

**CODE OF ORDINANCES
CHARTER TOWNSHIP OF
HARRISON, MICHIGAN**

Published in 2001 by Order of the Township Board of Trustees

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info@municode.com | 800.262.2633 | www.municode.com

P.O. Box 2235 Tallahassee, FL 32316

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Harrison Charter Township, Michigan, Code of Ordinances
CODE OF ORDINANCES CHARTER TOWNSHIP OF HARRISON, MICHIGAN

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PREFACE

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

Source materials used in the preparation of the Code were the 1988 Compiled Ordinances, as supplemented through December 7, 1994, and ordinances subsequently 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 1988 Compiled Ordinances, 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:

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT: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 Roger D. Merriam, Code Attorney, and John Welch, Editor, of the Municipal Code Corporation, 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 Ms. Carol A. Brazil, CMC, former Township Clerk, Mr. Charles S. Pierce, Township Clerk and Mr. Robert S. Vickrey, Township Attorney 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 Municipal Code Corporation and the Charter Township of Harrison, 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 Municipal Code Corporation and the Charter Township of Harrison, Michigan.

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SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Include/Omit
Supp. No. 11		
370	9-13-2010	Included
371	12-13-2010	Included
Supp. No. 12		
372	2-14-2011	Included
373	4-25-2011	Included
Supp. No. 13		
374	7-11-2011	Included
306.33	7-11-2011	Included

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306.34	7-25-2011	Included
Supp. No. 14		
375	12-12-2011	Included
Supp. No. 15		
306.35	5-29-2012	Included
Supp. No. 16		
376	8-27-2012	Included
Supp. No. 17		
377	10-22-2012	Included
378	11-26-2012	Included
Supp. No. 18		
379	7-22-2013	Included
380	8-12-2013	Included
Supp. No. 19		
381	11-12-2013	Included
Supp. No. 20		
382	11-10-2014	Included
383	11-10-2014	Included
384	2- 9-2015	Included
385	3- 9-2015	Included
386	5-18-2015	Included
Supp. No. 21		
307	10-26-2015	Included
387	9-14-2015	Included
388	1-14-2016	Included
Supp. No. 22		
308	2-13-2017	Included
389	8-22-2016	Included
Supp. No. 23		
390	8-28-2017	Included
391	12-11-2017	Included
Supp. No. 24		
392	1-22-2018	Included
308.2	2-26-2018	Included
Supp. No. 25		
308.3	4- 9-2018	Included
308.4	8-13-2018	Included
393	5-29-2018	Included
Supp. No. 26		
394	11-26-2018	Included
395	1-14-2019	Included
396	2-25-2019	Included
Supp. No. 27		
397	3-30-2020	Included
398	3-30-2020	Included

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Supp. No. 28		
399	12-14-2020	Included
400	2- 8-2021	Included
Supp. No. 29		
308.5	4-26-2021	Included
401	4-26-2021	Included
Supp. No. 30		
402	8-23-2021	Included
Supp. No. 31		
403	10-25-2021	Included

Chapter 1 GENERAL PROVISIONS

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, Charter Township of Harrison, Michigan," and may be so cited. Such ordinances may also be cited as the "Harrison Charter Township Code."

State law reference(s)—Authority to codify ordinances, MCL 42.1, 42.20, 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.

Code. The term "Code" means the Harrison Charter Township Code 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 Macomb 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 authorizes such officer or employee to act or make a decision through subordinates.

Gender. Words of one gender include the other genders.

Includes and including. The terms "includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does 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.

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."

Officers, departments, etc. References to officers, departments, boards, commissions or employees are to township officers, township departments, township boards, township commissions and township employees.

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 who appears on the assessment roll for the purpose of giving notice and billing.

Person. The term "person" means any individual, partnership, corporation, association, club, joint venture, estate, trust, governmental unit, and any other group or combination acting as a unit, and the individuals constituting such group or unit.

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. References to public acts are references to the Public Acts of Michigan. (For example, 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" includes land, tenements and hereditaments.

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

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral line of the roadway, and the adjacent property line, intended for the use of pedestrians.

Signature and subscription. The terms "signature" and "subscription" include a mark when the person cannot write.

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

Street, highway and alley. The terms "street" and "highway" mean the entire width subject to an easement for a public right-of-way or owned in fee by the township, county or state, of every way or place, of whatever

nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel. The term "alley" means any such way or place providing a secondary means of ingress and egress from property.

Swear. The term "swear" includes affirm.

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

Township. The term "township" means the Charter Township of Harrison, Michigan.

Township board, board and board of trustees. The terms "township board," "board" and "township board of trustees" mean the township board of the township.

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 parentheses after sections in this Code have no legal effect and only indicate legislative history. Editor's notes, cross references 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 this 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.

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 affected reprinted pages.

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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 Harrison Charter 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 Harrison Charter Township Code is hereby created to read as follows:...."
 - (d) All provisions desired to be repealed should be repealed specially 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 42.20, 46.22.

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 by the supplement in the Code. The pages of the supplement shall be so numbered that they will fit properly into the 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, the 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 the Code that have been repealed shall be excluded from the Code by their omission 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 the Code and make changes in any such catchlines, headings and titles or in any such catchlines, headings and titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the 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 the Code that embody the substantive sections of the ordinance incorporated in the Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

Sec. 1-7. General penalty; continuing violations; misdemeanors; civil infractions.

- (a) In this section "violation of this Code" means any of the following:
 - (1) Doing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.

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- (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
- (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
- (b) In this section, "violation of this Code" does not include the failure of a township officer or township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) A person convicted of a violation of any of the following provisions of this Code shall be a misdemeanor punishable by a fine not to exceed \$500.00, and costs of prosecution or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment; provided, however, that such a violation is punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, if the violation substantially corresponds to a violation of state law that is a misdemeanor for which the maximum period of imprisonment is 93 days:
- Section 6-1 (furnishing alcohol to underage persons).
- Section 6-3 (possession of alcohol by underage persons- only if a second or more offense).
- Chapter 6, article II (liquor license approval recommendations, etc.).
- Chapter 14, article II (dogs).
- Chapter 14, article III (dangerous animals).
- Section 38-2, (obstructing fire hydrants or building sprinkler connections).
- Chapter 38, article II (fire alarm systems).
- Chapter 62, except those provisions which are specifically declared in such chapter to be municipal civil infractions or civil infractions.
- Chapter 66, article II Lake St. Clair Metropark
- Chapter 86 (traffic and vehicles) if declared therein to be a misdemeanor.
- Section 94-31 (marine safety).
- (d) Except for a violation of this Code expressly designated to be misdemeanors, a violation of this Code shall be a municipal civil infraction. The fine schedule for Municipal Civil Infraction Citations filed in the 41B District Court are set forth in section 2-155 of the Code of Ordinances.
- (e) Except as otherwise provided by law or ordinance, with respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense. As to other violations, each violation constitutes a separate offense.
- (f) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise or other administrative sanctions.
- (g) Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.
- (h) Whenever in these Code of Ordinances or any Code adopted by reference in these Code of Ordinances, any penalty is provided for fine, imprisonment, or both, as an additional sanction for violation of any such ordinance, the court may collect reasonable costs of prosecution and court costs, including in whole or in part, the actual court cost, or cost of prosecution, in addition to any other sanction or penalty provided.

(Ord. No. 322, § 5, 5-11-1998; Ord. No. 382, § 2, 11-10-2014; Ord. No. 391, § 2, 12-11-2017; Ord. No. 393, § 1, 5-29-2018; Ord. No. 395, § 1, 1-14-2019; Ord. No. 403, § 1, 10-25-2021)

State law reference(s)—Penalty for ordinance violations, MCL 42.21.

Sec. 1-8. Aiding or abetting violations.

No person shall cause, secure, aid or abet a violation of this Code. In this section "violation of this Code" has the meaning assigned to it in section 1-7. A person violating this section shall be subject to punishment as if the person has directly committed a violation of the Code, and such a violation shall be a municipal infraction or a misdemeanor as appropriate.

Sec. 1-9. 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. 1-10. 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. 1-11. 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. 1-12. Certain ordinances not affected by Code.

- (a) Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of any ordinance:
 - (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.

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- (7) Granting any right or franchise.
 - (8) Adopting or amending the comprehensive plan.
 - (9) Dedicating, accepting or vacating any plat or subdivision.
 - (10) Levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code.
 - (11) Granting a tax exemption for specific property.
 - (12) Levying or imposing any special assessment.
 - (13) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any street, sidewalk or alley.
 - (14) Establishing the grade or any street or sidewalk.
 - (15) Pertaining to zoning, including but not limited to the basic zoning ordinance, ordinances rezoning property or amending the zoning map, and ordinances promulgating zoning text amendments.
 - (16) That is temporary, although general in effect.
 - (17) That is special, although permanent in effect.
 - (18) The purpose of which has been accomplished.
- (b) The ordinances or portions of ordinances designated in subsection (a) of this section continue in full force and effect to the same extent as if published at length in this Code.

Chapter 2 ADMINISTRATION¹

ARTICLE I. IN GENERAL

Sec. 2-1. Establish position and designate powers and duties of superintendent.

- (a) *Position of township superintendent.* The position of township superintendent has been duly created by resolution of the township board, and is hereby established by this section.
- (b) *Appointment, qualifications, term of office, and contract of employment.* The township superintendent shall be appointed by the township board of trustees and shall hold office at the pleasure of the township board.

