicant shall record a development agreement with the register of deeds containing the full legal description of the project site, specifying the date of final Township approval, and declaring that all improvements will be carried out in accordance with the approved PUD plan unless an amendment is adopted by the Township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the County and copies of recorded documents presented to the Township.
- (d) *Land use permit.* Following final approval of the PUD site plan and final approval of the engineering plans by the Township Engineer, a land use permit may be obtained. It shall be the responsibility of the applicant to obtain all other applicable Township, county, state or federal permits.
- (e) *Initiation of construction.* If construction has not commenced within 24 months of final approval, all Township approvals become null and void. The applicant may apply in writing to the planning commission for an extension, not to exceed 12 months. A maximum of two extensions may be allowed.
- (f) *Continuing adherence to plan.* Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of this chapter and shall be subject to the penalties for same.
- (g) *Performance guarantee.* The planning commission may require a performance guarantee, in accordance with this chapter.
- (h) *Scheduled phasing.* When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to ensure protection of natural resources and the health, safety, and welfare of the users of the project and the residents of the surrounding area.
- (i) *Timing of phases.* Each phase of the project shall be commenced within 24 months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the plan shall become null and void, subject to the requirements of subsection (e) of this section.

(Zoning Ord. 2020, § 14.5.5, 1-5-2021)

Sec. 36-449. Revision of approved plans.

- (a) *General revisions.* Approved plans for a PUD may be revised in accordance with the procedures set forth in section 36-444.
- (b) *Minor modifications.* Minor modifications to an approved PUD plan may be permitted following normal site plan review procedures outlined in sections 36-77 and 36-78 subject to the finding of all of the following:
 - (1) Such modification will not adversely affect the initial basis for granting approval;
 - (2) Such minor modification will not adversely affect the overall PUD in light of the intent and purpose of such development as set forth in this article; and
 - (3) Such modification shall not result in the reduction in the benefits and amenities the PUD provides to the community.

(Zoning Ord. 2020, § 14.5.6, 1-5-2021)

Secs. 36-450—36-468. Reserved.

ARTICLE XIII. SIGNS

Sec. 36-469. Purpose.

The construction and alteration of outdoor signs shall be regulated so that such signs by reason of their size, location, or manner of display will not endanger public health and safety, hinder the safe flow of traffic, obstruct vision, or disrupt the rural atmosphere of the Township.

(Zoning Ord. 2020, § 18.1, 1-5-2021)

Sec. 36-470. Intent.

The intent of this section is to:

- (1) Ensure that signs are located, designed, constructed, installed, and maintained in a manner that protects life, health, property, and the public welfare;
- (2) Reduce visual distractions and obstructions to motorists and thereby maintain or improve traffic safety;
- (3) Enhance the appearance and economic value of the community by regulating the size, type, location, design and maintenance of signs;
- (4) Preserve the existing and desired character of the Township, as identified in the Township's adopted master plan;
- (5) Prevent visual blight and protect the desired aesthetic qualities of the Township by preventing visual clutter, and protecting views;
- (6) Regulate the light emitted by signs to protect the Township's natural, existing, and desired dark skies;
- (7) Keep in harmony the sign location, scale, color, lettering, materials, texture and depth to be consistent with the architecture of the building and relate to the features of the building they are located on and the area they are located within; and
- (8) Protect and preserve the constitutional rights to free speech under the first amendment.

(Zoning Ord. 2020, § 18.2, 1-5-2021)

Sec. 36-471. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animated sign means a sign with visible moving parts achieved by mechanical or electronic means.

Awning sign means a sign included as part of an awning or canopy covering the entrance of a building.

Awning Face Sign



Awning Side Sign



Box sign means a sign within a framed box.

Box Sign



Building frontage means the length of the building as measured on the side facing the front of the property. In case of a corner lot, this shall mean the side facing the street that contains the main access point of the building.

Channel letter sign means a sign comprising individual letters that are independently mounted to a wall or other surface and internally illuminated with a covered face. The air space between the letters is not part of the sign structure but rather of the building facade. A logo may also be considered a channel letter provided it is clearly distinguishable from other sign elements.

Channel Letter



Damaged sign means a sign that has fallen into disrepair, is no longer affixed to a wall or a pole or is no longer able to stand upright on the ground, has been vandalized and not been cleaned up within a reasonable timeframe, or has otherwise not been properly maintained.

Decorative display means a temporary display designated for the entertainment or cultural enrichment of the public and having no direct or indirect sales or advertising content.

Electronic display sign means a sign with an electronic background or electronic numbering and letters.

Electronic Display Signs



Freestanding sign means a sign permanently anchored in the ground that stands on its own, having one, and not more than two faces or surfaces upon which announcements, declarations, displays, etc., may be placed. In the case of a two-faced or surfaced sign, the faces or surfaces shall be constructed back-to-back. Freestanding signs include monument signs and pole signs.

Monument sign. A freestanding sign that is mounted on a base.

Pole sign. A freestanding sign that is mounted on one or more poles, posts, or brackets.

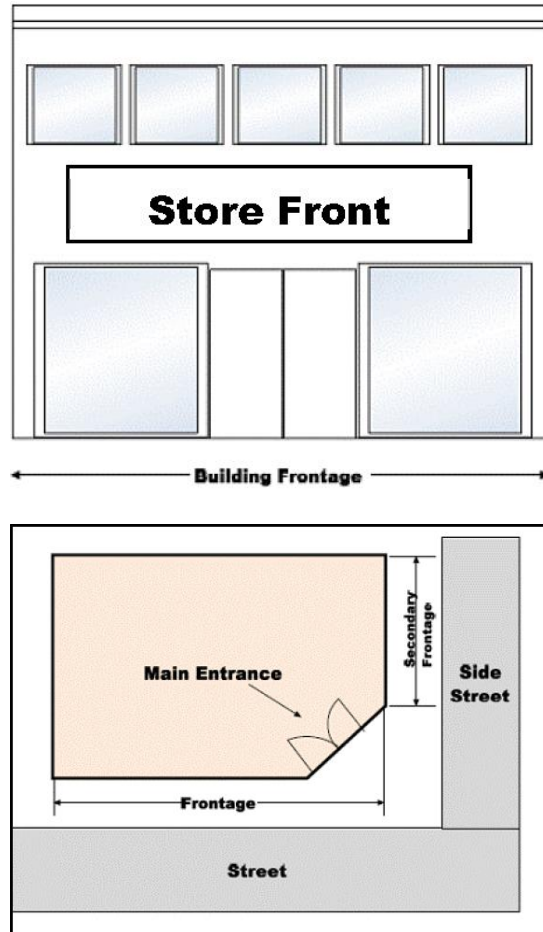
Monument Sign and Pole Sign



Monument Sign and Pole Sign



Ground floor building frontage means an exterior primary wall of a building that faces or abuts a street (not including a freeway) or, if no exterior wall faces or abuts a street, then the exterior primary wall of a building that faces a mall, plaza, or parking lot that faces or abuts a street (not including a freeway). If no exterior wall of a building faces or abuts a street, then the exterior wall of the building containing the main entry is the building frontage.



Hanging sign means a sign that is affixed on its top side and is allowed to hang freely, and is designed to hang under an awning, marquee, or recessed entrance to a building.

Hanging Signs





Illuminated sign means a sign with a light shining upon its surface from the interior or exterior, but without an electronic background or electronic numbering and letters.

Marquee means a sign projecting out from a building over a yard or sidewalk that is designed to provide some coverage for the entrance of a building, similar to an awning or canopy.

Marquee Signs





Multiple-faced sign means a sign with more than one surface used for signage.

Nonresidential individual development means a development with a single commercial, industrial, church, school or hospital use located on a single lot or group of lots developed as one lot.

Nonresidential multi-tenant development means a development with multiple uses or tenants, such as a shopping center or office complex located on a lot or group of lots developed as one lot.

One-day signs means a portable temporary sign that is erected and removed on the same calendar day. The definition of the term "one-day signs" includes signs displayed on consecutive calendar days, provided the sign is erected and removed each day.

Permanent sign means a sign that is intended and structured to be used for an unlimited period of time.

Portable sign means a sign that is easily erected and moved by hand or with the use of a shovel or other simple tools and is capable of standing on its own frame without being affixed to a structure.

Portable Sign



Projecting sign means a sign projecting out from a building and is not designed to provide coverage for the entrance of the building. A projecting sign's leading edge shall extend more than 12 inches beyond the building or wall it is affixed to.

Projecting Sign



Grand Projecting Sign



Sign means any exterior announcement, declaration, display, illustration and insignia when designed and placed so as to attract general public attention and shall include the use of any words, numerals, figures, devices, designs or trademarks by which anything is made known and visible to the general public such as are used to show an individual firm, profession, or business and also any banner, bulbs or other lighting devices, streamer, pennant, balloon, propeller, flag and any similar device of any type or kind whether bearing lettering or not.

Sign program means a plan that clearly defines and describes the location, scale, color, lettering, materials, texture, and depth of all signs within a project.

Sign structural trim means the molding battens, cappings, nailing strips, latticing, and platforms which are attached to the sign structure.

Sign surface means that part of the sign upon, against, or through which the message is displayed or illustrated.

Temporary sign means a sign that is intended and constructed to be used for a limited period of time.

Wall sign means a sign which drawn, painted or attached directly to a building wall with the horizontal sign surface parallel to the building wall.

Wall Sign



Building ID Wall Sign



Window sign means any sign which is applied, affixed, and attached to the interior or exterior of any building window. Also any sign within two feet of the interior of a window that is visible through the window.

Window Sign



Building ID Window Sign



(Zoning Ord. 2020, § 18.3, 1-5-2021)

Sec. 36-472. General conditions and design criteria.

- (a) Any building or use that requires site plan review under article III of this chapter shall include sign designs as a part of the site plan review. The signs shall be reviewed under section 36-479.
- (b) No signs shall be constructed, altered, maintained or relocated except in conformity with this chapter.
- (c) Signs may be located on vacant sites and sites that do not have any existing uses only when allowed in this article.

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- (d) Signs may be located within required front yards. However, signs may not be located within the required side yards and may not obstruct the views of motorists.
 - (e) Signs may be placed in a public right-of-way with approval of the governing agency (county road commission and Michigan Department of Transportation) that controls the right-of-way in question. Where there are private rights-of-way or public easements signs must be ten feet from the edge of the improved roadway and must have approval of the adjacent property owner.
 - (f) Permanent signs shall not be located within ten feet from the front property line or a property line with street frontage.
 - (g) Objects specifically used to draw attention from off-site view other than a sign are not permitted (examples: statues, balloons, blow up objects, pennants, and other items).
 - (h) All signs shall be designed and located on the site to prevent obstruction of visibility at an intersection or drive.
 - (i) No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape or prevent ventilation.
 - (j) All signs shall be installed in a safe and nonhazardous manner and in conformance with state building codes and regulations.
 - (k) Noncommercial messages are permitted on any sign including signs with commercial messages, subject to the relevant regulations applicable to that sign.
 - (l) No sign that is attached to a structure shall be designed to project above the top of the wall it is affixed to.
 - (m) All signs which project out, including awning, hanging, projecting, and marquee signs, from a building must have a minimum vertical clearance of nine feet.
 - (n) Awning and marquee signs may be used as an alternative to wall signs on commercial or industrial zoned properties. Any sign area on the awning or marquee shall be included in calculations of maximum wall sign square footage.
 - (o) Marquee signs are allowed only in commercial and industrial districts on theaters, cinemas, schools, performing arts facilities, parking structures, and religious institutions. The sign copy shall be limited to include only the facility's name and changeable copy related to present and future events. The facility portion shall be no larger than 40 percent of the sign area and the changeable copy portion no larger than 80 percent.
 - (p) Awning, marquee and projecting signs shall project a maximum of six feet from the edge of the building, measured horizontally parallel to the ground.
 - (q) Freestanding signs:
 - (1) Monument signs shall have a maximum height of six feet, including a two foot base as measured from existing grade.
 - (2) Pole signs shall have a maximum height of 15 feet, as measured from existing grade.
 - (3) Freestanding signs shall not have more than two faces.
 - (r) Wall signs:
 - (1) Shall not project further than 12 inches off the wall it is affixed to.
 - (2) Shall not project above the wall it is affixed to.
 - (3) Shall be securely affixed to the wall.

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- (4) If the wall sign utilizes channel letters, it can be ten percent larger in size.
 - (s) Temporary signs:
 - (1) Shall be made of water-resistant materials;
 - (2) Shall not be illuminated;
 - (3) Temporary freestanding signs shall not exceed five feet in height.
 - (t) Sign illumination. In this article where signs are allowed to be illuminated the following is required:
 - (1) *Timer controls.* Illuminated signs shall be equipped with a functional timer control. Signs shall not be illuminated after 10:00 p.m. or one-half hour after the use of the site ends for the day, whichever is later, nor before 6:00 a.m. or one-half hour before the beginning of the use of the site for the day, whichever is earlier.
 - (2) *Backlighting.* Signs with internal illumination shall have the lettering and graphics in a lighter color than the background to the maximum extent practical.
 - (3) *Frequency.* On signs with messages that change, they may change no faster than once every ten seconds.
 - (4) *Flashing and animation.* Flashing or animated affects are not allowed, including, but not limited to, scrolling, fading in, video clips, moving characters or lettering.
 - (5) *Illumination used to attract business is only permitted as allowed above.* All other illumination to attract business is not allowed except through section 36-479. (Examples: spot or search lights, lights strips around windows and doors, etc.)

(Zoning Ord. 2020, § 18.4, 1-5-2021)

Sec. 36-473. Exempt signs.

- (a) A sign is exempt from the provisions of this article if it is not visible from a street, other public place, or an adjacent property. Exempt signs include, but are not limited to, signs placed inside a structure or building that are not visible or legible through windows or building openings.
- (b) Flags on a permanent flagpole, no more than two flags per pole.
- (c) Any sign erected and maintained by any government agency on public property or within the public right-of-way for the purpose of directing, managing or regulating traffic is exempt from the provisions of this article. Such signs include, but are not limited to, street signs, traffic signals, traffic safety signs, speed limit signs, city entry/welcome signs, neighborhood identification signs, and directional signs.