¹Cross reference(s)—Any ordinance adopting or amending the comprehensive plan saved from repeal, § 1-12(a)(8); administration and enforcement of electrical code regulations, § 18-61 et seq.; electrical board, § 18-81 et seq.; civil emergencies, ch. 26; administration and payment of expenses for emergency responses, § 30-34; administration and enforcement of flood damage prevention regulations, § 42-61 et seq.; historical commission, § 46-31 et seq.; human relations, ch. 50; administration and enforcement of land development regulations, § 54-41 et seq.; administration and enforcement of land division regulations, § 58-41 et seq.; personnel, ch. 70; pension committee, § 70-61 et seq.; taxation, ch. 78; administration of cable television regulations, § 82-34; administration and enforcement of traffic and vehicle regulations, § 86-31 et seq.; utilities, ch. 90; administration and enforcement for sewer use and discharge restrictions and requirements, § 90-391 et seq.; zoning board of appeals, app. A, § 15.00 et seq.; administration and enforcement of the zoning ordinance regulations, app. A, § 16.00 et seq.

State law reference(s)—Charter townships generally, MCL 42.1 et seq.

The township superintendent shall be selected on the basis of training, education, experience and ability alone, without regard to his or her political preference and in conformity with all applicable laws concerning equal employment opportunity. A contract of employment may be executed between the township and superintendent specifying employment, compensation, benefits and such other terms as approved by the township board of trustees.

- (c) *Powers and duties.* The superintendent shall attend all meetings of the township board of trustees and report to the township board of trustees regarding the administration of the township. Further duties, authority and responsibility of the township superintendent are as follows:
- (1) The township superintendent shall be the chief administrative officer of the township and shall be responsible and report to only the township board of trustees.
 - (2) The township superintendent shall supervise all township departments unless separate supervision for a department is provided by law, this section, another duly adopted ordinance of the township, or a duly adopted resolution of the township board of trustees. The superintendent shall be responsible for all human resource matters or, under his or her responsibility, delegate such duties to some other township officer or employee.
 - (3) To see that all laws and township ordinances are enforced.
 - (4) To manage and supervise all public improvements, works and undertakings of the township.
 - (5) To have charge of the construction, repair, maintenance, lighting and cleaning of streets, sidewalks, safety paths, bridges, pavements, sewers and all the public buildings or other property belonging to the township.
 - (6) To manage and supervise the operation of all township utilities.
 - (7) To be responsible for the preservation of property, tools and appliances of the township.
 - (8) To see that all terms and conditions imposed in favor of the township or its inhabitants in any public utility franchises or in any contract are faithfully kept and performed.
 - (9) To attend all meetings of the township board, with the right to take part in discussions, but without the right to vote.
 - (10) To be a member, ex officio, of all committees of the township board.
 - (11) To prepare and administer the annual budget under policies formulated by the township board and to keep the board fully advised at all times as to the financial conditions and needs of the township.
 - (12) To recommend to the township board for adoption such measures as the superintendent may deem necessary or expedient.
 - (13) To be responsible to the township board for the efficient administration of all departments of the township, or, under his responsibility, delegate such duties to some other township officer or employee.
 - (14) To act as the purchasing agent for the township or, under his responsibility, delegate such duties to some other township officer or employee.
 - (15) To submit regular reports to the township board of trustees.
 - (16) To perform such other duties as may be prescribed by the Charter Township Act or required of the superintendent by ordinance or by direction of the township board of trustees, or which are not assigned to some other official in conformity with the provisions of the Charter Township Act.
- (d) *Township consultants.* The township board of trustees shall have the authority to direct the township consultants and other professionals including, but not limited to, attorneys, auditors, engineers, and

planning consultants to perform certain tasks or assignments. The township board shall have the sole and exclusive authority to appoint such consultants and professionals, however, the superintendent may make recommendations and monitor the performance of all consultants.

(Ord. No. 361, §§ 1—4, 6-9-2008)

Secs. 2-12—2-30. Reserved.

ARTICLE II. TOWNSHIP BOARD²

Secs. 2-31—2-60. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES³

Sec. 2-61. Nepotism prohibited; exceptions.

The following relatives and their spouses of any elected official or his spouse, or of department heads and other supervisors or their spouses, are disqualified from holding any appointive office or employment during the term for which the elective official was elected or during the tenure of office of the department head and/or supervisor, respectively: child, grandchild, parent, grandparent, brother, sister, half-brother and half-sister. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointed officers or employees of the township at the time of the election of the elective officials or the appointment of the department heads and/or supervisors; provided no employee who becomes related during his employment by marriage to an elected official, department head or their spouses shall be disqualified from continuing employment with the township.

(Comp. Ords. 1988, § 12.101)

Sec. 2-62. Ordinance enforcement officer.

- (a) There is established the office of ordinance enforcement officer within and for the township.
- (b) The township board is authorized to appoint by resolution any person to the office of ordinance enforcement officer for such term as may be specified in the resolution. The board may, within its discretion, remove any person appointed to the office at any time.
- (c) The duties of the ordinance enforcement officer shall include:
 - (1) Investigating ordinance violations.

²State law reference(s)—Township board, MCL 42.5 et seq.

³Cross reference(s)—Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-12(a)(6); administrator for flood damage prevention, § 42-62; officers of the historical commission, § 46-33; program coordinator for handicapped grievance procedure, § 50-37.

State law reference(s)—Township officers generally, MCL 41.56 et seq., 41.61 et seq.; charter township officers, MCL 42.9 et seq.

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- (2) Serving notices of violations, including municipal civil infraction notices.
 - (3) Serving appearance tickets as authorized by section 9C of Public Act No. 175 of 1927 (MCL 764.9c), including municipal civil infraction citations.
 - (4) Appearing at judicial proceedings in connection with ordinance violations.
 - (5) Such other duties concerning ordinance enforcement as may be assigned from time to time by the board.
- (d) The authority of the ordinance enforcement officer shall be limited only to the enforcement of the ordinances of the township specified by resolution of the board. Where an ordinance specifically authorizes an official other than the ordinance enforcement officer to enforce such ordinance, the authority of the ordinance enforcement officer shall be in addition to the authority granted such official. The authority of such official to enforce such ordinance shall continue and in no way be diminished or impaired by this section.

(Comp. Ords. 1988, §§ 12.002—12.005; Ord. No. 323, § 1, 5-11-1998)

Sec. 2-63. Constables.

- (a) Elected or appointed township constables shall be authorized to:
- (1) Serve all civil notices and process lawfully directed to them by the township supervisor and/or township board.
 - (2) Serve any writ, process or order in the township lawfully directed to them.
 - (3) Perform liquor control inspections as directed by the township supervisor and/or the township board.
 - (4) Perform such other duties or powers not otherwise specifically prohibited in subsection (b) of this section when so directed by the township supervisor and/or the township board.
- (b) Elected or appointed township constables shall not be authorized to:
- (1) Exercise the powers of a peace officer in this state.
 - (2) Carry any gun or other weapon.

(Comp. Ords. 1988, §§ 12.671, 12.672)

State law reference(s)—Authority to prescribe powers of constables, MCL 41.82.

Secs. 2-64—2-100. Reserved.

ARTICLE IV. ORDINANCE VIOLATIONS

DIVISION 1. GENERALLY

Secs. 2-101—2-120. Reserved.

DIVISION 2. RESERVED⁴

Secs. 2-121—2-150. Reserved.

DIVISION 3. MUNICIPAL CIVIL INFRACTIONS

Sec. 2-151. 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 township official means a police officer or other personnel of the township authorized by this division or any other township ordinance to issue municipal civil infraction citations.

Municipal civil infraction means an act or omission that is prohibited by any ordinance of the township, but which is not a crime under the ordinance, and for which civil sanctions, including without limitation fines, damages, expenses and costs, may be ordered, as authorized by chapter 87 of the Revised Judicature Act of 1961 (MCL 600.8701 et seq.). A municipal civil infraction is not a lesser included offense of a violation of any township ordinance that is a criminal offense.

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.

(Ord. No. 321, § 2, 5-11-1998)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 2-152. Municipal civil infraction action.

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

(Ord. No. 321, § 3, 5-11-1998)

State law reference(s)—Similar provisions, MCL 600.8703(1).

⁴Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed Div. 2, §§ 2-121—2-126, which pertained to ordinance violations bureau and ordinance violation notices and derived from Ord. No. 322, adopted May 11, 1998.

Sec. 2-153. Municipal civil infraction citations; issuance and service.

A municipal civil infraction citation shall be issued and served by an authorized township official as follows:

- (1) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
State law reference(s)—Similar provisions, MCL 600.8703(3).
- (2) The place for appearance specified in a citation shall be the district court.
State law reference(s)—Similar provisions, MCL 600.8703(4).
- (3) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator.
State law reference(s)—Similar provisions, MCL 600.8705(1).
- (4) The first copy of the citation (the original citation) shall be filed with the district court. The second copy of the citation shall be retained by the township. The third copy (and any duplicate copies, as needed) shall be issued to the alleged violator.
State law reference(s)—Similar provisions, MCL 600.8705(1)(a)—(1)(c).
- (5) 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."
State law reference(s)—Similar provisions, MCL 600.8705(2).
- (6) 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 any required copies of a citation.
State law reference(s)—Similar provisions, MCL 600.8707(1).
- (7) 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 commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.State law reference(s)—Similar provisions, MCL 600.8707(2).
- (8) A municipal civil infraction citation shall be served by an authorized township official as follows:
 - a. Except as provided by subsection (8)b of this section, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
State law reference(s)—Similar provisions, MCL 600.8707(3)
 - 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 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.