(Zoning Ord. 2020, § 18.5, 1-5-2021)

Sec. 36-474. Signs permitted in all districts.

The following non-illuminated signs do not count toward the maximum allowed signage within any zoning district and do not require a land use permit, provided each sign is constructed and displayed according to the regulations of this article. These signs may be located on vacant sites.

- (1) Any sign required to be displayed by law or by a public agency. These signs shall not exceed the minimum size necessary to be legible.

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- (2) Parking lot signs. Signs located within a parking lot and intended to only be visible when within the parking lot and not from the adjacent streets. Each sign shall have a maximum area of 1.5 square feet.
 - (3) One freestanding or wall sign on a lot with official state historical registry. The sign shall have a maximum area of four-square feet and a maximum height of six feet.
 - (4) Hand-held signs up to four square feet in area, provided the person carrying the sign does not interfere with, block, or impede traffic or pedestrian movement and has the property owner's permission to be on the site.

(Zoning Ord. 2020, § 18.6, 1-5-2021)

Sec. 36-475. Signs prohibited in all districts.

The following signs and sign elements are prohibited in all zoning districts:

- (1) *Obscene material.* Contain statements, words, or pictures of an obscene, indecent, or immoral character such as will offend public morals or decency.
- (2) *Hazard generating signs.* The placement, size, content, coloring or manner of illumination of signs shall not create traffic or pedestrian hazards. No sign shall make use of the words "stop," "look," "danger" or other word, phrase or symbol in a manner that is confusing or misleading. No sign or flashing light shall be erected or maintained in any manner which, by reason of its size, location, context, coloring or manner of illumination, shall constitute a traffic hazard or which shall interfere with the visibility of any traffic control device.
- (3) *Traffic sign mimicry.* Signs are prohibited that are of a size, location, movement, content, coloring, or manner of illumination which may be confused with or construed as a traffic control device or emergency vehicle, and which interfere with the safe flow of traffic.
- (4) *Obstruction or attached.* Signs that obstruct a motorist's view of any traffic sign, street sign, or traffic signal. Signs attached to any power or telephone pole, bench or bus shelter, fire hydrant, or traffic or street sign.
- (5) *Animated signs.* Signs which have visible moving mechanical parts or other apparent visible movement achieved by electrical or mechanical means.
- (6) *Roof signs.* Signs may not be placed on a building roof in any zoning district.
- (7) *Other sign types.* Sign types not expressly permitted by this article are prohibited.

(Zoning Ord. 2020, § 18.7, 1-5-2021)

Sec. 36-476. Signs permitted in residential districts (CE, RAA, RA, RB, RC, WFR, NR, MHP, OH, PPRF, and VR).

- (a) *Signs allowed with a sign permit.*
 - (1) *Permanent signs.*
 - a. Residential development sign. One freestanding monument or wall sign to be located within 50 feet of entrance to a subdivision, condominium project, multiple-family complex or mobile home park not to exceed 32 square feet in area. These signs may be located within the road right-of-way of the development as long as the proposed signs are approved as a part of the development improvements when the original project is approved.

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- b. Nonresidential sign. One freestanding monument and one wall-sign are allowed on lots with nonresidential uses other than home occupations. The freestanding sign shall not exceed 20 square feet in area. The wall sign shall not exceed one square foot for every two linear feet of building frontage, or 100 square feet, whichever is less.
 - c. Home occupation sign. One freestanding, projecting, or wall sign not to exceed six square feet in area on lots with an approved home occupation. Freestanding home occupation signs shall not exceed four feet in height.
 - d. A sign or similar notice is allowed for every 150 feet along the property line of a lot, provided that each sign is no more than two square feet in area, is posted no higher than four feet above grade and is located entirely upon private property. These signs shall not be within 150 feet of another sign and are allowed on vacant sites.
 - e. Permanent signs in the residential zoning districts may be illuminated if they are located along one of the following roads: Bishop Lake Road, Chilson Road, Hamburg Road, M-36, McGregor Road, Pettysville Road, Strawberry Lake Road, Whitewood Road, and Winans Lake Road.
 - f. Permanent signs in residential zoning districts may be electronic display signs with approval of a special use permit under section 36-36, along one of the following roads: Bishop Lake Road, Chilson Road, Hamburg Road, M-36, McGregor Road, Pettysville Road, Strawberry Lake Road, Whitewood Road, and Winans Lake Road.
- (2) *Temporary signs.* Residential development sale and lease sign. One freestanding or wall sign shall be permitted for an approved subdivision, condominium project, multiple-family complex or mobile home park. Such a sign is permitted for a period not to exceed two years from the date of the approval of the project. Thereafter, if properties are still actively marketed for sale or lease in the development, extensions may be permitted on an annual basis with approval of a land use permit. The sign shall not exceed 20 square feet in area.
- (b) *Signs allowed without a sign permit.* Temporary signs.
- (1) Sale or lease signs. One freestanding sign per roadway frontage shall be permitted on a site that is actively marketed for sale or lease. The sign shall not exceed six square feet in size. These signs are allowed on vacant properties.
 - (2) Portable wall or freestanding signs with the following restrictions:
 - a. The total area for all portable signs must not exceed 20 square feet at one time.
 - b. No more than five portable signs can be erected at one time.
 - c. Signs of this type must be located solely on private property outside of any street right-of-way or corner clearance area.
 - d. Signs of this type shall not be in place for longer than 45 days.

(Zoning Ord. 2020, § 18.8, 1-5-2021)

Sec. 36-477. Signs permitted in industrial, neighborhood service, and community service districts (CS, GI, LI and NS).

- (a) *Signs allowed with a sign permit.*
 - (1) *Permanent signs.*

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- a. *Nonresidential individual development sign.* One freestanding, one wall sign, and one projecting or hanging sign per lot with a nonresidential individual development. The freestanding monument signs shall not exceed 32 square feet and freestanding pole signs shall not exceed 25 square feet. The wall sign shall not exceed one square foot for every two linear feet of building frontage, or 100 square feet, whichever is less. The wall signs may be up to 20 square feet regardless of building frontage. The projecting or hanging sign shall not exceed ten square feet.
 - b. *Nonresidential multi-tenant development signs.* One freestanding sign per development. Where the total parcel frontage is 500 feet or greater, two freestanding signs may be permitted, provided that the freestanding signs must be separated by a minimum of 500 feet. The maximum size of the freestanding monument sign shall be 32 square feet and freestanding pole sign shall be 25 square feet. In addition to the freestanding signs, one wall and one hanging or projecting sign per each individual user within the multi-tenant development may be permitted. The wall sign shall not exceed one square feet per two lineal foot of building frontage. The wall signs may be up to 20 square feet regardless of building frontage. The hanging or projecting sign shall not exceed 12 square feet.
 - c. For the purposes of enforcing these provisions, parcel frontage shall be along the front lot line as designated on the plat, site plan review application, or request for a building permit.
 - d. Permanent signs in the commercial or industrial zoning districts may be externally or internally illuminated and may have electronic displays.
- (2) *Temporary signs.*
- a. One freestanding, wall, hanging or projecting sign is allowed within 90 days of a new business opening. If this sign is a freestanding sign, it cannot exceed 32 square feet or a height of six feet, if it is a wall or projecting sign it cannot exceed one square foot for two feet of linear building frontage.
 - b. Temporary sign. One freestanding, wall, hanging or projecting sign is allowed per business to be erected four times per calendar year for a period not to exceed seven consecutive days. Said signs shall not exceed a surface area of 20 square feet for a single face and 40 square feet for a double face sign and shall not exceed the sign height requirements of the district in which the temporary sign is located.
- (b) *Signs allowed without a sign permit.*
- (1) One freestanding sign per roadway frontage shall be permitted on a site that is actively marketed for sale or lease. The sign shall not exceed 20 square feet in size. These signs are allowed on vacant properties.
 - (2) One-day portable sign. One freestanding one-day portable sign is allowed per business. This sign must be located within five feet of the main entrance to the business. The sign shall be no larger than six square feet per side. This sign must be stored inside when business is closed. Five feet of clear sidewalk and all ADA regulations must be maintained at all times.
 - (3) Window signs. Temporary and permanent, window signs shall not exceed one-third of the total window area of each window, the rest of the window shall remain transparent.

(Zoning Ord. 2020, § 18.9, 1-5-2021)

Sec. 36-478. Signs permitted in the VC Village Center and MD mixed use.

- (a) Nonresidential multi-tenant developments must create a sign program, so the signs are consistent with one another. Sign programs must be reviewed and approved by the planning commission and must meet the standards under section 36-479(1).
- (b) All permanent signage without an approved sign program within the VC Village Center and MD Mixed Use District requires planning commission approval. Permanent signage proposed in buildings with an approved sign program can be issued by the zoning administrator with a sign (land use) permit if the signs are consistent with the sign program.
- (c) The following information is required to be submitted for approval of a sign program (all plans, accurately drawn to scale):
 - (1) Site plan with the following:
 - a. Property lines with dimensions;
 - b. Outline and dimensions of all structures related to the use or activity to which the signage relates;
 - c. Location of all existing and proposed signage (i.e., directional, descriptive, identification, etc.).
 - (2) Written inventory describing all existing and proposed signage:
 - a. Type (wall-mounted, freestanding, canopy, window, directional, etc.);
 - b. Dimensions of all signs, total area of sign faces (for two-sided signs area of one side only), and percentage of wall or window coverage (where applicable). Sign areas are determined by calculating the smallest rectangle enclosing the entire sign face.
 - (3) Sign design plan indicating design, dimensions, exterior materials, lettering, graphics, colors, framing, attachments, and any other visual exterior details. Please also include a side section showing the sign thickness and projection from the building wall.
 - (4) Conceptual building elevation dimensioning the placement of the proposed sign and indicating the building wall dimension.
- (d) All signage in sections 36-476 and 36-477 is allowed in the VC and MD District with the following additional requirements:
 - (1) *Wall signs.* Wall signs shall be placed generally within a sign band located above the store front and not to exceed 80 percent of the linear frontage. Maximum size per facade is 0.75 square feet per linear foot up to 24 square feet. Letters shall not exceed 18 inches and shall be mounted flush against the wall.
 - (2) *Awning sign.* Sign lettering and/or logo shall not comprise more than 20 percent or ten square feet of the exterior surface of the canopy.
 - (3) *Projecting signs.* signs shall not project more than 48 inches from the building face and shall have a maximum size of five square feet per side. These signs shall have wrought iron mounting hardware.
 - (4) *Window signs.* Window signs shall not exceed ten percent of the window so that visibility into and out of the window is not obscured. Window signs shall be directly applied to the window or hung inside the window, concealing all mounting hardware and equipment.
 - (5) *Freestanding signs.* Freestanding signs must be ground mounted and architecturally harmonious with the character of the building. They must meet the size requirements of this chapter and be located in a landscaped area.

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- (6) *One-day portable signs.* must be made of wood or decorative metal with cast iron brackets and shall be architecturally compatible with the style, composition, materials, colors, and details of the building.

(Zoning Ord. 2020, § 18.10, 1-5-2021)

Sec. 36-479. Sign regulation waivers.

The planning commission shall have the ability to waive or modify any of the regulations in article XIII of this chapter, provided that the following criteria are met. A waiver granted under this section shall apply for the lifespan of the sign in question but shall not be transferable to any other sign or premises.

- (1) The applicant provides all requested information and pays all applicable application and review fees, to be determined by the Township Board fee schedule.
- (2) If more than one sign is proposed as a part of the project or the sign is part of a nonresidential multi-tenant development, the signs shall be submitted as a part of a sign program for the entire site.
- (3) The proposed sign does not endanger the public health, safety, and welfare by virtue of being distracting to drivers, obscuring vision, being unnecessarily bright, being designed or constructed poorly, or in any other way.
- (4) A sign meeting the regulations of this article would not meet the needs of the use on the subject site.
- (5) The proposed sign utilizes high quality materials and design.
- (6) Signs shall be in harmony and consistent with the architecture of the building and relate to the features of the building in terms of location, scale, size, color, lettering, materials, and texture.
- (7) The design of the sign shall be consistent with the character of the surrounding area.
- (8) The sign does not block the view of other nearby signs to the extent that it would harm the ability of neighboring businesses to operate.
- (9) The sign will not be a nuisance to any residential uses.

(Zoning Ord. 2020, § 18.11, 1-5-2021)

Sec. 36-480. Sign measurements.

- (a) Sign area includes the area within the sign surface enclosing the limits of lettering, writing, representation, emblem, figure, character and lighting surface (the collective "message") but excluding the sign structural trim.
- (b) Double sided signs with back-to-back surfaces, the sign area shall be the measured area of one side. For all other multiple-faced signs, the area shall be the total of the message area of all faces.
- (c) If the sign consists of more than one section or module, the area of all sections and modules shall be included in the calculating the total sign area.
- (d) The following illustrations are examples of how sign area should be measured:
 - (1) *Individual channel letter signs.*



Example Sign Size Calculation:

$$1' \times 6'' = 0.50'$$

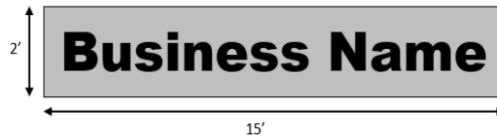
$$+ 3'6'' \times 8'' = 2.33'$$

$$+ 1' \times 6'' = 0.50'$$

$$+ 1'6'' \times 8'' = 1.00'$$

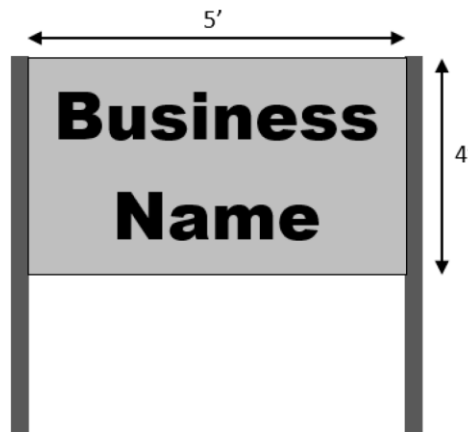
Total: 4.33 square feet

(2) *Box sign.*



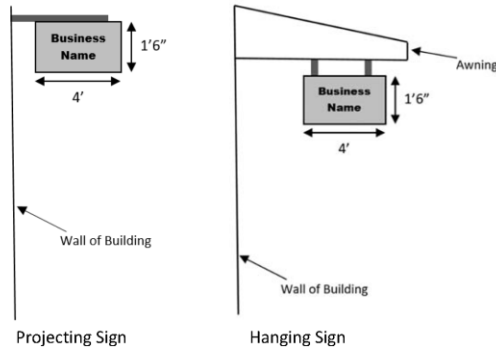
Example Sign Size Calculation:
 $15' \times 2' = 30$ square feet

(3) *Freestanding signs.*



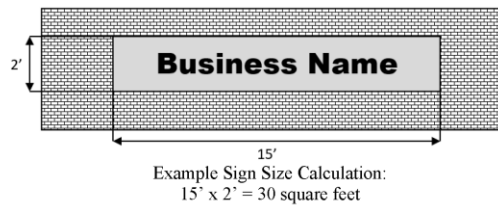
Example Sign Size Calculation:
 $5' \times 4' = 20$ square feet

(4) *Projecting signs and hanging signs.*



Example Sign Size Calculation:
 $4' \times 1'6'' = 6$ square feet

(5) *Signs etched on walls.*



Example Sign Size Calculation:
 $15' \times 2' = 30$ square feet

(Zoning Ord. 2020, § 18.12, 1-5-2021)

Sec. 36-481. Permits, removal, and severability.