State law reference(s)—Similar provisions, MCL 600.8707(4)

(Ord. No. 321, § 4, 5-11-1998)

Sec. 2-154. Municipal civil infraction citations; contents.

- (a) A municipal ordinance citation shall contain the name and address of the alleged violator, the municipal civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (b) Further, the citation shall inform the alleged violator that he may do one of the following:
 - (1) Admit responsibility for the municipal civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
 - (2) Admit responsibility for the municipal civil infraction, with explanation, by mail by the time specified for appearance or, in person, or by representation.
 - (3) Deny responsibility for the municipal civil infraction by doing either of the following:
 - a. Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township; or
 - b. Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.
- (c) The citation shall also inform the alleged violator of all of the following:
 - (1) That if the alleged violator desires to admit responsibility, with explanation, in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
 - (2) That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
 - (3) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 - (4) That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - (5) That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
- (d) The citation shall contain a notice in boldface type that the failure to the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 321, § 5, 5-11-1998)

State law reference(s)—Similar provisions, MCL 600.8709(1)—(4).

Sec. 2-155. Sanctions for municipal civil infractions; repeat offenses; continuing violations; injunctive relief.

- (a) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided by the ordinance violated, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of the Revised Judicature Act of 1961 (MCL 600.8701 et seq.) and other applicable laws.
- (b) Unless otherwise specifically provided by this Code, the fine for each violation of a municipal civil infraction citation shall be \$500.00.
- (c) An increased fine may be imposed by the court for each repeat offense in accordance with the following:
 - (1) The fine for any offense that is a first repeat offense shall be \$1,000.00.
 - (2) The fine for any second repeat offense or any subsequent repeat offense shall be \$1,500.00.
- (d) If a defendant is ordered to pay a civil fine under subsection (c), the court shall summarily tax and determine the costs of the action, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect to which the plaintiff has been put in connection with the municipal civil infraction, up to the entry of judgment. Costs of not more than \$500.00 shall be ordered.
- (e) Pursuant to the authority set forth in Act 236 of 1961, MCL 600.8302, and MCL 600.8727 the district court may, in addition to ordering the defendant to pay a civil fines, costs and assessments, issue and enforce any judgment, writ, or order necessary to enforce the Charter Township of Harrison Township Municipal Civil Infraction Ordinance. This grant of equitable jurisdiction and authority under this subsection does not affect the jurisdiction of the circuit court to do either of the following:
 - (1) Hear and decide claims based on nuisance or abate nuisances under MCL 600.2940.
 - (2) Hear and decide actions challenging the validity or applicability of an ordinance and, in those actions, enjoin a defendant from enforcing the ordinance in the district court pending the outcome of the action in circuit court.
- (f) Increased civil fines may be imposed for repeat offenses by a person of any requirement or provision of any ordinance. As used in this section, the term "repeat offense" means a second (or any subsequent) admission or determination of responsibility for the same municipal civil infraction made within the period as specified by the ordinance violated.
- (g) Each day on which any violation designated as a municipal civil infraction continues constitutes a separate offense and shall be subject to sanctions as a separate violation.
- (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 municipal civil infraction violation.
- (i) A defendant who fails to answer a citation or notice to appear in court for a municipal civil infraction is guilty of a misdemeanor.

(Ord. No. 321, § 6, 5-11-1998; Ord. No. 395, § 2, 1-14-2019; Ord. No. 403, § 1, 10-25-2021)

State law reference(s)—Sanctions for municipal civil infractions, MCL 600.8727.

Secs. 2-156—2-190. Reserved.

ARTICLE V. FINANCE⁵

Sec. 2-191. Escrowing of insurance funds.

- (a) The provisions of section 2845 of the Insurance Code of 1956 (MCL 500.2845) provide that a portion of certain casualty losses for fire or explosion otherwise payable by insurers may be withheld in escrow by participating municipalities in order to secure repair, replacement or renewal of damaged structures which violate the township health or safety standards. The township has determined that participation in such program would protect and promote the public health, safety and welfare and wishes to be included in the list of participating municipalities published by the commissioner of insurance. Further, the township desires to implement all procedures necessary to administer such program by designating the township treasurer for administration of the program and establish an escrow account for that purpose.
- (b) The township does become a participating municipality in the program providing for the escrow of fire insurance as established by such section and does declare its intention to uniformly apply the provision of such section to all property within the township.
- (c) The township official responsible for the administration of such section 2845 and the rules promulgated by the commissioner of insurance is designated as follows: The treasurer for the township shall establish an escrow account at financial institutions approved by the board of trustees for the purpose of receiving and holding deposits of money received from insurers pursuant to such section, which account shall be separately maintained from all other accounts and may be an interest-bearing account.

(Comp. Ords. 1988, § 23.014; Ord. No. 330, § II, 3-13-2000)

Secs. 2-192—2-220. Reserved.

ARTICLE VI. LOCAL OFFICIALS COMPENSATION COMMISSION

Sec. 2-221. Created.

Pursuant to the provisions of Act No. 176 of the Public Acts of 1974 of the State of Michigan, MCLA 41.95(4) and Act 359 of the Public Acts of 1947 of the State of Michigan, MCLA 426a., a local officials compensation commission is created for the Charter Township of Harrison hereinafter referred to as "commission".

⁵Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-12(a)(3); any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-12(a)(4); any ordinance levying, imposing or otherwise relating to taxes in lieu of taxes not codified in this Code saved from repeal, § 1-12(a)(10); any ordinance levying or imposing any special assessment saved from repeal, § 1-12(a)(12); taxation, ch. 78.

State law reference(s)—Uniform Budget and Accounting Act, MCL 141.421 et seq.; keeping of public moneys, MCL 129.11 et seq.; deposit of public moneys, MCL 211.43b.

(Ord. No. 364, § 1, 5-26-2009)

Sec. 2-222. Membership; sessions; officers.

- (a) *Members.* The commission shall determine the salaries of the township elected officials and consist of five members who are registered electors of the township, appointed by the supervisor, subject to confirmation by a majority of the members elected and serving on the township board.
- (b) *Appointment; terms.* The members of the commission shall serve a term of five years each except that of the members first-appointed one each shall be appointed for terms of one, two, three, four and five years. Said first members shall be appointed within 30 days after the effective date of the ordinance from which this article derives. Thereafter, members shall be appointed before October 1st of the year of appointment.
- (c) *Vacancies.* Vacancies shall be filled for the remainder of an unexpired term.
- (d) *Ineligible for membership.* An officer or employee of any government agency or unit or member of the immediate family of such an officer or employee shall not be eligible to be appointed to the commission.
- (e) *Expiry of terms.* All terms of office shall expire on September 1st.
- (f) *Sessions.* The commission shall meet for not more than 15 sessions in 2009 and every odd numbered year thereafter provided that in 2009 the commission shall meet immediately following the effective date of the ordinance from which this article derives and in subsequent odd numbered years shall meet on February 1st of each and every odd numbered year. If a quorum is not present, the meeting day does not count as a session day.
- (g) *Quorum.* A majority of the members of the commission constitutes a quorum for conducting the business of the commission.
- (h) *Majority required for action.* The commission shall take no action or make determinations without a concurrence of a majority of the members appointed and serving on the commission.
- (i) *Officers.* The commission shall elect a chairman, vice chairman and secretary from among its members. In the absence of the chairman, the vice chairman shall act as chairman and in the absence of the chairman and vice chairman, provided a quorum is still present, the secretary shall act in their absence.
- (j) *Compensation; expenses.* Session days mean any calendar day on which the commission meets and a quorum is present. The members of the commission shall receive no compensation, but shall be entitled to actual and necessary expenses incurred in the performance of their duties.
- (k) *Other rules and regulations.* The commission shall be entitled to establish such other rules and regulations consistent with this article and said Act 176, Public Acts of 1974 and Act 359 of Public Acts 1947, as deemed necessary by it to conduct its business.

(Ord. No. 364, § 2, 5-26-2009)

Sec. 2-223. Commission to determine salaries.

- (a) The commission shall determine the salaries of the township elected officials, which determination shall be the salaries unless the township board by resolution adopt by two-thirds of the members elected to and serving on the board rejects the determinations. The determinations of the commission shall be effective 30 days following the filing with the township clerk unless rejected by the township board. In case of rejection, the existing salary shall prevail. Any expense allowance or reimbursement paid to elected officials in addition to salaries shall be for expenses incurred in the course of township business and accounted for to the township.

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- (b) The commission in its deliberations shall follow Robert's Rules of Order except as the provisions of this article and Act 176 of the Public Acts of 1974 conflict with Robert's Rules of Order.
 - (c) All meetings of the commission shall be public meetings preceded by notice in accordance with Act 267, Public Acts of 1976.
- (Ord. No. 364, § 3, 5-26-2009)

Secs. 2-224—2-250. Reserved.

ARTICLE VII. PLANNING COMMISSION⁶

Sec. 2-251. Created.

There shall be a Charter Township of Harrison Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 et seq. hereinafter referred to as the commission with the powers and duties as therein set forth and as hereinafter provided and a staffed planning department. This article shall be officially known and described as the "The Charter Township of Harrison Planning Commission Ordinance."

(Ord. No. 306.34, § 1, 7-25-2011)

Sec. 2-252. Membership.

- (a) The commission shall consist of seven members appointed by the township board of trustees. To be qualified to be a member and remain a member of the planning commission, the individual shall be a qualified elector of the township, except that one member may be a nonqualified elector.
- (b) Members shall be appointed for three-year terms. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.
- (c) One member shall also be a member of the township board of trustees, whose term of office shall coincide with his or her elected term of office on the township board of trustees.
- (d) The membership of the commission shall be representative of the important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township as follows:
 - (1) Agriculture;
 - (2) Natural resources;
 - (3) Recreation;
 - (4) Education;
 - (5) Public health;
 - (6) Government;

⁶Cross reference(s)—Buildings and building regulations, ch. 18; land divisions, ch. 58; zoning ordinance, app. A.

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- (7) Transportation;
 - (8) Industry;
 - (9) Commerce.
- (e) The membership shall also be representative of the entire geography of the township to the extent practicable, and as a secondary consideration to the representation of the major interests.
- (Ord. No. 306.34, § 2, 7-25-2011)

Sec. 2-253. Removal from office.

- (a) The township board of trustees may remove a member of the commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend commission meetings shall be considered nonfeasance in office.
 - (b) The secretary of the planning commission shall report any member who has missed three regular meetings in a row to the charter township board of trustees.
- (Ord. No. 306.34, § 3, 7-25-2011)

Sec. 2-254. Vacancies.

The township board of trustees shall fill any vacancy in the membership of the commission for the unexpired terms in the same manner as the initial appointment.

(Ord. No. 306.34, § 4, 7-25-2011)

Sec. 2-255. Compensation.

All members of the planning commission shall serve as such with compensation as determined by the township board.

(Ord. No. 306.34, § 5, 7-25-2011)

Sec. 2-256. Meetings.

The commission shall meet at least once every month and a majority of the commission shall constitute a quorum for the transaction of the ordinary business of said commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the planning commission.

The affirmative vote of two-thirds of the total number of seats for members of the commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any plan or amendment to a plan.

(Ord. No. 306.34, § 6, 7-25-2011)

Sec. 2-257. Powers and duties.

The commission shall have their powers and duties as set forth in Act No. 33 of the Public Acts of 2008, as amended, being the Michigan Planning Enabling Act, MCL 125.3801 et seq.; and Act No. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

(Ord. No. 306.34, § 7, 7-25-2011)

Sec. 2-258. Records.

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

(Ord. No. 306.34, § 8, 7-25-2011)

Sec. 2-259. Approval, ratification, and reconfirmation.

All official actions taken by the township planning commission preceding the commission created by this article are hereby approved, ratified and reconfirmed. Any project, review, or process taking place at the effective date of the ordinance from which this article derives shall continue with the commission created by this article, subject to the requirements of this article, and shall be deemed a continuation of any previous township planning commission. This article shall be in full force and effect from and after its adoption and publication.

(Ord. No. 306.34, § 9, 7-25-2011)

Chapter 6 ALCOHOLIC LIQUOR⁷

ARTICLE I. IN GENERAL

Sec. 6-1. Furnishing to underaged persons; misdemeanor.

It shall be unlawful for any person or business establishment to furnish any alcoholic beverage to any person under the age of 21 years within the township.

(Comp. Ords. 1988, § 21.102)

State law reference(s)—Sales to persons under 21, MCL 436.1701; purchase, possession or consumption by persons under 21, MCL 436.1703.

⁷Cross reference(s)—Businesses, ch. 22; emergency responses to incident involving operation of motor vehicles or watercraft under influence of alcohol or controlled substances, § 30-31 et seq.; public intoxication prohibited, § 62-116; possession of alcohol in parks, § 66-47.

State law reference(s)—Michigan Liquor Control Code of 1994, MCL 436.1101 et seq.

Sec. 6-2. Persons under 21, unlawful purpose, consumption or possession of any bodily alcohol content; first offender discharge and dismissal; fraudulent identification; arrest based upon reasonable cause or upon results of preliminary chemical breath analysis; parental notification; participation in undercover programs.

- (1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this section. A minor who violates this subsection is responsible for a municipal civil infraction or guilty of a misdemeanor punishable by the following fines and sanctions:
 - (a) For the first violation, the minor is responsible for a municipal civil infraction and shall be fined not more than \$100.00. The court may order the minor to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, being MCL 333.6230 and designated by the administrator of the office of substance abuse services, and may order the minor to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5). A minor may only be found responsible or admit responsibility once under this subdivision.
 - (b) If a violation of this subsection occurs after one prior judgment, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 30 days if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$200.00, or both. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the state administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).
 - (c) If a violation of this subsection occurs after two or more prior judgments, the minor is guilty of a misdemeanor. A misdemeanor under this subdivision is punishable by imprisonment for not more than 60 days, if the court finds that the minor violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, or by a fine of not more than \$500.00, or both, as applicable. A court may order a minor under this subdivision to participate in substance use disorder services as defined in section 6230 of the Public Health Code, 1978 PA 368, MCL 333.6230, and designated by the state administrator of the office of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (5).
- (2) An individual who furnishes fraudulent identification to a minor or, notwithstanding subsection (1), a minor who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.
- (3) If an individual who pleads guilty to a misdemeanor violation of subsection (1)(b) or offers a plea of admission in a juvenile delinquency proceeding for a misdemeanor violation of subsection (1)(b), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation. The terms and conditions of that probation include, but are not limited to, the sanctions set forth in subsection (1)(c), payment of the costs including minimum state cost as provided for in section 18m of Chapter XIA of the Probate Code of 1939, 1939 PA 288, MCL 712A.18m, and section 1j of Chapter IX of the Code of Criminal Procedure, 1927 PA 175, MCL

769.1j, and the costs of probation as prescribed in section 3 of Chapter XI of the Code of Criminal Procedure, 1927 PA 175, MCL 771.3. If a court finds that an individual violated a term or condition of probation or that the individual is utilizing this subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. If an individual fulfills the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. A discharge and dismissal under this section is without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of disqualifications or disabilities imposed by law on conviction of a crime. An individual may obtain only one discharge and dismissal under this subsection. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation and if there is a discharge and dismissal under this subsection.

- (4) A misdemeanor violation of subsection (1) successfully deferred, discharged, and dismissed under subsection (3) is considered a prior judgment for the purposes of subsection (1)(c).
- (5) A court may order an individual found responsible for or convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the state-designated community mental health entity as defined in section 100a of the Mental Health Code, 1974 PA 258, MCL 330.1100a, to determine whether the individual is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. A court may order an individual subject to a misdemeanor conviction or juvenile adjudication of, or placed on probation regarding, a violation of subsection (1) to submit to a random or regular preliminary chemical breath analysis. The parent, guardian, or custodian of a minor who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, may request a random or regular preliminary chemical breath analysis as part of the probation.
- (6) The Secretary of State shall suspend the operator's or chauffeur's license of an individual convicted of a second or subsequent violation of subsection (1) or of violating subsection (2) as provided in section 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.319.
- (7) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a municipal civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.
- (8) A law enforcement agency, on determining that an individual who is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6, allegedly consumed, possessed, or purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of subsection (1) shall notify the parent or parents, custodian, or guardian of the individual as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the Police Department. The Police Department shall notify the parent, guardian, or custodian not later than 48 hours after the law enforcement agency determines that the individual who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The law enforcement agency may notify the parent, guardian, or custodian by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.
- (9) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by the Liquor Control Code, by the

Liquor Control Commission, or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.

- (10) The following individuals are not considered to be in violation of subsection (1):
- (a) A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
 - (b) A minor who accompanies an individual who meets both of the following criteria:
 - (i) Has consumed alcoholic liquor.
 - (ii) Voluntarily presents himself or herself to a health facility or agency for treatment or for observation including, but not limited to, medical examination and treatment for any condition arising from a violation of sections 520b to 520g of the Michigan Penal Code, 1931 PA 328, MCL 750.520b to 750.520g, committed against a minor.
 - (c) A minor who initiates contact with a peace officer or emergency medical services personnel for the purpose of obtaining medical assistance for a legitimate health care concern.
- (11) If a minor who is less than 18 years of age and who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, voluntarily presents himself or herself to a health facility or agency for treatment or for observation as provided under subsection (10), the health facility or agency shall notify the parent or parents, guardian, or custodian of the individual as to the nature of the treatment or observation if the name of a parent, guardian, or custodian is reasonably ascertainable by the health facility or agency.
- (12) This section does not limit the civil or criminal liability of a vendor or the vendor's clerk, servant, agent, or employee for a violation of this article.
- (13) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.
- (14) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this Article.
- (15) Subsection (1) does not apply to a minor who participates in either or both of the following:
- (a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's or township attorney's office as part of an employer-sponsored internal enforcement action.
 - (b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the State Police, the Liquor Control Commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the State Police, the Liquor Control Commission, or the local police agency and was not part of the undercover operation.
- (16) The State Police, the Liquor Control Commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 701(1), or section 801(2) of the Liquor Control Code.
- (17) In a prosecution for the violation of subsection (1) concerning a minor having any bodily alcohol content, it is an affirmative defense that the minor consumed the alcoholic liquor in a venue or location where that consumption is legal.