- (a) No sign shall be erected, repaired, altered or maintained within the Township without first obtaining a permit from the zoning administrator unless otherwise allowed in this article. Said erection, repair, alteration or relocation shall be completed within one year from the date of permit issuance.
- (b) When any sign becomes insecure, in danger of falling or otherwise unsafe, or if any sign shall be unlawfully installed, erected or maintained in violation of any of the provisions of this article, the owners thereof or the person or firm maintaining same, shall upon written notice of the zoning administrator in the case of immediate danger and in any case within not more than ten days, make such sign conform to the provisions of this article or shall remove it. If within ten days the order is not complied with, the zoning administrator may remove such sign at the expense of the owner or lessee thereof.
- (c) This section shall not prevent repair or restoration to a safe condition of any part of an existing sign when said sign is less than 50 percent destroyed or damaged and when said destruction or damage occurs by storm or other accidental emergency.
- (d) If any part, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word in this section is declared invalid, such invalidity shall not affect the validity or enforceability of the remaining portions of this article.

(Zoning Ord. 2020, § 18.13, 1-5-2021)

Sec. 36-482. Sign regulation enforcement.

- (a) *Signs on private property.* Signs in violation of the regulations will be enforced by the zoning administrator or designee utilizing Ordinance No. 71-A the civil infraction ordinance.

- (b) *Signs within the public or private right-of-way or on public land.* Signs in violation of the regulations will be removed by the zoning administrator or designee.
- (1) First violation: Will be removed and held for ten days at the Township offices, after which the signs will be discarded.
 - (2) Second violation: The signs will be removed and will be discarded without a holding period.
 - (3) Signs in continual violation of the regulations may be enforced by the zoning administrator or designee utilizing Ordinance No. 71-A civil infractions ordinance.
 - (4) Signs will be considered in the public right-of-way if they are within ten feet of a public street or if they are in violation of section 36-228.

(Zoning Ord. 2020, § 18.14, 1-5-2021)

Sec. 36-483. Schedule of sign regulations.

Except as otherwise provided herein, signs shall be permitted in zoning districts according to this table:

Sign Type	Residential and Parks Districts (CE, RAA, RA, RB, RC, WFR, NR, MHP, OH, and PPRF) (section 36-476)	Commercial and Industrial Districts (NS, CS, LI, and GI) (section 36-477)	Village Center (VC) and Mixed Use (MD) Districts (section 36-478)
Permanent Signs:			
Awning	No	Yes	Yes
Hanging	No	Yes	Yes
Marquee	No	Yes	Yes
Projecting	No	Yes	Yes
Freestanding	—	—	—
Monument	Yes	Yes	Yes
Pole	No	Yes	Yes
Wall	Yes	Yes	Yes
Window	No	Yes	Yes
Temporary Signs			
Freestanding	—	—	—
Monument	Yes	Yes	Yes
Pole	No	Yes	Yes
Wall	Yes	Yes	Yes
Window	No	Yes	Yes
One-day Freestanding	No	Yes	Yes
Sign Display/Illumination			
Animated	No	No	No
Electric Display	Yes	Yes	Yes
Illuminated	Yes	Yes	Yes

(Zoning Ord. 2020, § 18.15, 1-5-2021)

Secs. 36-484—36-504. Reserved.

ARTICLE XIV. WIRELESS COMMUNICATION FACILITIES

Sec. 36-505. Intent.

It is the intent of Hamburg Township to conform to the federal and state laws and administrative rules governing the installation and operation of wireless communication facilities and equipment including, but not limited to, the Federal Communications Act of 1996 (47 USC 151), the Sequestration Act of 2012, and the Michigan Zoning Enabling Act (MCL 125.3514). Furthermore, it is the intent of Hamburg Township to minimize the overall number of newly established locations for wireless communications facilities and support structures; to encourage the use of existing structures for wireless communications facilities purposes; to protect the public health, safety, and welfare; and to retain the aesthetic quality and character of the community.

(Zoning Ord. 2020, § 19.1, 1-5-2021)

Sec. 36-506. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Collocate means to place or install wireless communications equipment on an existing wireless communications support structure or in an existing equipment compound.

Equipment compound means an area surrounding or adjacent to the base of a wireless communications support structure and within which wireless communications equipment is located.

Existing facility means the wireless towers or base stations that have been reviewed and approved under the applicable local zoning or siting process, or that the deployment of existing transmission equipment on the structure received another form of affirmative state or local regulatory approval.

Fall zone means a certification by a state licensed and registered professional engineer regarding the manner in which the proposed tower will fall. The certification will be utilized in determining appropriate setbacks to be required for the tower.

Wireless communication facilities (attached) means wireless communication facilities that are affixed to existing structures, such as existing buildings, towers, water tanks, utility poles, and the like. A wireless communication support structure proposed to be newly established shall not be included within this definition.

Wireless communications equipment means the set of equipment and network components used in the provision of wireless communications services, including, but not limited to, antennas, transmitters, receivers, base stations, equipment shelters, cabinets, emergency generators, power supply cables, and coaxial and fiber optic cables, but excluding wireless support structures.

Wireless communication facilities means and include all structures and accessory facilities relating to the use of the radio frequency spectrum for the purpose of transmitting or receiving telephone, cellular telephone, television, microwave and any other form of telecommunications signals. This may include, but shall not be limited to, radio towers, television towers, telephone devices and exchanges, microwave relay towers, telephone transmission equipment buildings, and commercial mobile radio service facilities.

Wireless communications support structure means a structure that is designed to support, or is capable of supporting, wireless communications equipment, including a monopole, self-supporting lattice tower, guyed tower, water tower, utility pole, or building.

(Zoning Ord. 2020, § 19.2, 1-5-2021)

Sec. 36-507. Exemptions.

The following antennas installed on an existing wireless communications support structure are exempt from the requirements of this article but are subject to applicable zoning requirements:

- (1) Amateur radio antennas operating under a license issued by the FCC.
- (2) Television reception antennas.
- (3) Citizen band radio antennas.
- (4) Short wave antennas.
- (5) Satellite dishes.
- (6) Government wireless communications equipment and support structures which are subject to state and federal law or regulations that preempt municipal regulatory authority.

(Zoning Ord. 2020, § 19.3, 1-5-2021)

Sec. 36-508. Wireless communication facilities approval requirements.

(a) *Administrative review.* Wireless communications equipment, or collocation, removal, or replacement of wireless communications equipment is considered a permitted use of property and shall not be subject to special land use approval or any other approval under this section if all of the following requirements are met:

- (1) The wireless communications equipment will be collocated on an existing wireless communications support structure or in an existing equipment compound.
- (2) The existing wireless communications support structure or existing equipment compound is in compliance with the local unit of government's zoning ordinance or was approved by the appropriate zoning body or official for the local unit of government.
- (3) The proposed collocation will not do any of the following:
 - a. Increase the overall height of the wireless communications support structure by more than 20 feet or ten percent of its original height, whichever is greater.
 - b. Increase the width of the wireless communications support structure by more than the minimum necessary to permit collocation.
 - c. Increase the area of the existing equipment compound to greater than 2,500 square feet.
- (4) The proposed collocation complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound by the appropriate zoning body or official of the local unit of government.

(b) *Site plan review.* A wireless communication facility, wireless communications equipment, or collocation of wireless communications equipment that does not comply with subsection (a) of this section shall be a permitted use in the following circumstances, subject to site plan approval under article III of this chapter:

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- (1) In the public and private recreation facilities district.
 - (2) Located on any government owned property.
 - (3) In the limited industrial, general industrial, neighborhood service, and community service districts.
 - (4) An existing structure, which serves as an attached wireless communication facility where the existing structure is not altered or materially changed in appearance, as determined by the planning commission.
- (c) *Special use permit and site plan review.* If a wireless communication facility, wireless communications equipment, or collocation of wireless communications equipment does not meet subsection (a) or (b) of this section, wireless communication facilities shall require special use permit and site plan review subject to section 36-36 and article III of this section.

(Zoning Ord. 2020, § 19.4, 1-5-2021)

Sec. 36-509. General regulations for all wireless communications equipment and support structures.

- (a) The maximum height of the new or modified support structure and antenna shall be the minimum height demonstrated to be necessary for reasonable communication by the applicant (and by other entities to collocate on the structure). The accessory building contemplated to enclose such things as switching equipment shall be limited to the maximum height for accessory structures within the respective district.
- (b) The setback of the support structure from all lot lines or public, or private road rights-of-way, shall be no less than the radius of the fall zone for the support structure in the event of a total collapse, or the applicable setback for the zoning district the support structure is located within, whichever is greater. Other criteria, such as applicable regulations for the district in question used in determining the appropriate setback to be required for the structure and other facilities, must be provided.
- (c) The setback of the wireless communications equipment shall be the required setbacks for the zoning district they are located within.
- (d) There shall be unobstructed access to the wireless communication equipment and support structures for operation, maintenance, repair, inspection purposes, and for emergency vehicles, which may be provided through or over an easement.
- (e) The planning commission shall, with respect to the color of the support structure and all accessory buildings, review and approve so as to minimize distraction, reduce visibility, maximize aesthetic appearance, and ensure compatibility with surroundings. It shall be the responsibility of the applicant to maintain the wireless communication facility in a neat and orderly condition.

(Zoning Ord. 2020, § 19.4.1, 1-5-2021)

Sec. 36-510. Application requirements.

The following items are required when applying for all wireless communications facilities permits:

- (1) Project plans illustrating:
 - a. That the proposed operation meets the requirements of article III of this chapter;
 - b. That the support system shall be constructed in accordance with all applicable building codes.

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- (2) A soils report from a geotechnical engineer, licensed in the state. This soils report shall include soil borings and statements confirming the suitability of soil conditions for the proposed use. The requirements of the Federal Aviation Administration, Federal Communication Commission, and Michigan Aeronautics Commission shall be noted.
 - (3) A maintenance plan, and any applicable maintenance agreement, shall be presented and approved as part of the site plan for the proposed facility. Such plan shall be designed to ensure the long term, continuous maintenance to a reasonably prudent standard.
 - (4) A map showing existing and known proposed wireless communication facilities within the Township, and further showing existing and known proposed wireless communication facilities within areas surrounding borders of the Township. If the information is on file with the Township, the applicant shall update it as needed. Any such information which is a trade secret and/or other confidential commercial information, which if released would result in commercial disadvantage to the applicant, may be submitted with a request for confidentiality in connection with the development of governmental policy MCL 15.243(1)(g). This article shall serve as the promise to maintain confidentiality to the extent permitted by law. The request for confidentiality must be prominently stated in order to bring it to the attention of the Township.
 - (5) The name, address and phone number of the person to contact for engineering, maintenance and other notice purposes. This information shall be continuously updated during all times the facility is on the premises.
 - (6) A signed fall zone certification letter by a state licensed professional engineer will be required if the support structure setback from the property boundary is less than the height of the support structure. This certification letter will be in regard to the manner in which the proposed support structure will fall. The letter will be utilized, along with other criteria such as applicable regulations for the district in question, in determining the appropriate setback to be required for the support structure and equipment.
 - (7) A filing or no filing determination from the FCC and FAA.
 - (8) If the project is a new facility or modification to an existing facility the project shall be designed and constructed so as to accommodate collocation.
 - a. If a party who owns or otherwise controls a wireless communication facility fails or refuses to alter a structure to accommodate a proposed and otherwise feasible collocation, such wireless communications facility shall be deemed to be a nonconforming structure and use, and shall not be altered, expanded or extended in any respect.
 - b. If a party who owns or otherwise controls a wireless communication facility shall fail or refuse to permit a feasible collocation, and this requires the construction and/or use of a new facility, the party failing or refusing to permit a feasible collocation shall be deemed to be in direct violation and contradiction of the policy, intent and purpose of the Township, and, consequently such party shall take responsibility for the violation, and shall be prohibited from receiving approval for a new wireless communication support structure within the Township for a period of five years from the date of the failure or refusal to permit the collocation. Such a party may seek and obtain a variance from the zoning board of appeals if and to the limited extent the applicant demonstrates entitlement to variance relief which, in this context, shall mean a demonstration that enforcement of the five year prohibition would unreasonably discriminate among providers of functionally equivalent wireless communication services, or that effect of such enforcement would have the effect of prohibiting the provision of personal wireless communication services.

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- (9) If the project is a new facility, a feasibility study of the existing towers and structures in the area for collocation is required. Collocations shall be deemed feasible for purposes of this section where all of the following are met:
- a. The wireless communication provider entity under consideration for collocation will undertake to pay market rent or other market compensation for collocation.
 - b. The site on which collocation is being considered, taking into consideration reasonable modification or replacement of a facility, is able to provide structural support.
 - c. The collocation being considered is technologically reasonable, e.g., the collocation will not result in unreasonable interference, given appropriate physical and other adjustment in relation to the structure, antennas, and the like.
 - d. The height of the structure necessary for collocation will not be increased beyond a point deemed to be permissible by the Township, taking into consideration the several standards contained in section 36-509.
- (10) The application shall include a description of security to be posted at the time of receiving a building permit for the facility to ensure removal of the facility when it has been abandoned or is no longer needed. In this regard, the security shall, at the election of the applicant, be in the form of: cash; letter of creditor, an agreement in a form approved by the Township Attorney and recordable at the office of the County Register of Deeds, establishing a promise of the applicant and owner of the property to remove the facility in a timely manner as required under this section, with the further provision that the applicant and owner shall be responsible for the payment of any costs and attorney fees incurred by the community in securing removal.