(18) As used in this section:

- (a) "Any bodily alcohol content" means either of the following:
 - (i) An alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
 - (ii) Any presence of alcohol within a person's body resulting from the consumption of alcoholic liquor, other than consumption of alcoholic liquor as a part of a generally recognized religious service or ceremony.
- (b) "Emergency medical services personnel" means that term as defined in section 20904 of the Public Health Code, 1978 PA 368, MCL 333.20904.
- (c) "Health facility or agency" means that term as defined in section 20106 of the Public Health Code, 1978 PA 368, MCL 333.20106.
- (d) "Prior judgment" means a conviction, juvenile adjudication, finding of responsibility, or admission of responsibility for any of the following, whether under a law of the State of Michigan, a local ordinance substantially corresponding to a law of the State of Michigan, a law of the United States substantially corresponding to a law of the State of Michigan, or a law of another state substantially corresponding to a law of the State of Michigan:
 - (i) This section or section 701 or 707 of the Michigan Liquor Control Code, Public Act 58 of 1998; MCL 436.701 or 436.707.
 - (ii) Section 624a, 624b, or 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.624b, and 257.625.
 - (iii) Section 80176, 81134, or 82127 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80176, 324.81134, and 324.82127.
 - (iv) Section 167a or 237 of the Michigan penal code, 1939 PA 328, MCL 750.167a and 750.23 (commonly known as Hunting While Intoxicated and Possess/Use Firearm While Under the Influence, respectively)

(Ord. No. 391, § 1, 12-11-2017)

Editor's note(s)—Ord. No. 391, § 1, adopted Dec. 11, 2017, amended § 6-2 in its entirety to read as herein set out. Former § 6-2 pertained to similar subject matter and derived from Comp. Ords. 1988, § 21.101.

Secs. 6-3—6-30. Reserved.

ARTICLE II. LOCAL APPROVAL OF ALCOHOLIC LIQUOR LICENSES⁸

Sec. 6-31. 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:

⁸State law reference(s)—Local approval of licenses, MCL 436.1501.

Alcoholic beverages means any intoxicating beverages for the sale or dispensation of which a license is required by the laws of the state.

Person means any person or legal entity of whatsoever nature or kind, either charitable or profit, that desires to have or is already possessed of any license issued by the state for the sale or dispensation of alcoholic beverages within the township.

(Comp. Ords. 1988, § 20.852)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 6-32. Purpose and requirement for application.

This article is established in order to provide an orderly and nondiscriminatory procedure for the review and approval by the township of any and all requests for licenses or any matters relating to such requests for sale or dispensation of alcoholic beverages within the township; and each person who desires such license or approval for a license shall comply with the provisions of this article.

(Comp. Ords. 1988, § 20.851)

Sec. 6-33. Procedures.

- (a) For new class "B," class "C," private club, SDD and SDM licenses, the applicant shall submit a written application on forms to be provided by the office of the township clerk which shall include at least the following information:
- (1) Name and address of the applicant. If a partnership or corporation, all persons with an ownership interest shall be listed.
 - (2) Type of license desired.
 - (3) Address and legal description of the property where the license is to be located.
 - (4) A drawing or other appropriate description showing the relationship of the proposed structure to the surrounding property and uses and photographs or drawings of each of the sides of the structure in which the license will be operated. If the structure is a proposed new building, such information may be furnished after the application is filed but not later than the time of final approval by the township board.
 - (5) A drawing or site plan which shows the location of building on the site, parking, and in establishments where the alcoholic beverage will be consumed on the premises, the seating for customers.
 - (6) Reasonable written evidence of financial ability on the part of the applicant to meet the financial obligations of the business undertaking for which the license is to be used.
 - (7) Detailed statement of any and all arrests and/or convictions for criminal offenses, either misdemeanors or felonies.
- (b) The application shall be accompanied by deposit of the fee established by this article.

(Comp. Ords. 1988, § 20.853(1))

Sec. 6-34. False representation; misdemeanor.

Any person who shall knowingly make any false representation in order to obtain approval of the application submitted under the terms in this article shall upon conviction be guilty of a misdemeanor.

(Comp. Ords. 1988, § 20.855)

Sec. 6-35. Transfer of existing license or placing license in escrow or adding additional names to license.

- (a) The transfer of any existing license and the addition of names to any existing license shall be subject to each of the requirements of this article except as otherwise expressly modified in this article.
- (b) Any person who desires to place in escrow any existing license shall make application to the township upon forms to be provided by the township clerk, which forms shall contain at least the following information:
 - (1) Names and address of licensee.
 - (2) Reason for placing in escrow.
 - (3) The application shall be accompanied by deposit of the fee established by this article.

(Comp. Ords. 1988, § 20.853(2))

Sec. 6-36. Consideration by sheriff, planning commission.

Following receipt of the application and fees as provided in section 6-38, the township clerk shall immediately forward the application to the county sheriff's department requesting an investigation and recommendation prior to final action by the township board. In addition, the site plan or any other site parking and seating in the building shall be referred to the planning commission for their recommendation prior to final action by the township board.

(Comp. Ords. 1988, § 20.853(3))

Sec. 6-37. Action by township board.

Upon receipt by the office of the clerk of the recommendations from the sheriff's department, building department, planning commission and fire department, the clerk shall cause an application under this article to be placed upon the agenda of the township board for its action within 30 days after the receipt of the application in the office of the clerk. All applications are subject to final approval by the township board; and if such approval is not given, the board shall state the specific reasons for denial.

(Comp. Ords. 1988, § 20.853(4))

Sec. 6-38. Fee schedule.

The following fees are established to cover the cost of investigation and review by the township prior to approval or rejection of any applications subject to this article. Each of these fees is nonrefundable. An application remaining on file after first consideration by the township board shall be reconsidered by the township board without payment of additional fees upon the applicant's filing an affidavit that the application's content is the

same in all respects. Failure to file the affidavit shall void the original application. This schedule may be modified from time to time by appropriate resolution of the township board.

- (1) Fees for class "B," class "C," tavern and private club;
- (2) Fee for SDD license;
- (3) Fee for SDM license;
- (4) Fee for escrow, transfer or addition of names to license shall be 50 percent of the fees per application provided in subsections (1)—(3) of this section; however, no fee shall be charged to add additional names to the license in those cases where the applicant is a member of the immediate family of the present licensee. Immediate family is intended in this subsection to mean the spouse, mother, father, son, daughter, brother or sister of the licensee.
- (5) No fee will be charged for application to expand or remodel the structure where a present license is located.
- (6) The fee for relocation of an existing license to a new site shall be the same fee as an original application for such license as provided in this section.

(Comp. Ords. 1988, § 20.854)

Chapter 10 AMUSEMENTS AND ENTERTAINMENTS⁹

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. AMUSEMENT DEVICES¹⁰

DIVISION 1. GENERALLY

Sec. 10-31. 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:

Amusement device means any coin-, token- or otherwise mechanically or electronically operated device which may be operated or set in motion by the insertion of a coin, token, or other mechanical or electronic means. Examples of such devices, by way of illustration and not by way of limitation, are video games, pinball machine,

⁹Cross reference(s)—Businesses, ch. 22.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; public exhibitions and entertainment, MCL 750.463 et seq.; Carnival-Amusement Safety Act of 1966, MCL 408.651 et seq.

¹⁰State law reference(s)—Offenses involving coin-operated devices, MCL 752.811.

skee-ball machine, air hockey machine, pool table, miniature pool table, shuffleboard, motion picture machine, bagatelle, pigeonhole, pingame, puckgame, marblegame, baffleboard, tabletop game, music-playing machine commonly known as a jukebox, or any similar machine, instrument or contrivance.

Premises means any structure or place wherein any service or merchandise is offered for sale to the public, or where any amusement or service is furnished for anticipated gain or profit by the owner or operator.

(Comp. Ords. 1988, § 20.952)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 10-32. Gambling prohibited; misdemeanor.

- (a) Nothing contained in this article shall be construed as permitting licensing or use or maintenance of any gambling device, including slot machines.
- (b) It shall be unlawful for any person to knowingly permit any amusement device to be used or maintained for purpose of gambling in any manner or form prohibited by the ordinances of this township or the statutes of the state.

(Comp. Ords. 1988, § 20.956)

Sec. 10-33. Article not applicable to certain amusement devices.

Nothing in this article shall be construed to require the licensing or prohibit the use of any pool table, billiard table and other amusement devices owned and/or maintained for use without financial charge to the user.

(Comp. Ords. 1988, § 20.960)

Sec. 10-34. Enforcement.

This article shall be enforced by the township building department which, upon the institution of any criminal prosecution for violation of this article, shall immediately notify the board of trustees of such action.

(Comp. Ords. 1988, § 20.959)

Secs. 10-35—10-60. Reserved.

DIVISION 2. LICENSE¹¹

Sec. 10-61. Required.

No person shall operate, maintain or cause to be maintained any amusement device without having first obtained a license for the premises wherein the device is to be located, and in addition no such device shall be operated or maintained on the premises without having first obtained a license for each such device.

¹¹State law reference(s)—Authority to prescribe terms and conditions upon which licenses may be granted, suspended or revoked and require payment of license fee, MCL 42.15.

(Comp. Ords. 1988, § 20.951)

Sec. 10-62. Procedure; requirements and fees.

- (a) Application for a license under this division shall be made to the township clerk upon forms to be provided by that office, which application shall include at least the following information:
 - (1) Name and address of owner and operator.
 - (2) The location of the premises where such amusement devices will be located.
 - (3) The number, type and serial number of each such device; provided, if the serial number is not available at the time of application, it shall be submitted prior to placing the device into operation after issuance of a license.
- (b) The applicants shall, at the time of submitting the application, pay the license fee provided in this article; and 50 percent of such fee shall be forthwith refunded to the applicant if no license is issued; and the remainder shall be retained by the township.
- (c) After filing of the application with the required fee, it shall be promptly forwarded by the township clerk, who shall then cause an investigation to be made for purpose of determining if the application and the proposed operation and the amusement devices are in compliance with this article and the following matters:
 - (1) Whether the owner and/or operator is of good moral character.
 - (2) Whether the owner and/or operator has been convicted of any criminal offense involving moral turpitude.

Upon completion of such investigation, the township clerk shall file his recommendation for approval or disapproval. Such recommendation shall set forth the reason.

- (d) Upon receipt of the recommendation of the township clerk, the township clerk shall within 15 days cause the application to be placed upon the agenda for action by the township board in granting approval or disapproval of the license. If the board shall disapprove the issuance of the license, it shall state the reason.
- (e) Each license shall be issued for a period of one year and shall expire at 5:00 p.m. on the 365th day after the date of issuance. The license shall contain at least the following information:
 - (1) Date of issuance and date of expiration.
 - (2) Name of owner and operator and address of premises.
 - (3) Number, type and serial number of amusement devices approved for use on such premises.
- (f) The following annual license fees shall apply under this article; however, the township board of trustees may by appropriate resolution modify such fees from time to time:
 - (1) Premises in which at least 50 percent of revenue is derived from amusement devices;
 - (2) Premises in which less than 50 percent of revenue is derived from amusement devices.

(Comp. Ords. 1988, § 20.953)

Sec. 10-63. Display; identification of licensed amusement devices.

- (a) Each license issued under this article shall be displayed in a prominent place on the premises which have been licensed.

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- (b) Each amusement device licensed under this article shall have affixed to the device an identification disc to be provided to the licensee by the township clerk. Such identification disc may not be transferred to any other amusement device.
 - (c) It shall be unlawful to operate, maintain or permit the operation and maintenance of any amusement device which does not have affixed such identification disc.

(Comp. Ords. 1988, § 20.954)

Sec. 10-64. Revocation.

- (a) Any license issued under this article may be revoked by the township board of trustees upon violation of any provision of this article or term or condition of the license issued under this article.
- (b) Notice of the proposed revocation of a license shall be given in writing by the township board of trustees to the licensee, who may within a period of ten days after receipt of such notice demand a public hearing on such revocation before the township board of trustees. At any such hearing, the licensee may appear in person or by an attorney and offer any evidence it may have why such license should not be revoked. Upon the conclusion of all such evidence, the township board of trustees shall render its decision on the revocation in writing within 14 days thereafter.

(Comp. Ords. 1988, § 20.955)

Sec. 10-65. Prohibitions and regulations.

- (a) No license shall be issued for any amusement device that is adaptable or may be readily converted into a gambling device.
- (b) No license shall be issued for any premises located within 500 feet of any school playground or public park except any such premises which may be licensed for the sale of alcoholic beverages by the state.
- (c) No premises licensed under this article which derives more than 50 percent of its revenue from the operation of amusement devices shall be opened for business or permit the operation of amusement devices between the hours of 11:00 p.m. and 9:00 a.m. of each day.

(Comp. Ords. 1988, § 20.957)

Sec. 10-66. False representation; misdemeanor.

Any person who shall knowingly make any false representation in order to obtain a license or renewal under the terms of this article shall upon conviction be guilty of an offense. Upon any such conviction, in addition to the penalties provided in this section, any license which may have been issued theretofore may be revoked by the township board of trustees.

(Comp. Ords. 1988, § 20.958)

Chapter 14 ANIMALS¹²

¹²Cross reference(s)—Environment, ch. 34; dogs, pets, horses and livestock in parks, § 66-48.

- CODE OF ORDINANCES
Chapter 14 - ANIMALS
ARTICLE I. IN GENERAL

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; local animal control ordinances, MCL 287.290.

ARTICLE I. IN GENERAL

Secs. 14-1—14-30. Reserved.

ARTICLE II. DOG AND CAT CONTROL¹³

Sec. 14-31. 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:

Owner, when applied to the proprietorship of a dog/cat, means every person having a right of property in the dog/cat, and every person who keeps or harbors the dog/cat or has it in his care, and every person who permits the dog/cat to remain on or about any premises occupied by him.

(Comp. Ords. 1988, § 35.201; Ord. No. 332, § I, 4-25-2001)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 14-32. License required; misdemeanor.

Dog licenses. Any person owning, keeping, possessing, harboring, or having custody within the township of any dog four months or older must obtain a license for such dog, pursuant to state law, from the Macomb County Animal Control for a fee to be determined by the county. No person shall keep, possess, harbor, or have custody of an unlicensed dog which is required to be licensed under this section. A person who owns or harbors a dog shall produce proof of a valid dog license upon request of a person who is authorized to enforce this chapter.

A dog which is an authorized law enforcement dog, or which is used as a guide or leader dog for a blind person, a hearing dog for a deaf or audibly impaired person, a service dog for a physically limited person is not subject to any fee for licensing. The terms used in this section shall have the meanings assigned to them by MCL 287.291.

(Comp. Ords. 1988, § 35.202; Ord. No. 332, § II, 4-25-2001; Ord. No. 395, § 3, 1-14-2019)

State law reference(s)—Dog licenses, MCL 287.262 et seq.

Sec. 14-33. Running loose on public property; misdemeanor.

It shall be unlawful for the owner, or any other person having the possession, care, custody or control thereof, to permit any dog/cat, to run at large or unattended upon the public streets, walks, alleys, parks or other public places within the township, or upon the premises of another, without the express permission of the owner or occupant of the private premises.

¹³State law reference(s)—Dog, MCL 287.261 et seq.

(Comp. Ords. 1988, § 35.203; Ord. No. 332, § III, 4-25-2001; Ord. No. 395, § 4, 1-14-2019)

Sec. 14-34. Running loose prohibited on property of person other than owner; misdemeanor.

It shall be unlawful for the owner or any other person having the possession, care, custody or control thereof to permit any dog/cat to stray beyond his premises within the township unless the dog/cat shall be attached to a leash of sufficient strength to assure restraint and control or by other means of direct control by the accompanying individual.

(Comp. Ords. 1988, § 35.204; Ord. No. 332, § IV, 4-25-2001; Ord. No. 395, § 5, 1-14-2019)

Sec. 14-35. Annoying dogs/cats prohibited; misdemeanor.

It shall be unlawful for any person to own, harbor or keep any dog/cat which shall cause annoyance or disturbance to persons by frequent and habitual mewing, barking, howling or yelping and/or maintain any dog/cat under conditions or in any manner to create a nuisance by way of odor or menace to health.

It shall be prima facie evidence that frequent and habitual unreasonable sounds are occurring if a dog/cat makes noise that can be heard 100 feet beyond any part of the property perimeter of property occupied by the owner of such dog/cat and such noise continues for one hour without any interruption of more than ten minutes.

(Comp. Ords. 1988, § 35.205; Ord. No. 332, § V, 4-25-2001; Ord. No. 395, § 6, 1-14-2019)

Sec. 14-36. Reporting of injured animals.

Any person who, as the operator of a motor vehicle, or otherwise strikes or injures a dog or cat shall immediately report such injury or death to the Macomb County Animal Control and, if ascertainable, the dog/cat's owner.

(Comp. Ords. 1988, § 35.206; Ord. No. 332, § VI, 4-25-2001; Ord. No. 395, § 7, 1-14-2019)

Editor's note(s)—Ord. No. 395, § 7, adopted January 14, 2019, renamed § 14-36 from "vicious dogs and cats prohibited; misdemeanor" to "reporting of injured animals."

Sec. 14-37. Persons bitten; reporting.

When any person is bitten by a dog/cat, it shall be the duty of both that person and of the owner or custodian of the dog/cat to report the incident to the township ordinance enforcement officer, Macomb County Sheriff's Department or Macomb County Animal Control immediately.

(Comp. Ords. 1988, § 35.207; Ord. No. 332, § VII, 4-25-2001; Ord. No. 395, § 8, 1-14-2019)

Sec. 14-38. Public defecation limited; misdemeanor.

No person owning, harboring, keeping or in charge of any dog/cat shall cause, suffer or allow such dog/cat to soil, defile, defecate or to commit any nuisance on any public thoroughfare, sidewalk, passageway, bypass, play area, park or any place where people congregate or walk, or upon any public property whatsoever or upon any private property without permission of the owner of the property unless:

- (1) The person who owns, harbors, keeps or is in charge of such dog/cat immediately removes all droppings deposited by such dog/cat by any sanitary method. The person shall possess a container of

sufficient size to collect and remove the droppings and exhibit the container if requested by any official empowered to enforce this article.

- (2) The droppings removed from the aforementioned areas are to be disposed of by the person owning, harboring, keeping or in charge of such dog/cat in a sanitary method by placing the droppings in a suitable refuse container.

(Ord. No. 299, § 35.216, 6-12-1995)

Sec. 14-39. Proper care and treatment.

Every owner of a dog or cat in the township shall provide their animal with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment.

(Comp. Ords. 1988, § 35.208; Ord. No. 332, § VIII, 4-25-2001; Ord. No. 395, § 9, 1-14-2019)

Editor's note(s)—Ord. No. 395, § 9, adopted January 14, 2019, renamed § 14-39 from "quarantine, procedure" to "proper care and treatment." Similar provisions can now be found in § 14-79.

Sec. 14-40. Enforcement; impounding of dogs/cats; payment of costs; mandatory court summons.

- (a) It shall be the duty of the township ordinance enforcement officer or a Macomb County Animal Control Officer to seize and impound or cause to be seized and impounded by the appropriate county agency any dog/cat found anywhere in the township contrary to any provision of this article. No dog/cat so impounded shall be released to its owner or other authorized person without the payment of such sums incurred by Macomb County Animal Control for the care and maintenance of any dog/cat thus seized and impounded, and without procuring a license as provided in this article.
- (b) A mandatory court summons shall be issued after the second violation from a single household.