(Zoning Ord. 2020, § 19.4.2, 1-5-2021)

Sec. 36-511. Special land use application requirements.

- (a) In addition to the standards in section 36-36 for special use permits, the following standards shall also apply to all wireless communications equipment and support structures for which a special land use permit is required:
- (1) The applicant shall demonstrate to the satisfaction of the planning commission the need for the proposed wireless communication equipment or support structure to be located outside the permitted areas.
 - (2) The proposal shall be reviewed in conformity with the collocation requirements of this article.
 - (3) At the time of the submittal, the applicant shall demonstrate that a location within the permitted areas cannot reasonably meet the coverage and/or capacity needs of the applicant.
 - (4) Wireless communications equipment and support structures shall be of a design such as (without limitation) a steeple, bell tower, or other form, which is compatible with the existing character of the proposed site, neighborhood, and general area as approved by the Township.
- (b) Special land use applications for wireless communication facilities shall be processed in accordance with all applicable state and federal requirements.

(Zoning Ord. 2020, § 19.5, 1-5-2021)

Sec. 36-512. Removal.

- (a) A condition of every approval of a wireless communication facility shall be adequate provision for removal of all or part of the facility by users and owners when the Township becomes aware that a facility has not been used for 180 days or more. For purposes of this section, the removal of antennas or other equipment from the facility, or the cessation of operations (transmission and/or reception of radio signals) shall be considered as the beginning of a period of nonuse.
- (b) The situations in which removal of a facility is required, as set forth in subsection (a) of this section, may be applied and limited to portions of a facility.
- (c) Upon the occurrence of one or more of the events requiring removal, specified in subsection (a) of this section, the property owner or persons who had used the facility shall immediately apply or secure the application for any required demolition or removal permits, and immediately proceed with and complete the demolition/removal, restoring the premises to an acceptable condition consistent with Township codes and ordinances determined by the zoning administrator.
- (d) The Township may remove or secure the removal of the facility if the following has not occurred:
 - (1) The required removal has not been lawfully completed within 60 days of the applicable deadline, and after at least 30 days' written notice.
 - (2) An application for reuse of the facility has not been submitted to the Township within the 180 days. An application for reuse is subject to the review procedures and standards outlined in this chapter.
- (e) Any and all costs incident to the removal of the facility, including, but not limited to, administrative charges, legal fees, court cost, construction costs, or expenses shall be the sole responsibility of the owner of the facility, or any security deposits as may have been required by the Township at the time the application was made for establishing the facility.

(Zoning Ord. 2020, § 19.6, 1-5-2021)

PART II
TOWNSHIP APPENDICES

**Appendix A HAMBURG TOWNSHIP ADMINISTRATIVE FEE SCHEDULE 2021—
2022¹⁷**

¹⁷Editor's note(s)—Printed herein is the Appendix of the Hamburg Township, Ordinance of 7-1-2021, as adopted by the Township of Hamburg on July 1, 2021. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes, and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.

ARTICLE I. IN GENERAL

Secs. 1-1—1-19. Reserved.

ARTICLE II. SPECIFIC FEES

Sec. 1-20. Department of parks and recreation.

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>	<i>Comments</i>
Parkland Sports—Partnering Group—Resident	\$5.00	Per person/per season	Use must be scheduled
Parkland Sports—Partnering Group—Non-Resident	\$10.00	Per person/per season	Use must be scheduled
Parkland Sports—All others	\$25.00	2-hour block	Use must be scheduled
Event Use—Partnering Group—Low Hazard	\$250.00	Per day/per area	Use must be scheduled
Event Use—All others—Low Hazard	\$750.00	Per day/per area	See police for public safety charges
Event Use—Partnering Group—Medium Hazard	\$500.00	Per day/per area	See police for public safety charges
Event Use—All others—Medium Hazard	\$1,500.00	Per day/per area	See police for public safety charges
Event Use—Partnering Group—High Hazard	\$1,000.00	Per day/per area	See police for public safety charges
Event Use—All others—High Hazard	\$2,500.00	Per day/per area	See police for public safety charges
Merrill Field Golf Course—Suggested Donation	\$2.00	Per game	Suggested cash donation
Restoration/Clean-up/Damage Bond—Winkelhaus Gazebo	\$100.00	Per use	Refunded after damage inspection
Restoration/Clean-up/Damage Bond—Manly Bennett Park	\$1,000.00	Per field/area	Refunded after damage inspection

See parklands and community center use fee schedule for details—App. 1.

Sec. 1-21. Public safety (police and fire for events).

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>	<i>Comments</i>
Public Safety—Low Hazard	—	Per application/event	Parks and recreation invoices for events held on Township grounds
Public Safety—Medium Hazard	\$600.00	Full day/2 safety personnel	Parks and recreation invoices for events held on Township grounds
Public Safety—Medium Hazard	\$300.00	Half day/2 safety personnel	Parks and recreation invoices for events held on Township grounds
Public Safety—High Hazard	\$1,200.00	Full day/4 safety personnel	Parks and recreation invoices for events held on Township grounds
Public Safety—High Hazard	\$600.00	Half day/4 safety personnel	Parks and recreation invoices for events held on Township grounds
Public Safety—Special Use Category	Actual salary costs		To be calculated by public safety director

See public safety fee chart as referenced by parklands and community center fee schedule—App. 1.

Sec. 1-22. Senior center.

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>
Membership fee—50 and up	\$5.00	Annual
Membership newsletter	\$15.00	Annual
Other fees		
Coffee	\$0.50	Per cup
Bottled water	\$1.00	Per bottle
Euchre/pinochle games	\$1.00	Per table of 4
Bingo	\$0.10	Per bingo card

Sec. 1-23. Community center (parks and recreation).

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>	<i>Comments</i>
Monthly Room Rental—Non-profit—Annual Flat Rate	\$120.00	Non-refundable	Use must be scheduled

Hourly Room Rental— All others—3-hour block/per use	\$25.00	Invoiced through Parks	Use must be scheduled
Key Replacement—Key Fob	\$100.00	When misplaced	May warrant Re-key charge
Re-key of facility	\$300.00	When misplaced	May warrant Re-key charge
Unsecured or Damaged Building/Contents charge	\$75.00	First incident	—
Unsecured or Damaged Building/Contents charge	\$150.00	Second incident	—
Unsecured or Damaged Building/Contents charge	—	Use is revoked	—

See parklands and community center use fee schedule for details—App. 1.

Sec. 1-24. Fire department.

Fees for cost recovery are calculated and charged on a case-by-case basis as outlined in the International Fire Code Ordinance No. 76A and Public Safety Cost Recovery Ordinance No. 98.

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>	<i>Comments</i>
Tent Permit—Event vendors	\$50.00	Per application/event	Parks and recreation invoices for events held on Township grounds
Permit Fees— Hazardous Materials	\$100.00	0-1,000 lbs; 0-100 cu. ft; 0-330 gal.	Fire department invoices for charges
Permit Fees— Hazardous Materials	\$250.00	1,001-20,000 lbs; 101- 6,000 cu. ft; 331-990 gal.	Fire department invoices for charges
Permit Fees— Hazardous Materials	\$500.00	20,000+ lbs.; 6,001+ cu. ft; 991+ gal.	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$80.00	1-20 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$90.00	21-50 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$100.00	51-100 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$120.00	101-200 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$140.00	201-300 heads	Fire department invoices for charges

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adopted July 1, 2021

Permit Fees—Sprinkler systems	\$160.00	301-400 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$180.00	401-500 heads	Fire department invoices for charges
Permit Fees—Sprinkler systems	\$200.00	501-1,000 heads	Fire department invoices for charges
Permit Fees—Standpipes	\$45.00	Per standpipe	Fire department invoices for charges
Permit Fees—Fire Pump	\$50.00	Per pump	Fire department invoices for charges
Permit Fees—Dry or Wet Chemical Fire Suppression Systems	\$90.00	1st system, all subsequent in same location \$45.00	Fire department invoices for charges
Permit Fees—Dry or Wet Chemical Fire Suppression Systems—Alterations	\$35.00	—	Fire department invoices for charges
Permit Fees—Total Flooding agent extinguishing systems	\$90.00	Per system plus appropriate system fee	Fire department invoices for charges
Permit Fees—Devices—Control Panel	\$20.00	Per panel	Fire department invoices for charges
Permit Fees—Devices—First initiating control device	\$10.00	1st device, all subsequent in same loc \$0.50 ea.	Fire department invoices for charges
Permit Fees—Devices—First audio communications device	\$10.00	1st device, all subsequent in same loc \$0.50 ea.	Fire department invoices for charges
Permit Fees—Re-inspection - Normal Working Hours	\$30.00	Per inspection	Fire department invoices for charges
Permit Fees—Re-inspection - Nonworking Hours	\$75.00	Per inspection	Fire department invoices for charges
Cancellation fees for all issued permits	35% or \$10.00	Per cancellation, whichever is greater	Fire department invoices for charges
Prohibited Parking Fee—Civil Infraction	\$25.00	Per violation, if paid within 10 days	Fire department invoices for charges
Prohibited Parking Fee—Civil Infraction	\$50.00	Per violation, if paid after 10 days	Fire department invoices for charges

Sec. 1-25. Police department.

<i>Department</i>	<i>Fee</i>	<i>Frequency</i>	<i>Comments</i>
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Salvage Vehicle Inspections	\$100.00		
Gun Permit Notary Fees—Resident	—	Free of charge	
Gun Permit Notary Fees—Non-Resident	\$10.00	Per permit	
Copies for Police Reports	\$5.00	Per report	
Fingerprinting	\$10.00	Per card	
Local Records Checks	\$5.00	Per record	i.e., adoption/employment/visa
Court Ordered Preliminary Breath Tests—Resident	\$5.00	Per test	
Court Ordered Preliminary Breath Tests—Non-Resident	\$10.00	Per test	
Solicitor Permits—Daily	\$ 10.00	Per day	
Solicitor Permits—Annual	\$ 50.00	Annual	
P.B.T.—Resident	\$ 5.00	Per test	
P.B.T.—Non-Resident	\$ 10.00	Per test	
Video Tapes/CDs/DVD's plus labor	\$ 0.50	Per DVD	with \$4.76 per 15 min. increment/labor
Audio CD Plus Labor	\$0.50	Per DVD	with \$4.76 per 15 min. increment/labor
Civil infraction penalties as listed in the Municipal Civil Infraction Ordinance No. 71A			
Class A Municipal Civil Infraction	\$1,000.00	Per offense	
Class B Municipal Civil Infraction	\$500.00	Per offense	
Class C Municipal Civil Infraction	\$250.00	Per offense	
Class D Municipal Civil Infraction	\$125.00	Per offense	
Class E Municipal Civil Infraction	\$75.00	Per offense	

Sec. 1-26. Utility department.

Charges for sewer taps and pumps are calculated and charged on a case-by-case basis as outlined in the Wastewater Treatment and Administration Ordinance No. 69H.

Sewer Application Fee—Residential	\$200.00 per application
Sewer Application Fee—Commercial	\$1,000.00 per application
Operations and Maintenance (O&M)	\$155.50 per REU/per quarter
REU Review Application	\$200.00 per application

Rates and charges for sewer districts in the system are listed in the table of unit factors, included as App. 5. Sewer connection tap fees & usage rates (O&M) are adopted annual by Township Board resolution.

Sec. 1-27. Township Clerk.

Notary Services	Free of charge	
Voter Information on Electronic Media	Free of charge	
Copy of Available Meeting Minutes Via Email	Free of charge	
Paper Copies	\$0.25 per page	See Township Treasurer

Sec. 1-28. Freedom of Information Act (FOIA).

Fees for FOIA requests are calculated and charged on a case-by-case basis as outlined in the Freedom of Information Act (FOIA) Procedures and Guidelines—App. 2.

Fee Deposit (for requests totaling over \$50.00)	½ the calculated fee per request	
Paper Copies—Black and White	\$0.02 per page	Cannot exceed \$0.10 per FOIA
Paper Copies—Color	\$0.07 per page	Cannot exceed \$0.10 per FOIA

Sec. 1-29. Township treasurer.

Credit/Debit Card Online Payment Fees—at Township Hall or Online	2.80%	Point-n-pay
E-checks	\$1.50 point-n-pay	Point-n-pay
Return Check Fees/NSF	\$12.00	—
Complete List of Tax Records	—	—
Copies:	—	—
Photocopies	\$0.25	Per page
Taxes Printscreen Per Page	—	—
Duplicate Tax Bill	—	—
Printing Fee for Duplicate Tax Bill at Counter	—	—
Copy of Maps—Township, Precinct	\$7.00	Large

Copy of Maps—Township, Precinct	\$5.00	Small
Animal licenses (per county)		
	\$25.00	One year per county
	\$60.00	Three years per county
	\$10.00	One year per county/spayed or neutered
	\$25.00	Three years per county/spayed or neutered
Administrative Fees		
Late fee Taxes—Winter	1%—Added Feb. 15—28	Delinquent taxes go to Livingston County March 1
Late fee Taxes—Summer	1%—Added each month after Sept 15 through Feb	Delinquent taxes go to Livingston County March 1
Delinquent Personal Property Fees	3%—Then 1% starting March 1	—

Sec. 1-30. Accounting department.

Copies of Adopted/Proposed Budgets	\$20.00
Copy of Township Audit Financial Statements	\$20.00

Sec. 1-31. Assessing department.

Fees for FOIA requests are calculated and charged on a case-by-case basis as outlined in the Freedom of Information Act (FOIA) Procedures and Guidelines (article II of this chapter).

Sec. 1-32. Planning and zoning department.

See fee schedule—approved by Township Board January 4, 2011—article III of this appendix.

Sec. 1-33. Cemetery and mausoleum.

See fee schedule included in Ordinance No. 32D—approved by Township Board March 20, 2018—article IV of this appendix.

Sec. 1-34. All other departments.

All other fees that are not listed here, or by reference in the appendix, shall be calculated for actual cost incurred by the Township.

Sec. 1-35. Appendix C parklands community center and safety fee schedule.

(a) *Parklands.*

- (1) *Recognized sports groups; regular seasonal use.*
- a. Per participant fee, charged per season:
 1. \$5.00 resident.
 2. \$10.00 nonresident.
 - b. Regular seasonal uses include user group sponsored games, practices and tryouts. All other uses fall shall be considered special use.
 - c. In-kind donations which are considered capital improvements, and are and approved prior to expenditure, may be used to offset fees for use by recognized user groups. Receipts must be submitted and approved each season. Credits cannot exceed fees due.
 - d. The Township Board may supersede this fee schedule by stipulating alternate fees or waiving them in their entirety.
- (2) *Non-recognized user group/for-profit business; regular seasonal use.*
- a. Flat rate per field: \$25.00 per two-hour use. (Use must not conflict with regular seasonal use or blackout dates).
 - b. Field use will be handled on a first-come-first-serve basis. The recognized users will be granted an early-bird scheduling window, of no less than six weeks before the season start. All other users will be granted access to calendar two weeks prior to season start.
- (3) *Special use (requires public safety fees).* For all special events or uses, fees may be set at the daily field rates as outlined below, or a fee as otherwise determined by the Township Board. Waivers of fees, including those for public safety, may be made by the Township Board. Contributions of in-kind services, maintenance and repairs may be considered by the board and can be used to offset regular seasonal use fees for recognized user groups. Charge for sports field per day/per area, half days will be charged 50 percent of rates shown: (See parklands and community center use fee schedule document section 1-35 for details.)

Low Hazard	
Recognized User Group	\$250.00
Non-Partnering User Group	\$750.00
Medium Hazard	
Recognized User Group	\$500.00
Non-Partnering User Group	\$1,500.00
Large Hazard	
Recognized User Group	\$1,000.00
Non-Partnering User Group	\$2,500.00

- a. Township Board will determine the hazard category/rates after consultation with the event organizers. All events must go through a public safety review, and charges over and above the fees may be required once risk is evaluated as outlined in the public safety fee chart (attached).
- b. Tournaments require proof of event liability and medical payments for all participants and must name Hamburg Township as additional insured.
- c. A \$500.00 nonrefundable hold the date deposit is required for all special use applications, in addition to applicable restoration, clean-up and damage bond amounts (see below). The hold the date deposit is due upon approval of the park use application for the event and shall be applied

towards the applicant's total calculated fee for park use. This deposit will be applied towards the applicant's invoice or retained in the case of a cancellation of the event. Additional charges may be imposed for services provided such as trash removal, portable toilets, etc.

- d. The Township Board reserves the right to waive or reduce deposit or reimburse any unused portion of the deposit to the applicant. In-kind donations which are considered capital improvements, and are and approved prior to expenditure, may be used to offset fees for use by recognized user groups. Receipts must be submitted and approved each season. Credits cannot exceed fees due.
- (4) *Merrill Field disc golf course.*
- a. Informal/individual use: A fee of \$2.00 per person, per game, is required and shall be remitted in the cash receptacle provided at the entrance of the course.
 - b. Group/league/organization use: Groups will apply for regular league play on an annual park use application, with a list of dates that the games will be occurring. Group will collect and remit \$2.00 per person, per game to the Township. Waivers of fees may be made by the Township Board. Contributions of in-kind services, maintenance and repairs may be considered by the board.
- (5) *Restoration, clean-up and damage bonds.*
- a. For use of the Gazebo at Winkelhaus Park: \$100.00 per use.
 - b. For use of any playing field, for use other than what it is intended for: \$1,000.00 per field.
 - c. Based on the type of event proposed by the applicant, the Township Board may require the applicant to pay a bond in an amount other than what is described here. The Township Board reserves the right to waive bonds at their discretion.
 - d. All restoration, clean-up and damage bonds must be in the form of cash or certified check shall be returned only after it is determined that the applicant has fully performed the restoration and clean-up of the premises to the pre-event or better condition as outlined in the Parks and Recreation Administrative Policies and Procedures Manual.
 - e. Applicant will be advised in writing should the bond be retained in part or in its entirety or if the damages exceed the bond and there is a balance due.
- (6) *Community center (use allowed after 4:00 p.m. weekdays, and on weekends).* Individual or member of applying organization must be a Hamburg Township resident. All uses require an application and must comply with the rules and regulations. Key assignments are made by the Parks and Recreation Department. Damage/cleaning fees will be charged to user groups who don't leave building as they found it.
- a. Non-profit annual rates (proof of non-profit status required):
 - 1. Three-hour blocks/up to two times per month.
 - 2. Non-refundable flat rate, paid in advance: \$120.00.
 - b. Non-profit additional days of use:
 - 1. Three-hour block/per use.
 - 2. Non-refundable daily charge, paid in advance: \$10.00 each use.
 - c. For-profit rates:
 - 1. Three-hour block/per use.

2. Non-refundable daily charge, paid in advance: \$25.00.

Additional hours for same day use shall be charged at \$10.00 per hour.

d. Unsecured or damaged building charges:

1. First incident: Up to \$75.00.
2. Second incident: Up to \$150.00.
3. Third incident: Use of facility will be revoked.

e. Key replacement charges:

1. \$100.00 for key fob.
2. \$300.00 for re-key of facility.

(7) *Public safety fee chart as referenced.* Appendix C parklands, community center and public safety fee schedule.

<i>Event Category</i>	<i>Event Size/Hazard Description</i>	<i>Public Safety Fee</i>	<i>Personnel Provided</i>
Low Hazard	Less than 1,000, Prohibited activities: alcoholic beverages, fireworks, professional sporting events, pets	No public safety fee required (unless use is determined to have need of personnel based on type of event).	
Medium Hazard	1001—2500, prohibited activities: alcoholic beverages, fireworks, professional sporting events, pets	Full day: \$600.00 per day; half day: \$300.00 per day	2 public safety personnel
High Hazard	2501—5000, prohibited activities: alcoholic beverages, fireworks, professional sporting events, pets	Full day: \$1,200.00 per day; half day: \$600.00 per day	4 public safety personnel
Special Use	Over 5,000, must be proposed and permitted through special approval process through Township Board, may require further permits and specialty insurance	Actual salary costs for all public safety personnel (police and fire) not working a regularly-scheduled shift	Public safety administration (in consultation with the event organizers and Parks and Recreation Director) determine the public safety needs for the event

a. All new event applications/uses require review by public safety personnel.

b. Half day is six hours or less, full day is more than six hours.

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- c. The Township Board may waive or reduce required public safety fees by special request of the event organizers.
 - d. All event applications, no matter the size, must start with a park use application submittal with the Parks and Recreation Department.

Secs. 1-36—1-58. Reserved.

**ARTICLE III. HAMBURG TOWNSHIP FREEDOM OF INFORMATION ACT (FOIA)
PROCEDURES AND GUIDELINES**

Sec. 1-59. Preamble; statement of principles.

- (a) It is the policy of Hamburg Township that all persons, except those incarcerated, consistent with the Michigan Freedom of Information Act (FOIA), are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. The people shall be informed so that they fully participate in the democratic process.
- (b) The Township's policy with respect to FOIA requests is to comply with state law in all respects and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.
- (c) The Township acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. The Township acknowledges that sometimes it is necessary to invoke the exemptions identified under FOIA in order to ensure the effective operation of government and to protect the privacy of individuals.
- (d) Hamburg Township will protect the public's interest in disclosure, while balancing the requirement to withhold or redact portions of certain records. It is the policy of Hamburg Township to process all requests for public records in full compliance with Public Act No. 442 of 1976, as amended, (MCL 15.231 et seq.), also known as the Michigan Freedom of Information Act.
- (e) The Township Board has established the following written procedures and guidelines to implement the FOIA and has created a written public summary of the specific procedures and guidelines relevant to the general public regarding how to submit written requests to the public body and explaining how to understand a public body's written responses, deposit requirements, fee calculations, and avenues for challenge and appeal.

Sec. 1-60. General policies.

- (a) The Township Board, acting pursuant to the authority at MCL 15.236, designates a FOIA Coordinator for public safety (police and fire records) and a FOIA Coordinator for all other general Township records. An FOIA Coordinator is authorized to designate other Township staff to act on their behalf to accept and process written requests for the Township's public records and approve denials. The FOIA Coordinator for public safety is the public safety administrative supervisor. The FOIA Coordinator for all other general Township records is the deputy Clerk.
- (b) The Township must respond to a FOIA request within five business days after the business day the Township received the request. A mailed or hand-delivered FOIA request is considered to be received on the day it is delivered to the Township. If a request for a public record is submitted by facsimile or email, the request is deemed to have been received on the first business day after the transmittal day. If a request is sent by email and delivered to a Township spam or junk-mail folder, the request is not deemed received until one day after

the FOIA Coordinator first becomes aware of the request. The FOIA Coordinator shall note in the FOIA log both the date the request was delivered to the spam or junk-mail folder and the date the FOIA Coordinator became aware of the request.

- (c) The FOIA Coordinator shall designate each Township employee who has a Township email address to review their spam and junk-mail folders on a regular basis, which shall be no less than once a month. Employees shall immediately notify the FOIA Coordinator of the date they discovered a FOIA request in their spam and junk-mail folders and forward the email to the FOIA Coordinator in order that the date received and the date discovered can be recorded in the Township's FOIA logs.
- (d) A FOIA Coordinator may, in their discretion, implement administrative rules, consistent with state law and these procedures and guidelines to administer the acceptance and processing of FOIA requests.
- (e) The Township is not obligated to create a new public record or make a compilation or summary of information which does not already exist. Neither a FOIA Coordinator nor other Township staff are obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.
- (f) A FOIA Coordinator shall keep a copy of all written requests for public records received by the Township on file for a period of at least one year. These requests may be scanned and maintained in a digital file.
- (g) The Township will make this procedures and guidelines document and the written public summary publicly available without charge. If it does not, the Township cannot require deposits or charge fees otherwise permitted under the FOIA until it is in compliance.
- (h) A copy of this procedures and guidelines document and the Township's written public summary must be publicly available by providing free copies both in the Township's response to a written request and upon request by visitors at the Township's offices.
- (i) This procedures and guidelines document and the Township's written public summary will be maintained on the Township's website at: www.hamburg.mi.us. A website link to these documents may be provided in lieu of providing paper copies of these documents in a written response to a written request.

Sec. 1-61. Requesting a public record.

- (a) All requests for copies of public documents or to review public documents must be in writing with the exception of the following:
 - (1) Copies of assessment/tax records by the property owner of his or her property.
 - (2) Copies of assessment/tax records that are reasonable and readily available at the time of the request.
 - (3) Copies of all current meeting agendas.
 - (4) Copies of all current minutes.
 - (5) Media requests for public safety (police and fire) records that would be available pursuant to a written FOIA request. Records released to the media shall have all information redacted as required by the Michigan Freedom of Information Act.
 - (6) Public safety records, with appropriate redactions, if the Director of Public Safety deems the release to be in the interest of the public or serves a legitimate public safety purpose.
- (b) No specific form to submit a request for a public record is required. However, the Township has made available a FOIA request form for the public's convenience of use.
- (c) Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by the Township may be submitted on the Township's FOIA request form, or in any other form of writing (letter,

facsimile, email, etc.). For a request to be considered a sufficient writing to satisfy the FOIA, it must contain the following:

- (1) The complete name of the requester.
 - (2) The mailing address of the requester.
 - (3) The contact information of the requester (a valid phone number or electronic mail address).
 - (4) Corporate entities who request records under the FOIA must provide [the items in] subsections (c)(1) through (3) of this section for the company's agent.
 - (5) A request must sufficiently describe a public record so as to enable Township personnel to identify and find the requested public record.
- (d) If a person makes a verbal, non-written request for information believed to be available on the Township's website, where practicable and to the best ability of the employee receiving the request, the requester shall be informed of the pertinent website address.
- (e) If a citizen making a verbal request is disabled, either temporarily or permanently, so that he or she is unable to make the request in writing, special accommodations must be made. It is the duty of the department receiving the request to write out the request for the citizen on the Township's FOIA request form as an accommodation under the American Disability Act (ADA). Once written, the request should be processed as a formal request under FOIA.
- (1) Written requests for general Township public records (other than police or fire reports) should be submitted in person or by mail to the general Township FOIA Coordinator at the Clerk's office. Requests may be submitted electronically by facsimile or email. Written requests can be made in person at the Clerk's Department at the Hamburg Township Office, 10405 Merrill Road; by mail to: Hamburg Township, Attn: General Township FOIA Coordinator, P.O. Box 157, Hamburg, MI 48139; by facsimile at (810) 231- 4295; or by email to clerk@hamburg.mi.us.
 - (2) Written requests for police or fire records should be submitted in person or by mail to the public safety FOIA Coordinator. Requests may be submitted electronically by facsimile or email. Written requests can be made in person at the Hamburg Township Police Department, 10409 Merrill Road; by mail to Hamburg Township Police Department, Attn: Public Safety FOIA Coordinator, P.O. Box 157, Hamburg, MI 48139; by facsimile at (810)231-9401; or by email to HATP@hamburg.mi.us.
- (f) A person may request that public records be provided on non-paper physical media, emailed or other otherwise provided in digital form in lieu of paper copies. The Township will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.
- (g) A person may subscribe to future issues of public records that are created, issued or disseminated by Hamburg Township on a regular basis. A subscription is valid for up to six months and may be renewed by the subscriber.
- (h) A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. The FOIA Coordinator will deny all such requests.
- (i) If a request for records is received by departmental staff, the request shall be promptly forwarded to a FOIA Coordinator for processing.

Sec. 1-62. Processing a request.

- (a) Unless otherwise agreed to in writing by the person making the request, the Township will issue a response within five business days of receipt of a FOIA request.