(Comp. Ords. 1988, § 35.210; Ord. No. 332, § X, 4-25-2001; Ord. No. 385, § 1, 3-9-2015; Ord. No. 395, § 10, 1-14-2019)

Sec. 14-41. Abandonment prohibited.

No owner of any dog or cat shall abandon the animal or cause an animal to be abandoned, in any place, without making provisions for the animal's adequate care, unless premises are vacated for the protection of human life or the prevention of injury to a human. An animal that is lost by an owner or custodian while traveling, walking, hiking, or hunting is not abandoned under this section when the owner or custodian has made a reasonable effort to locate the animal.

(Ord. No. 395, § 11, 1-14-2019)

Sec. 14-42. Maximum number of dogs and cats.

It shall be unlawful for any person or persons to keep more than three dogs or three cats total at any one time on a lot or parcel of property within the township, with the exception that a litter of pups or kittens, or a portion of that litter, may be kept for a period of time not exceeding five months from birth, and with the

exception of the provisions set forth in section 14-43 regarding kennels and the business premises of a licensed veterinarian.

Whenever any person does or desires to possess, harbor, shelter, keep or have custody of more than three dogs or three cats total on the same premises in contravention of this subsection, said person or establishments shall first make written application to the zoning board of appeals in accordance with the procedure set forth in the township zoning ordinance section 18.04. The applicant shall be a resident of the premises where the animals are proposed to be kept. For each hearing on an application, the zoning board of appeals shall request the attendance of the animal control officer and shall follow statutory requirement of notification for a public hearing. The zoning board of appeals shall have the authority to review the application and grant the applicant's request after consideration of the following criteria:

Whether the animal was one of four or more dogs or four or more cats kept on subject premises prior to the effective date of ordinance no. 395.

The total number of animals required to be licensed by this article which presently are kept or will be kept on the subject premises.

Convictions, pending violations and complaints pertaining to this ordinance or its predecessor made against the applicant or any resident of premises where the animals are proposed to be kept.

The reasons for and circumstances surrounding the request.

The risk of disturbing the peace and quiet of the neighborhood if the request is granted.

The zoning board of appeals shall have the authority to impose reasonable conditions upon a license for additional dogs or cats provided such conditions are designed to encourage compliance with this article.

(Ord. No. 395, § 12, 1-14-2019)

Sec. 14-43. Kennels.

Kennels and or dog day care uses are permitted uses in certain zoning districts as set forth by the provisions of the Charter Township of Harrison Zoning Ordinance, specifically, but not limited to, sections 14.16, Article XV "Use Matrix," as amended. In addition, all kennels shall be in compliance with the rules and regulations adopted by Macomb County Animal Control and Act No. 339 of PA 1919 (MCL 287.261 et. seq., as amended). No person shall establish or maintain a regulated use in violation of the zoning ordinance.

(Ord. No. 395, § 13, 1-14-2019)

Sec. 14-44. Injury to property.

It shall be unlawful for any person owning or possessing a dog/cat to permit a dog/cat to go upon private lands or premises without the permission of the owner of such premises and break, bruise, tear up, crush or injure any lawn, flower bed, plant shrub, tree or garden.

(Ord. No. 395, § 14, 1-14-2019)

Sec. 14-45. Unattended animals.

No animal shall be left outside in a yard or outdoor enclosure without attention for an unreasonable time. If the animal is left outdoors for an extended reasonable period of time, the animal must have access to water and shelter.

(Ord. No. 395, § 15, 1-14-2019)

Sec. 14-46. Display of animals to authority.

It shall be unlawful for any person to refuse to show or exhibit, at any reasonable time, any dog, cat or dangerous animal in his or her possession or custody to any Macomb County Deputy, township code enforcement officer or Macomb County Animal Control Officer. Each owner of a dog or cat shall produce, upon request of a police officer or animal control officer, a certificate of vaccination for such dog or cat.

The enforcing officer shall have the right to enter upon any public or private property (except a building designated and used for residential purposes) to examine, capture or rescue any animal or to determine that the animal is not being kept or treated in a manner which violates this chapter. No person shall deny, prevent or attempt to obstruct any officer involved in the enforcement of this regulation. A search warrant shall be used where required.

(Ord. No. 395, § 16, 1-14-2019)

Sec. 14-47. Tethering.

It shall be unlawful for any person to attach chains or tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the animal. In addition, no person shall:

- (1) Tether a dog unless the tether is a coated steel cable specifically designed for restraining dogs and is at least three times the length of the dog as measured from the tip of its nose to the base of its tail and is attached to a harness or non-choke collar specifically designed for tethering, with a swivel attached to both ends, done in such a manner as to not cause injury, strangulation or entanglement of the dog on fences, trees, another tethered dog, or any other manmade or natural objects; or
- (2) Tether more than one dog to a single tether or tether one dog to a single tether that would allow the dog to come within three feet of another tethered dog or a property line; or
- (3) Use a tether or any assembly or attachments thereto to tether a dog that shall weigh more than one-eighth of the animal's body weight, or due to weight, inhibit the free movement for the animal within the area tethered; or
- (4) Tether a dog on a choke chain or in such a manner as to cause injury, strangulation, or entanglement of the dog on fences, trees, or other man made or natural obstacles; or
- (5) Tether a dog without access to shade when sunlight is likely to cause overheating; or appropriate shelter to provide insulation and protection against cold and dampness when the atmospheric temperature falls below 40 degrees Fahrenheit, or to tether a dog without securing its water supply so that it cannot be tipped over by the tether; or
- (6) Tether a dog in an open area where it can be teased by persons or an open area that does not provide the dog protection from attack by other animals.

(Ord. No. 395, § 17, 1-14-2019)

Secs. 14-48—14-70. Reserved.

(Supp. No. 31)

Created: 2021-12-10 11:04:57 [EST]

ARTICLE III. DANGEROUS, VICIOUS OR EXOTIC ANIMALS¹⁴

Sec. 14-71. 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:

Animal means any vertebrae animal other than human beings.

Animal control officer means a Macomb County Animal Control Officer, a Macomb County Deputy, or any other person designated by the Township to enforce and administer the provisions of this article.

Cat means an animal of the species *Felix catus*.

Dangerous animal means either of the following:

- (1) A dog or another animal that bites or attacks a person, or a dog or another animal that bites or attacks and causes serious injury or death to another animal while such animal is on the property or under the control of its owner.
- (2) A dog or animal that bites or attacks and causes serious injury or death to another dog or another animal while on public or private property where the injured person or other animal is legally entitled to be, including the property of the dog's or animal's owner or custodian.
- (3) An animal that is intentionally trained or conditioned to fight or guard, except for animals trained for law enforcement or service purposes while engaged in the activities for which they were trained, shall be considered a dangerous animal.
- (4) An animal which behaves or behaved in such a manner that the owner knows or should have known that the animal had tendencies to bite or attack persons or other animals.
- (5) An animal that has been bitten by any animal known to have been afflicted with rabies.

Under this article, a dangerous animal does not include:

- (i) An animal that bites or attacks a person who is knowingly trespassing on the property of the animal's owner; or
- (ii) An animal that bites or attacks a person who knowingly provokes or torments the animal; or
- (iii) An animal that is responding in a manner that an ordinary and reasonable person would conclude is designed to protect a person if that person is engaged in a lawful activity or is the subject of an assault.
- (f) Any wild or exotic animal, including those animals defined in section 14-75 of this article, which is not naturally tame or gentle but is of a wild nature of disposition and which, because of its size, vicious nature or other characteristics would constitute a danger to persons or property.

¹⁴Editor's note(s)—Ord. No. 395, § 18, adopted January 14, 2019, renamed art. III from "dangerous or exotic animals" to "dangerous, vicious or exotic animals."

State law reference(s)—Dangerous animals, MCL 287.321 et seq.

Dog means an animal of the species *Canis Familiaris*.

Exotic animal means any mammal, reptile, fish or fowl, including, but not limited to, those animals defined in section 14-75 which are not naturally tame or gentle, but is of a wild nature of disposition and which because of size, vicious nature or other characteristic would constitute a danger to persons or properties.

Owner means a person having a right of property ownership in an animal, who keeps or harbors the animal or has the animal in his or her care of custody, or who permits the animal to remain on or about any premises occupied by the person; and

Owner shall mean:

- (1) Every person having a right of property ownership in an animal;
- (2) An authorized agent of the person having a right of property in an animal;
- (3) Every person who keeps or harbors an animal or has it in his or her care, custody or control;
- (4) Every person who permits an animal to remain on or about the premises occupied by him or her;
- (5) Every person who has the apparent authority to have a right of property in an animal;
- (6) Any person having control or purporting to have control over an animal;
- (7) The person named in the licensing records of any animal as the owner;
- (8) The occupant of the premises where the animal is usually kept if such premises are other than the premises of the owner as shown on the licensing records;

The parent or guardian of an owner under 18 years of age shall be deemed the owner as defined in this section. If an animal has more than one owner, all such persons are jointly and severally liable for the acts or omissions of an owner, even if the animal was in the possession of or under the control of a keeper at the time of the offense.

Person means an individual, partnership, corporation, cooperative, association, or other legal entity.

Vicious dog means any dog which, when unprovoked, in a vicious or terrorizing manner approaches any person in apparent attitude of attack upon the streets, sidewalks, or any public grounds or places; or any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property, or any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.

However, notwithstanding the above, a dog shall not be deemed vicious if any injury or damage is sustained by a person who, at the time of such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. Further, no dog shall be considered or deemed vicious if any injury or damage was sustained by a domestic animal which, at the time of such injury or damage, was teasing or tormenting, abusing or assaulting the dog. Additionally, no dog shall be considered vicious or deemed vicious if the dog was protecting or defending a human being within the immediate vicinity from an unjustified attack or assault by human or animal.