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- (1) The Township will respond to a request in one of the following ways:
 - a. Grant the request.
 - b. Issue a written notice denying the request.
 - c. Grant the request in part and issue a written notice denying in part the request.
 - d. Issue a notice indicating that due to the nature of the request the Township needs an additional ten business days to respond for a total of no more than 15 business days. Only one such extension is permitted.
 - e. Issue a written notice indicating that the public record requested is available at no charge on the Township's website.
 - (2) When a request is granted:
 - a. If the request is granted, or granted in part, the FOIA Coordinator will require that payment be made in full for the allowable fees associated with responding to the request before the public record is made available.
 - b. The FOIA Coordinator shall provide a detailed itemization of the allowable costs incurred to process the request to the person making the request.
 - c. A copy of these procedures and guidelines and the written public summary will be provided to the requester free of charge if requested. These procedures and guidelines, as well as the written public summary, are maintained on the Township's website (www.hamburg.mi.us), and the website link to these documents will be provided in lieu of providing paper copies of these documents with all written responses to FOIA requests.
 - d. If the cost of processing a FOIA request is \$50.00 or less, the requester will be notified of the amount due prior to the release of the documents.
 - e. If the cost of processing a FOIA request is expected to exceed \$50.00 based on a good-faith calculation, or if the requester has not paid in full for a previously granted request, the Township will require a good-faith deposit pursuant to section 4 of the FOIA before processing the request.
 - f. In making the request for a good-faith deposit, the FOIA Coordinator shall provide the requester with a detailed itemization of the allowable costs estimated to be incurred by the Township to process the request and also provide a best-efforts estimate of a time frame it will take the Township to provide the records to the requester. The best-efforts estimate shall be nonbinding on the Township but will be made in good faith and will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner based on the public policy expressed by section 1 of the FOIA. Section 4 of this article has details about fee deposits.
 - (3) When a request is denied or denied in part:
 - a. If the request is denied or denied in part, the FOIA Coordinator will issue a notice of denial which shall provide in the applicable circumstance:
 1. An explanation as to why a requested public record is exempt from disclosure;
 2. A written statement that the requested record does not exist under the name or description provided by the requester, or another name reasonably known by the Township;
 3. An explanation or description of the public record or information within a public record that is separated or deleted from the public record;

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4. An explanation of the person's right to submit an appeal of the denial to either the Township Board or Director of Public Safety, or seek judicial review in the Livingston County Circuit Court; and
 5. An explanation of the right to receive attorneys' fees, costs, and disbursements as well as possibly actual or compensatory damages, and punitive damages of \$1,000.00, should they prevail in circuit court.

The notice of denial shall be signed by the FOIA Coordinator.

- b. If a request does not sufficiently describe a public record, the FOIA Coordinator may, in lieu of issuing a notice of denial indicating that the request is deficient, seek clarification or amendment of the request by the person making the request. Any clarification or amendment will be considered a new request subject to the timelines described in this section.
- (4) Requests for certified copies. The FOIA Coordinator shall, upon written request, furnish a certified copy of a public record at no additional cost to the person requesting the public record.
 - (5) Requests to inspect public records. The Township shall provide reasonable facilities and opportunities for persons to examine and inspect public records during normal business hours. The FOIA Coordinator is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Township records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Township operations.
 - (6) Public inspection of records.
 - a. A person shall be allowed to inspect public records during usual business hours, not more than four hours per day. The public does not have unlimited access to Township offices or facilities, and a person may be required to inspect records at a specified counter or table, and in view of Township Personnel.
 - b. Township Officials, Appointees, Staff or Consultants/Contractors assisting with inspection of public records shall inform any person inspecting records that only pencils, and no pens or ink, may be used to take notes.
 - c. In coordination with the official responsible for the records, the FOIA Coordinator shall determine on a case-by-case basis when the Township will provide copies of original records, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection. A fee will be charged for copies made to enable public inspection of records, according to the Township's FOIA policy.
 - d. The FOIA Coordinator is responsible for identifying if records or information requested by the public is stored in digital files or e-mail, even if the public does not specifically request a digital file or email.
 - e. A person cannot remove books, records or files from the place the Township has provided for the inspection.

No documents shall be removed from the office of the custodian of those documents without permission of that custodian, except by court order, subpoena or for audit purposes. The official shall be given a receipt listing the records being removed. Documents may be removed from the office of the custodian of those documents with permission of that custodian to accommodate public inspection of those documents.

Sec. 1-63. Fee deposits.

- (a) If the fee estimate is expected to exceed \$50.00 based on a good-faith calculation, the requester will be asked to provide a deposit not exceeding one-half of the total estimated fee.
- (b) The deposit request must be in writing and specify the date by which the deposit must be received. If the deposit is not received by the Township within 48 days of the notice being sent, and the requester has not filed an appeal of the deposit amount, the request shall be considered abandoned by the requester and the Township is no longer required to fulfill the request.
- (c) If a request for public records is from a person who has not fully paid the Township for copies of public records made in fulfillment of a previously granted written request, the FOIA Coordinator will require a deposit of 100 percent of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:
 - (1) The final fee for the prior written request is not more than 105 percent of the estimated fee;
 - (2) The public records made available contained the information sought in the prior written request and remain in the Township's possession;
 - (3) The public records were made available to the individual, subject to payment, within the time frame estimated by the Township to provide the records;
 - (4) 90 days have passed since the FOIA Coordinator notified the individual in writing that the public records were available for pickup or mailing;
 - (6) The individual is unable to show proof of prior payment to the Township; and
 - (7) The FOIA Coordinator has calculated a detailed itemization that is the basis for the current written request's increased estimated fee deposit.
- (d) The FOIA Coordinator will not require an increased estimated fee deposit if any of the following apply:
 - (1) The person making the request is able to show proof of prior payment in full to the Township;
 - (2) The Township is subsequently paid in full for the applicable prior written request; or
 - (3) 365 days have passed since the person made the request for which full payment was not remitted to the Township.

Sec. 1-64. Calculation of fees.

- (a) A fee may be charged for the labor cost of duplication or publication.
- (b) A fee will not be charged for the labor cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the Township because of the nature of the request in the particular instance, and the Township specifically identifies the nature of the unreasonably high costs.
- (c) Costs for the search, examination, review, and deletion and separation of exempt from non-exempt information are "unreasonably high" when they are excessive and beyond the normal or usual amount for those services (Attorney General Opinion 7083 of 2001) compared to the costs of the Township's usual FOIA requests, not compared to the Township's operating budget (Bloch v. Davison Community Schools, Michigan Court of Appeals, Unpublished, April 26, 2011).
 - (1) The following factors shall be used to determine an unreasonably high cost to the Township:
 - a. Volume of the public record requested.

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- b. Amount of time spent to search for, examine, review and separate exempt from non-exempt information in the record requested.
 - c. Whether the public records are from more than one Township department or whether various Township offices are necessary to respond to the request.
 - d. The available staffing to respond to the request.
 - e. Any other similar factors identified by the FOIA Coordinator in responding to the particular request.
- (2) Examples of determining unreasonably high cost: Because of the nature of the request in the particular instance, such as, by way of example, cases requiring advice from legal counsel, additional staffing or other direct expenses not in the ordinary course of business. If a FOIA request is made for an easily identified document consisting of a few standard size pages, labor for the search, examination, and making deletions under the FOIA would generally not present a case of unreasonably high costs. If a request for "any and all" documents as to a particular subject, requires a search of many boxes of records, including review for exempt material which must be or may be deleted (per section 13 of FOIA), and if that search, examination, and review involves an hour or more of labor, charges may be imposed to avoid unreasonably high cost arising from the nature of the request.
- (d) The Township will charge for the following costs associated with processing a FOIA request:
- (1) The cost of labor associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet or other electronic means.
 - (2) The cost of duplication or publication, not including labor, of paper copies of public records. This may include the cost for copies of records already on the Township's website if you ask for the Township to make copies.
 - (3) The cost of computer discs, computer tapes, thumb drives, or other digital or similar media when the requester asks for records in non-paper physical media. This may include the cost for copies of records already on the Township's website if you ask for the Township to make copies.
 - (4) The cost to mail or send a public record to a requester.
- (e) Labor costs will be calculated based on the following requirements:
- (1) All labor costs will be estimated and charged in 15-minute increments, with all partial time increments rounded down.
 - (2) Labor costs will be charged at the hourly wage of the lowest-paid Township employee capable of doing the work in the specific fee category, regardless of who actually performs work.
 - (3) Labor costs may include a charge to cover or partially cover the cost of fringe benefits.
 - (4) The Township may add up to 50 percent to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits.
 - (5) Overtime wages will not be included in labor costs unless agreed to by the requester; overtime costs will not be used to calculate the fringe benefit cost.
 - (6) Contracted labor costs will be charged at the hourly rate of six times the state minimum hourly wage in effect at the time of the request.
- (f) The cost to provide records on non-paper physical media when so requested will be based on the following requirements:

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- (1) Computer disks, computer tapes, thumb drives, or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
 - (2) This cost will only be assessed if the Township has the technological capability necessary to provide the public record in the requested non-paper physical media format.
 - (3) In order to ensure the integrity of the Township's technology infrastructure, the Township will procure any non-paper media and will not accept media from the requester.
- (g) The cost to provide paper copies of records will be based on the following requirements:
- (1) Paper copies of public records made on standard letter (8½ inches by 11 inches) or legal (8½ inches by 14 inches) sized paper cost \$0.02 per black and white page or \$0.07 per color sheet as of the date these Township's procedures and guidelines were approved; if the actual cost to the Township increases over time the fee cannot exceed \$0.10 per sheet of paper under the FOIA.
 - (2) The fee for larger sized copies sent out for duplication because the Township does not have the capability to do the copying will be the actual cost to the Township.
 - (3) The Township will provide records using double-sided printing, if it is cost-saving and available.
- (h) The cost to mail records to a requester will be based on the following requirements:
- (1) The actual cost to mail public records using a reasonably economical and justified means.
 - (2) The Township may charge for the least expensive form of postal delivery confirmation.
 - (3) No cost will be made for expedited shipping or insurance unless specified by the requester.
- (i) If the FOIA Coordinator does not respond to a written request in a timely manner, the Township must reduce the labor costs by five percent for each day the Township exceeds the time permitted under FOIA up to a 50 percent maximum reduction, if any of the following applies:
- (1) The Township's late response was willful and intentional.
 - (2) The written request conveyed a request for information within the first 250 words of the body of a letter, facsimile, email or email attachment.
 - (3) The written request included the words, characters, or abbreviations for "freedom of information," "information," "FOIA," "copy" or a recognizable misspelling of such, or legal code reference to Public Act No. 442 of 1976 (MCL 15.231 et seq.) on the front of an envelope or in the subject line of an email, letter, or facsimile cover page.
 - (4) Fully note the charge reduction in the detailed itemization of costs form.

Sec. 1-65. Waiver of fees.

The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator a waiver or reduced fee is in the public interest because it can be considered as primarily benefiting the general public.

Sec. 1-66. Discounted fees.

(a) *Indigence.*

- (1) The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that he or she is:
 - a. Indigent and receiving specific public assistance; or

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- b. If not receiving public assistance, stating facts demonstrating an inability to pay because of indigence.
- (2) An individual is not eligible to receive the waiver if:
- a. The requester has previously received discounted copies of public records from the Township twice during the calendar year; or
 - b. The requester requests information in connection with other persons who are offering or providing payment to the individual to make the request.
- (3) An affidavit is sworn statement. The FOIA Coordinator may provide a fee waiver affidavit form for use by the public.
- (b) *Nonprofit organization advocating for developmentally disabled or mentally ill individuals.* The FOIA Coordinator will discount the first \$20.00 of the processing fee for a request from:
- A nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal developmental disabilities assistance and Bill of Rights Act of 2000, Public Law 106-402, and the protection and advocacy for individuals with mental illness act, Public Law 99-319, or their successors, if the request meets all of the following requirements:
- a. Is made directly on behalf of the organization or its clients.
 - b. Is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the mental health code, Public Act No. 258 of 1974 (MCL 330.1931).
 - c. Is accompanied by documentation of its designation by the state.

Sec. 1-67. Appeal of a denial of a public record.

- (a) When a requester believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal.
- (b) Appeals of the denial of general Township public records shall be made to the Township Board by filing an appeal with the general Township FOIA Coordinator.
- (c) Appeals of the denial of public safety (police and fire) public records shall be made to the Director of Public Safety by filing an appeal with the public safety FOIA Coordinator.
- (d) The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requester is seeking a reversal of the denial. The Township FOIA appeal form (To Appeal a Denial of Records) may be used.
- (e) The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal.
- (f) Within ten business days of receiving the appeal, the Township Board or Director of Public Safety, as appropriate, will respond in writing by:
 - (1) Reversing the disclosure denial;
 - (2) Upholding the disclosure denial; or
 - (3) Reversing the disclosure denial in part and upholding the disclosure denial in part; or
 - (4) Under unusual circumstances, issue a notice extending for not more than ten business days the period of time during which the Township Board or Director of Public Safety shall respond to the written appeal. The Township Board or Director of Public Safety shall not issue more than one notice of extension for a particular written appeal.

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- (g) If the Township Board or Director of Public Safety fails to respond to a written appeal, or if the Township Board/Director of Public Safety upholds all or a portion of the disclosure denial that is the subject of the written appeal, the requesting person may seek judicial review of the nondisclosure by commencing a civil action in circuit court.
 - (h) Whether or not a requester submitted an appeal of a denial to the Township Board or Director of Public Safety, he or she may file a civil action in Livingston County Circuit Court within 180 days after the Township's final determination to deny the request.
 - (i) If a court determines a public record is not exempt from disclosure, it shall order the Township to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Failure to comply with an order of the court may be punished as contempt of court.
 - (j) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in such an action, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or Township prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements.
 - (k) If the court determines that the Township has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the Township to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

Sec. 1-68. Appeal of an excessive FOIA processing fee.

- (a) All appeals of FOIA processing fees, whether for general Township records or public safety records, shall be made to the Township Board.
- (b) The term "fee" means the total fee or any component of the total fee calculated under section 4 of the FOIA, including any deposit.
- (c) If a requester believes that the fee charged by the Township to process a FOIA request exceeds the amount permitted by state law or under this policy, he or she must first appeal to the Township Board by submitting a written appeal for a fee reduction to the general Township FOIA Coordinator at the Clerk's office.
- (d) The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted. The Township FOIA appeal form (To Appeal an Excess Fee) may be used.
- (e) The Township Board is not considered to have received a written appeal until the first regularly scheduled Township Board meeting following submission of the written appeal.
- (f) Within ten business days after receiving the appeal, the Township Board will respond in writing by:
 - (1) Waiving the fee;
 - (2) Reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee, and the reduced fee amount complies with these procedures and guidelines and section 4 of the FOIA;
 - (3) Upholding the fee and issuing a written determination indicating the specific basis under section 4 of the FOIA that supports the required fee; or

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- (4) Issuing a notice detailing the reason or reasons for extending for not more than ten business days the period of time during which the Township Board will respond to the written appeal. The Township Board shall not issue more than one notice of extension for a particular written appeal.
 - (g) Where the Township Board reduces or upholds the fee, the determination must include a certification from the Township Board that the statements in the determination are accurate and that the reduced fee amount complies with its publicly available procedures and guidelines and section 4 of the FOIA.
 - (h) Within 45 days after receiving notice of the Township Board's determination of an appeal, the requesting person may commence a civil action in Livingston County Circuit Court for a fee reduction.
 - (i) If a civil action is commenced against the Township for an excess fee, the Township is not obligated to complete the processing of the written request for the public record at issue until the court resolves the fee dispute.
 - (j) An action shall not be filed in circuit court unless one of the following applies:
 - (1) The Township does not provide for appeals of fees;
 - (2) The Township Board failed to respond to a written appeal as required; or
 - (3) The Township Board issued a determination to a written appeal.
 - (k) If a court determines that the Township required a fee that exceeds the amount permitted under its publicly available procedures and guidelines or section 4 of the FOIA, the court shall reduce the fee to a permissible amount. Failure to comply with an order of the court may be punished as contempt of court.
 - (l) If the requesting person prevails in court by receiving a reduction of 50 percent or more of the total fee, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages.
 - (m) If the court determines that the Township has arbitrarily and capriciously violated the FOIA by charging an excessive fee, the court shall order the Township to pay a civil fine of \$500.00, which shall be deposited in the general fund of the state treasury. The court may also award, in addition to any actual or compensatory damages, punitive damages in the amount of \$500.00 to the person seeking the fee reduction. The fine and any damages shall not be assessed against an individual but shall be assessed against the public body liable for damages.

Sec. 1-69. Failure to comply with FOI Act.

If the court determines, in an action commenced under the FOI Act, that a public body willfully and intentionally failed to comply with the act or otherwise acted in bad faith, the court shall order the public body to pay, in addition to any other award or sanction, a civil fine of not less than \$2,500.00 or more than \$7,500.00 for each occurrence. In determining the amount of the civil fine, the court shall consider the budget of the public body and whether the public body has previously been assessed penalties for violations of this act. The civil fine shall be deposited in the general fund of the state treasury.

Sec. 1-70. Conflict with prior FOIA policies and procedures; effective date.

- (a) To the extent that these procedures and guidelines conflict with previous FOIA policies promulgated by the Township Board or the Township administration, these procedures and guidelines are controlling. To the extent that any administrative rule promulgated by the FOIA Coordinator subsequent to the adoption of these procedures and guidelines is found to be in conflict with any previous policy promulgated by the Township Board or the Township administration, the administrative rule promulgated by the FOIA Coordinator is controlling.

- (b) To the extent that any provision of these procedures and guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any state statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify this policy and all previous policies adopted by the Township Board or the Township administration, and to adopt such administrative rules as he or she may deem necessary, to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute, provided that such modifications and rules are consistent with state law. The FOIA Coordinator shall inform the Township Board of any change these policies and guidelines.

These FOIA Policies and Guidelines became effective July 1, 2019.

Secs. 1-71—1-98. Reserved.

ARTICLE IV. LAND USE

DIVISION 1. GENERALLY

Secs. 1-99—1-124. Reserved.

DIVISION 2. PERMITS

Sec. 1-125. Land use permits—Residential.

New Home	\$100.00
Additions-Addition of Square Footage (i.e., garage, family/bedroom, second story, sunroom, pole barn)	\$70.00
Remodeling/Repairs-No Addition of Square Footage (i.e., moving interior walls, renovations, finishing basement, or second story)	\$40.00
Repairs-Re-Roofing, Windows, Siding, Electrical, Plumbing, Heating/Air Conditioning	\$15.00
Peripherals-Amenities (i.e., decks, pools, porches, gazebos, boathouses, sheds, fences, etc.)	\$40.00
Electrical, Plumbing, and Heating/Air Conditioning Work—No Structural Changes	\$15.00
Satellite Dishes, TV/Radio Antennas—Residential Only—No Structural Changes	\$15.00
Reinspection Fee	\$25.00
Addressing	\$25.00/address
Temporary Trailers	\$100.00 for 6 months plus \$2,000.00 cash bond
Demolitions	\$45.00
Change in Use	\$40.00
Signs	\$40.00

Home Occupation	\$35.00
Seasonal Sales	\$40.00
Minor Agricultural Commercial/Tourism Business	\$150.00
After the Fact Permits Additional Processing Fee	\$100.00
After the Fact Permit Additional Processing Fee— No Charge Permit	\$1.00
Review Escrow	Based on estimated cost of review

Note: Upon the issuance of an address, a reflective address sign will be provided.

Sec. 1-126. Land use permits—Multiple-family (duplexes, apartments buildings, hotels, motels, inns).

For each residential unit within a single unified structure:

New Construction	\$100.00
Additions	\$70.00
Remodeling-No Addition of Square Footage (i.e., moving interior walls, re-doing bathroom, and kitchens finishing basement or second story)	\$60.00
Repairs (i.e., re-roofing, windows, siding, electrical, plumbing, heating, air conditioning)	\$15.00
New Facades	\$60.00
Peripherals-Amenities (i.e., decks, pools, porches, gazebos, boathouses, sheds, fences, etc.)	\$60.00
Site Improvements (i.e., paving, parking, grading, curbs, sidewalks, landscaping)	\$80.00
Electrical, Plumbing and Heating/Air Conditioning Work-No Structural Changes	\$15.00
Satellite Dishes, TV/Radio Antennas-Residential Only—No Structural Changes	\$15.00
Addressing	\$25.00/address
Reinspection Fee	\$25.00
After the Fact Permit Additional Processing Fee	\$100.00
After the Fact Permit Additional Processing Fee— No Charge Permit	\$1.00
Review Escrow	Based on estimated cost of review

Note: Upon the issuance of an address, a reflective address sign will be provided.

Land use permit fees are in addition to any and all fees for site plan application reviews, variances, public hearings, and private roads/driveway variances.

Sec. 1-127. Land use permits—Commercial/industrial (in addition to site plan review fees as applicable).

New Building	\$250.00
Remodeling—No Addition of Square Footage (i.e., facades, re-roofing, interior walls, bathrooms, electrical, plumbing, heating mechanical, factory machinery, upgrades requiring building permits)	\$105.00
Additions—Additions of Square Footage (i.e., pole barn, extra wing/story)	\$105.00
New Facades	\$60.00
Peripherals (sheds, decks, porches, fences)	\$75.00
Temporary Trailers	\$100.00 for 6 months plus \$2,000.00 cash bond
Demolitions	\$60.00
Site Improvements (paving, parking, grading, curbs, sidewalks, landscaping, consumers energy rectifiers)	\$75.00
Change in Use	\$40.00
Seasonal Sales	\$40.00
Signs	\$60.00
Wireless Communication Facilities	\$250.00
Addressing	\$25.00/address
Reinspection Fee	\$25.00
After the Fact Permit Additional Processing Fee	\$100.00
Review Escrow	Based on estimated cost of review

Note: Upon the issuance of an address, a reflective address sign will be provided.

Sec. 1-128. Land use permits—Multiple commercial/industrial units (buildings with multiple offices/retail/manufacturing suites) for each unit within a single unified structure.

New Construction	\$100.00
Remodeling/Repairs—No Addition of Square Footage (i.e., moving interior walls, re-doing bathrooms, kitchens, finishing basement or second story, re-roofing, windows, siding, etc.)	\$70.00
Building Facades	\$70.00
Peripherals-Amenities (i.e., decks, pools, porches, gazebos, boathouses, sheds, fences etc.)	\$60.00
Site Improvements (paving, parking, grading, curbs, sidewalks, landscaping)	\$90.00

Electrical, Plumbing and Heating/Air Conditioning Work—No Structural Changes	\$15.00
Satellite Dishes, TV/Radio Antennas/Wireless Communication Facilities	\$100.00
Reinspection Fee	\$30.00
Addressing	\$25.00/address
After the Fact Permit Additional Processing Fee	\$100.00
After the Fact Permit Additional Processing Fee—No Charge Permit	\$1.00
Review Escrow	Based on estimated cost of review

Sec. 1-129. Temporary land use and special events.

Temporary Land Use-Special Events (section 36-75)—For-Profit Organizations	\$75.00
Temporary Land Use-Special Events (section 36-75)—Non-Profit Organizations	\$25.00
Review Escrow	Based on estimated cost of review

Sec. 1-130. ADU permit fees (in addition to all other fees).

Application fee:

Zoning Administrator Review	\$75.00
Planning Commission Review	\$300.00
Special Use Permit Review	\$750.00
Review Escrow	Based on estimated cost of review

Sec. 1-131. Nonconforming use fees (in addition to all other fees).

Application fee:

Class A Review	\$300.00
Review Escrow	Based on estimated cost of review

Sec. 1-132. Planning review fees (in addition to all other fees).

Sign Review, and Sign and Agricultural Tourism Waivers	\$300.00
Review Escrow	Based on estimated cost of review

Sec. 1-133. Special use permit fees (in addition to all other fees).

Application fee:

Special Use Permit (section 36-36)—For Both Residential, Commercial/Industrial	\$750.00
Review Escrow	\$1,500.00

Sec. 1-134. Rezoning fees (in addition to all other fees).

Application fee:

Rezoning of Property—for Both Residential, Commercial, and Industrial	\$1,000.00
Review Escrow	\$2,500.00

(Please note: Open Space Community Overlay Districts under article XII of the Hamburg Township Zoning Ordinance are not rezonings.)

Sec. 1-135. Zoning text amendments (in addition to all other fees).

Application fee:

Proposed Text Amendments to the Hamburg Township Zoning Ordinance	\$900.00
Review Escrow	\$1,500.00

Sec. 1-136. For all projects; pre-application conferences.

Optional pre-application conference—For 1½-hour conference period (to be paid prior to the conference):

Zoning Administrator	\$50.00
Township Planner	\$350.00
Township Engineer	\$350.00

Secs. 1-137—1-155. Reserved.

DIVISION 3. SITE PLAN REVIEW FEES (IN ADDITION TO ALL OTHER FEES)

Sec. 1-156. Residential planned unit development and condominiums projects.

Application fee:

New Subdivisions of All Types	\$2,000.00
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Sec. 1-157. Review escrow fees.

Preliminary Site Plan	\$2,000.00 plus \$50.00/unit
Final Site Plan	\$2,000.00 plus \$50.00/unit
Combined Preliminary/Final Site	\$4,000.00 plus \$50.00/unit

Sec. 1-158. Amendments to site plans.

Application fee:

Minor Modification—Administrative	\$150.00
Minor Modification—Planning Commission	\$700.00 plus review fees
Site Plan Amendment—Significant Changes	\$2,000.00 plus review fees

Sec. 1-159. Review escrow fees for amendments.

Minor Modification—Planning Commission	\$1,400.00
Site Plan Amendment—Significant Changes	\$2,000.00

Secs. 1-160—1-186. Reserved.

DIVISION 4. PLATS/SUBDIVISIONS

Sec. 1-187. Application fee.

Tentative/Preliminary Plat	\$1,000.00 plus \$50.00/lot
Preliminary Final Plat	\$1,000.00 plus \$50.00/lot
Final Plat	\$1,000.00 plus \$50.00/lot

Sec. 1-188. Review escrow.

Tentative/Preliminary Plat	\$2,500.00 plus \$50.00/lot
Preliminary Final Plat	\$2,500.00 plus \$50.00/lot
Final Plat	\$2,500.00 plus \$50.00/lot

Secs. 1-189—1-214. Reserved.

PART II - TOWNSHIP APPENDICES
Appendix A - HAMBURG TOWNSHIP ADMINISTRATIVE FEE SCHEDULE 2021—2022
ARTICLE IV. - LAND USE
DIVISION 5. SITE PLAN REVIEW FOR COMMERCIAL AND INDUSTRIAL PROJECTS OF ALL TYPES

DIVISION 5. SITE PLAN REVIEW FOR COMMERCIAL AND INDUSTRIAL PROJECTS OF ALL TYPES

Sec. 1-215. Application fee.

New projects of all types:

Preliminary Site Plan	\$1000.00 plus \$200.00/acre over one acre
Final Site Plan	\$1,000.00 plus \$200.00/acre over one acre
Combination Preliminary/Final	\$2,000.00 plus \$400.00/acre over one acre

Sec. 1-216. Review escrow.

Preliminary Site Plan	\$2,500.00 plus \$250.00/acre over one acre
Final Site Plan	\$2,500.00 plus \$250.00/acre over one acre
Combined Preliminary/Final Site	\$5,000.00 plus \$500.00/acre over one acre

Sec. 1-217. Amendments to site plans.

Minor Modification—Administrative	\$150.00
Minor Modification—Planning Commission	\$700.00 plus review fees
Site Plan Amendment—Significant Changes	\$2,000.00 plus review fees

Sec. 1-218. Review escrow fees for amendments.

Minor Modification-Planning Commission	\$1,500.00 + \$100.00/acre over one acre
Site Plan Amendment-Significant Changes	\$3,500.00 + \$100.00/acre over one acre.

Sec. 1-219. Commercial/mixed-use planned unit development.

- (a) Application fee: \$4,500.00 plus \$100.00/acre over one acre.
- (b) Review escrow fees:

Preliminary Site Plan	\$3,500.00 plus \$250.00/acre over one acre
Final Site Plan	\$3,500.00 plus \$250.00/acre over one acre
Combination Preliminary/Final	\$7,000.00 plus \$500.00/acre over one acre

Note: Acreage calculations based upon the acreage being developed or utilized for the project (parking, buildings, walks, stormwater retention etc.).

Sec. 1-220. Private road and drainage fees.

- (a) Private road-regular approval request (please note that these fees are in addition to any variance/wavier request fees that may be applicable): Zoning administrative fee: \$400.00.
- (b) Engineer review escrow: (includes original and one revised submittal):

1—2,000 Linear Footage	\$2,500.00
2,000—4,000 Linear Footage	\$3,500.00
4,000 + Linear Footage	Multiply above increments
Road Surface, Drainage Inspection and Certification Review Fee	\$300.00
Reinspection Fee	\$300.00
Bond to Construct Road	As set by Zoning Administrator

- (c) Assistance due to non-compliance:

Township Administration	\$400.00
Engineering and Site Visit Escrow	\$3,000.00

- (d) Private road variance/waiver request:

Application Fee	\$500.00
Engineer Review/Inspection Fee	\$1,000.00
If Special Meeting—Fee for Township Board	\$800.00

Secs. 1-221—1-345. Reserved.

DIVISION 6. OTHER FEES

Sec. 1-346. Site walks.

Planning commission \$750.00

Sec. 1-347. Special meetings.

Planning commission and Township Board:

Meetings that Do Not Require Consultant Review	\$800.00
Meetings that Require Consultant Review	\$800.00 plus \$700.00 consultant fee

Sec. 1-348. Sewer feasibility.

Cost Estimate Commercial	\$1,000.00
Cost Estimate Single-Family Home	\$200.00
Final Inspection and Review of Certification Documents	\$500.00 plus review fees
Creation/alteration of Water Bodies (section 36-275) (setbacks need to be met if pond is entirely within parcel)	\$50.00
Permit for Grading, Drainage, Fill, Excavation, Etc. (plus engineering review and site visit fees)	\$50.00

Sec. 1-349. Land divisions/combinations/lot splits/redescriptions.

Per Parcel/Lot Being Created	\$100.00
Boundary Adjustments (fee charged for each resulting parcel or new description) (outlots/parks/open space areas each count as 1 lot)	\$100.00
Review Escrow	Based on estimated cost of review (no charge for combination or separation of platted lots of record or other parcels of record for tax code purposes only)

Sec. 1-350. Zoning Board of Appeals fees (in addition to all other fees).

Per Case	\$500.00 plus \$50.00 per additional variance
Rehearing Meeting	\$200.00
Review Escrow	Based on estimated cost of review

Sec. 1-353. Ordinances.

Ordinances and the master plan can be viewed on our website at www.hamburg.mi.us. From the main page, go to the Lawroom (add \$5.00 if mailed).

Master Plan	\$30.00
General Ordinance	\$35.00
Zoning Ordinance	\$35.00
Large Zoning District Map	\$15.00
Small Zoning District Map	\$7.50
Copies of Full-Size Sectional Maps	\$10.00/sheet

Sec. 1-354. Copies.

Photocopies (plus postage if mailed): \$0.25/page.

Sec. 1-355. Fees.

Fees listed in this schedule are intended to cover staff time and other costs for standard processing. Application fees and review fees are required at the time of application. In the case of separate applications for preliminary and final reviews, separate application and review fees shall be collected.

Sec. 1-356. Exemptions.

All permitting fees will be waived by Hamburg Township for non-profit private and public service project.

Sec. 1-357. Review escrows.

- (a) Review escrow fees are reasonably related to the amount of costs and expenses estimated by the Township and its consultants to complete the respective review of a project by the Township's consultants. If there is not an estimate for the initial cost of the review escrow and instead the review fee states it is based on an estimate of cost of review the Zoning Administrator will contact the party that is needed for review and the cost of the review escrow fee will be based on the projected cost of the review. Review escrow fees shall be placed into a non-interest-bearing escrow account. Upon final review, the remaining review escrow fee balances shall be returned to the applicant upon receipt of final billing. If the excess fees are sent by mail to the applicant at the address specified on the escrow receipt, and is returned undelivered, it shall be held by the Township and returned to the applicant on demand; however, if such demand is not made within one year after it was returned undeliverable, the remaining escrow shall be deemed forfeited and shall be deposited in the general fund of the Township. The applicant shall be responsible for all costs incurred for review in excess of the original submitted escrow amount. If the review escrow fee amount held by the Township is determined to be less than the amount needed to review the project additional escrow fund shall be requested. Final certificates of occupancy shall not be issued until such time as all outstanding fees are paid.
- (b) Review escrows fees can be required for any work or process either covered or not covered in this Schedule based on the cost of the review to be determined by the Zoning Administrator and the party reviewing the project.

Secs. 1-358—1-387. Reserved.

ARTICLE V. HAMBURG CEMETERY AND MAUSOLEUM PRICING

DIVISION 1. GENERALLY

Secs. 1-388—1-417. Reserved.

DIVISION 2. CRYPT PRICING

Sec. 1-418. South wall, side by side.

<i>Tier</i>	<i>Cost</i>
H	\$7,820.00
G	\$9,265.00
F	\$9,775.00
E	\$10,200.00
D	\$10,880.00
C	\$11,730.00
B	\$11,730.00
A	\$10,880.00

Sec. 1-419. South wall, end to end.

<i>Tier</i>	<i>Cost</i>
H	\$6,120.00
G	\$7,765.00
F	\$8,075.00
E	\$8,755.00
D	\$9,307.00
C	\$9,925.00
B	\$9,925.00
A	\$9,307.00

Sec. 1-420. South wall singles.

<i>Tier</i>	<i>Cost</i>
H	\$4,554.00
G	\$5,296.00
F	\$5,698.00
E	\$5,940.00
D	\$6,336.00
C	\$6,732.00
B	\$6,732.00
A	\$6,336.00

Sec. 1-421. North wall, side by side.

<i>Tier</i>	<i>Cost</i>
H	\$6,290.00

G	\$6,715.00
F	\$7,225.00
E	\$7,650.00
D	\$8,245.00
C	\$8,925.00
B	\$8,925.00
A	\$8,245.00

Sec. 1-422. North wall, end to end.

<i>Tier</i>	<i>Cost</i>
H	\$5,700.00
G	\$6,210.00
F	\$6,750.00
E	\$7,270.00
D	\$7,830.00
C	\$8,580.00
B	\$8,580.00
A	\$7,830.00

Sec. 1-423. North wall singles.

<i>Tier</i>	<i>Cost</i>
H	\$3,630.00
G	\$3,910.00
F	\$4,207.00
E	\$4,455.00
D	\$4,801.00
C	\$5,130.00
B	\$5,130.00
A	\$4,739.00

Secs. 1-424—1-444. Reserved.

DIVISION 3. NICHE PRICING¹⁸

¹⁸Editor's note(s)—Interment of more than one cremation at the same is charged at 1.5 times the rate.

Sec. 1-445. West wall (mural).

<i>Tier</i>	<i>Cost</i>
I	\$677.00
H	\$903.00
G	\$1,083.00
F	\$1,083.00
E	\$1,083.00
D	\$1,083.00
C	\$1,083.00
B	\$903.00
A	\$903.00

Sec. 1-446. East wall.

<i>Tier</i>	<i>Cost</i>
I	\$451.00
H	\$677.00
G	\$903.00
F	\$903.00
E	\$903.00
D	\$903.00
C	\$903.00
B	\$677.00
A	\$587.00

Sec. 1-447. Cemetery plots.

- (a) Resident pricing, per plot \$500.00
- (b) Nonresident pricing, per plot 750.00

Sec. 1-448. Opening/closing.

- (a) Full burial.
 - (1) Resident 600.00
 - (2) Nonresident 750.00
- (b) Cremation.
 - (1) Resident 300.00
 - (2) Nonresident 450.00

Sec. 1-449. Monument foundations.

Veteran Marker	\$95.00
10" x 48"	\$110.00
20" x 36"	\$85.00
20" x 42"	\$100.00
20" x 54"	\$110.00
20" x 60"	\$130.00

All other sizes will be quoted individually

Secs. 1-450—1-466. Reserved.

ARTICLE VI. SCHEDULE 1 CURRENT RATES AND CHARGES FOR THE RESPECTIVE SEWER DISTRICTS IN THE SYSTEM (REVISIONS HIGHLIGHTED IN BOLD)

Sec. 1-467. Appendix 1 Table of unit factors.

<i>Usage</i>	<i>Residential Equivalent Unit Factor</i>
Auto Dealer—Sales and/or Service	1.00/premises + 0.40/1,000 square feet
Auto Repair/Collision Body Shop	1.00/premises + 0.40/1,000 square feet
Bakery	1.25/1,000 square feet
Bank	0.25 per employee station
Bar	2.00/1,000 square feet
Barbershop	1.00/shop + 0.10/chair
Beauty Shop	1.00/shop + 0.10/booth
Bed and Breakfast	1.00/premises + 0.20/guest
Boardinghouse, Boarding School, Dormitory, Fraternity Or Sorority House, Etc.	1.00/premises + 0.20/bedroom
Bowling Alley and/or Restaurant	0.16/alley (bar and/or restaurant to be computed at its respective residential equivalent)
Car Wash—Do It Yourself	1.00 per stall
Car Wash—Automatic Non-Recycled	10.00/single production line
Car Wash—Automatic Recycled	5.00/single production line
Churches	0.20/1000 square feet
Cleaners (pick-up only)	1.00/shop
Cleaners (pressing facilities)	1.25/press
Convalescent Home	0.22/bed
Country Club/Health Center	1.50/1,000 square feet
Day Care Center	1.00/premises + 0.25/1,000 square feet
Drug Store, Dime Store (with fountain service)	1.0 + 0.1 per seat

Factory (exclusive of industrial waste)	0.50/1,000 square feet
Fire Station (volunteer)	1.00/location
Fire Station (full time)	0.20/firefighter 24 hrs.
Florist	1.10/1,000 square feet
Fraternal Organization (with bar and/or restaurant)	1.00/hall (bar and/or restaurant to be computed at its respective residential equivalent)
Funeral Home	1.50/1,000 square feet
Garden Center (nursery) Government Offices	1.10/1000 square feet, 0.40/1000 square feet
Grocery Stores and Markets	1.10/1,000 ft.
Hospital	1.10/bed
Hotel, Motel, Roominghouse (with bar and/or restaurant)	0.4 bedroom (bar and/or restaurant to be computed at its respective residential equivalent)
Laundry (self-serve)	0.34/washer
Library	0.53/1,000 square feet
Marina	0.10/slip (over 25 feet in length), 0.06/slip (under 25 feet in length)
Office Building (general)	0.40/1000 square feet
Office Building (medical, dental, clinic, etc.)	1.0 + 0.5 per exam room
Pet Shop	1.10/1,000 square feet
Post Office	1.00/1,000 square feet
Printing Shop	0.50/1,000 square feet
Public Institute	0.75/1,000 square feet
Residential	
Condominiums	1.00/per unit
Mobile Home, Trailer Park	1.00/unit
Multiple Family Residence (three or more units in one structure)	0.75/unit
Single Family Residence	1.00/unit
Two-Family Residence (duplex)	1.00/unit
Restaurants (fast food)	7.00/location
Restaurant (meals and bar)	2.50/1,000 square feet (excluding restrooms, public areas not in regular use and unfinished areas)
Restaurant (meals only)	1.50/1,000 square feet (excluding restrooms, public areas not in regular use and unfinished areas)
Retail Store	1.00/premises + 0.10/1,000 square feet
School	1.00/classroom
Service Station + Repair Area	0.25/pump + 0.40/1000 square feet
Snack Bar, Drive-In	1.50/1,000 square feet
Supermarket, Grocery Store	1.10/1,000 square feet
Swimming Pool	3.00/1,000 square feet

Theater—Drive-In, Theater—Indoor, Travel Trailer Parks and Campgrounds	0.04 per car space (plus snack bar, which is measured separately)
	0.04 per seat (plus snack bar, which is measured separately) 0.20/site (plus waste disposal station C is calculated separately)
Utility Sub-Station	0.10/1,000 square feet
Warehouse or Storage Building	0.10/1,000 square feet
Waste Disposal Station (for travel trailers)	2.00/station
Veterinary Facilities and Kennels	1.00 + 0.10 per kennel

Notwithstanding the foregoing, each connecting customer shall be considered to be at least one residential equivalent unit.

(Ord. of 7-1-2021)

CODE COMPARATIVE TABLE LEGISLATION

This table gives the location within this Code of those ordinances which are included herein. Ordinances not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

Legislation	Date	Section	Section this Code
Ord. No. 18	7-23-1973	1.0	34-52
		2.0	34-56
		4.0	34-53
Ord. No. 21	6-27-1977	I	34-52
		II	34-64
		IV	34-53
Ord. No. 64	12-12-1995	1.0	2-126
		2.0	2-127
		3.0	2-128
		4.0	2-129
		5.0	2-130
		6.0	2-131
		7.0	2-132
		8.0	2-133
		9.0	2-134
		10.0	2-135
		11.0	2-136

Hamburg Township, (Livingston Co.), Michigan, Code of Ordinances
 CODE COMPARATIVE TABLE LEGISLATION

		12.0	2-137
		13.0	2-138
		14.0	2-139
		15.0	2-140
		16.0	2-141
		17.0	2-142
		18.0	2-143
		19.0	2-144
		20.0	2-145
		21.0	2-146
		22.0	2-147
		23.0	2-148
		24.0	2-149
		25.0	2-150
		26.0	2-151
		27.0	2-152
		28.0	2-153
		29.0	2-154
		30.0	2-155
		App. 1	14-53
Ord. No. 14	7-25-2000	1.0	34-52
		2.0	34-54
		4.0	34-53
Ord. No. 17	7-25-2000	1.0	34-52
		2.0	34-55
		3.0	34-53
Ord. No. 33	7-25-2000	2.0	34-61
Ord. No. 49	7-25-2000	2.0	34-61
Ord. No. 61	7-25-2000	2.0	34-61
Ord. No. 67-A	7-25-2000	2.0	34-61
Ord. No. 72-A	2-19-2002	2.0	34-61
		—	34-63
Ord. No. 81	8-12-2008	1.0	14-19
		2.0	14-20
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