(Comp. Ords. 1988, § 35.252; Ord. No. 395, § 19, 1-14-2019)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 14-72. Exceptions.

The provisions of this article shall not apply to licensed pet shops, menageries, zoological gardens parks and aquariums accredited by the American Association of Zoological Parks and Aquariums (AZA), bona fide educational or medical research facilities/institutions, museums and circuses if:

- (1) Their location conforms to the provisions of appendix A to this Code.
- (2) All animals and animal quarters are kept in a clean and sanitary condition and so maintained as to eliminate objectionable odors.
- (3) All animals are maintained in quarters so constructed as to prevent their escape.
- (4) No person lives or resides within 100 feet of the quarters in which the animals are kept.

Exhibition of exotic animals shall be permitted to organizations and/or entities that are accredited by the AZA.

(Comp. Ords. 1988, § 35.253; Ord. No. 395, § 20, 1-14-2019)

Sec. 14-73. Enforcement.

This article shall be enforced by the township ordinance enforcement officer, Macomb County Sheriff Deputy, or a Macomb County Animal Control Officer, and it shall be the duty of that officer to seize and impound or cause to be seized and impounded by the appropriate county agency any dangerous or exotic animal found anywhere in the township contrary to any provision of this article. No animal so impounded shall be released to its owners or other authorized person without the payment of such sums incurred by the township, which may be prescribed by the enforcing officer for the care and maintenance of any animal thus seized and impounded and without procuring the licenses provided for in this article.

(Comp. Ords. 1988, § 35.254; Ord. No. 385, § 2, 3-9-2015; Ord. No. 395, § 21, 1-14-2019)

Sec. 14-74. Penalties.

The township ordinance enforcement officer shall have the authority to request, upon sworn complaint to a district court judge, that a summons be issued to show cause why a dangerous or exotic animal should not be destroyed, with the cost of such extermination to be borne by the animal owner.

(Comp. Ords. 1988, § 35.255)

Sec. 14-75. Keeping of dangerous or exotic animals prohibited; misdemeanor.

- (a) It shall be unlawful for any person to own, keep, maintain or have in possession or under his control any poisonous reptile or any other dangerous, wild, carnivorous or exotic mammal, reptile or fowl, any vicious or dangerous domesticated animal, or any other animal or reptile of vicious or dangerous propensities.
- (b) Notwithstanding the provisions of subsection (a) of this section, it shall be unlawful for any person to own, keep, maintain or to have in his possession or under his control within the township any of the following animals:
 - (1) All poisonous animals, including rear-fang snakes.
 - (2) Apes: chimpanzees (Pan), gibbons (Hylobates), gorillas, orangutans (Pongo), and siamangs (Symphalangus).

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- (3) Baboons (*Papio*, *Mandrillus*).
 - (4) Bears (*Ursidae*).
 - (5) Bison.
 - (6) Cheetahs (*Acinonyx jubatus*).
 - (7) Crocodilians (*Crocodylian*), alligators.
 - (8) Constrictor snakes.
 - (9) Coyote (*Canis latrans*).
 - (10) Deer (*Cervidae*, includes all members of the deer family; for example, white tail deer, elk, antelope and moose).
 - (11) Elephants (*Elephas* and *Loxodonta*).
 - (12) Gamecocks and other fighting birds.
 - (13) Hippopotami (*Hippopotamidae*).
 - (14) Hyena (*Hyaenidae*).
 - (15) Jaguars (*Panthera onca*).
 - (16) Leopards (*Panthera pardus*).
 - (17) Lions (*Panthera leo*).
 - (18) Lynxes.
 - (19) Monkeys, old world (*Cercopithecidae*).
 - (20) Ostriches (*Struthio*).
 - (21) Piranha (*Characidae*).
 - (22) Pumas (*Felis concolor*), also known as cougars, mountain lions and panthers.
 - (23) Rhinoceroses (*Rhinocerotidae*).
 - (24) Sharks (class *Chondrichthyes*).
 - (25) Snow leopards (*Panthera uncia*).
 - (26) Swine (*Suidae*).
 - (27) Tigers (*Panthera tigris*).
 - (28) Wolves (*Canis lupus*).

(Comp. Ords. 1988, § 35.251)

Sec. 14-76. Harboring a dangerous animal.

It shall be unlawful to harbor or keep any of the following:

- (1) A fierce or vicious dog;
- (2) An animal that has rabies or an animal that has been bitten by an animal known to have been afflicted with rabies;
- (3) A dangerous animal.

(Ord. No. 395, § 22, 1-14-2019)

Sec. 14-77. Nuisance per se.

Any continuing violation or a repeated violation of this article shall constitute a nuisance per se and may be abated by an action in circuit court separately or in addition to criminal proceedings.

(Ord. No. 395, § 23, 1-14-2019)

Sec. 14-78. Failing to report rabid animal.

If an animal is believed to have rabies or has been bitten by an animal suspected of having rabies, such animal shall be confined by a leash or chain on the owner's premises and shall be placed under the observation of a veterinarian at the expense of the owner for a period of ten days. The owner shall notify the Macomb County Animal Shelter of the fact that his/her animal has been exposed to rabies and at his/her discretion, the Macomb County Animal Control Officer is empowered to have such animal removed from the owner's premises to a veterinary hospital and be placed under observation for a period of ten days at the expense of the owner.

Whoever owns or harbors any animal which is bitten by another animal showing symptoms of rabies who fails to report the incident to the Macomb County Sheriff's Department or the Macomb County Animal Shelter shall be guilty of a misdemeanor.

(Ord. No. 395, § 24, 1-14-2019)

Sec. 14-79. Quarantine of dangerous animals/ethanize procedure.

Every animal that has bitten/scratched a person/animal may be subject to quarantine for a period of not less than ten days. Such quarantine shall be at the Macomb County Animal Shelter, a veterinary office, or a place designated by the Macomb County Animal Control Officer. The owner shall surrender the dog or animal to the Macomb County Animal Control Officer upon request. Should the owner refuse to cooperate, the Macomb County Animal Control Officer may seek a court order or warrant to enforce the quarantine.

The Macomb County Chief Animal Control Officer may further declare any animal that is known to have bitten a person or other animal as a dangerous animal as defined by this section.

If it is the intent of the chief animal control officer to euthanize the dangerous animal, the chief animal control officer or his/her designee shall give written notice to the owner of his/her determination that the animal has been declared a dangerous animal and whether it is his or her intent to petition a court of competent jurisdiction for authorization to euthanize or otherwise dispose of the animal. The owner shall then have 48 hours to respond before the petition is filed.

If a hearing is then held, a court of competent jurisdiction shall determine whether the dog is dangerous and subject to forfeiture and euthanization.

(Ord. No. 395, § 25, 1-14-2019)

Chapter 18 BUILDINGS AND BUILDING REGULATIONS¹⁵

¹⁵Cross reference(s)—Environment, ch. 34; abating nuisance, unsafe buildings or structures or blighting conditions, § 34-64; limit on height, distance from building, shrubs and brush, § 34-103; fire prevention and protection,

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ch. 38; floods, ch. 42; historical preservation, ch. 46; land development, ch. 54; engineering design and plan requirements and specification and standards for construction of site improvements, § 54-151 et seq.; land divisions, ch. 58; solid waste, ch. 74; utilities, ch. 90; waterways, ch. 94; zoning, app. A; restoring unsafe buildings, app. A, § 3.24.

State law reference(s)—State Construction Code Act of 1972, MCL 125.1501 et seq.; charter township to have powers of city relative to regulation of construction for the preservation of public health and safety, MCL 42.17.

ARTICLE I. IN GENERAL

Sec. 18-0. Electrical code enforcement.

Pursuant to the provision of the Michigan Electrical Code, in accordance with section 8b of Public Act No. 230 of 1972 (MCL 125.1508b), the electrical official of the township is designated as the enforcing agency to discharge the responsibility of the township under Public Act No. 230 of 1972 (MCL 125.1501 et seq.), to enforce the Michigan Electrical Code. The township assumes responsibility for the administration and enforcement of the act throughout its corporate limits.

(Ord. No. 395, § 26, 1-14-2019)

Sec. 18-1. Building code enforcement.

Pursuant to the provisions of the Michigan Building Codes, in accordance with section 8b of Public Act No. 230 of 1972 (MCL 125.1508b) the building official of the township is designated as the enforcing agency to discharge the responsibility of the township under Public Act No. 230 of 1972 (MCL 125.1501 et seq.), to enforce Michigan Building Codes. The township assumes responsibility for the administration and enforcement of the act throughout its political boundary.

(Ord. No. 318, § 1, 2-9-1998; Ord. No. 347, § I, 5-8-2005; Ord. No. 395, § 27, 1-14-2019)

Sec. 18-2. Mechanical code enforcement.

Pursuant to the provision of the Michigan Mechanical Code, in accordance with section 8b of Public Act No. 230 of 1972 (MCL 125.1508b), the mechanical official of the township is designated as the enforcing agency to discharge the responsibility of the township under Public Act No. 230 of 1972 (MCL 125.1501 et seq.), to enforce the Michigan Mechanical Code. The township assumes responsibility for the administration and enforcement of the act throughout its corporate limits.

(Ord. No. 319, § 1, 2-9-1998; Ord. No. 395, § 28, 1-14-2019)

Cross reference(s)—Utilities, ch. 90.

Sec. 18-3. Plumbing code enforcement.

Pursuant to the provisions of Michigan Plumbing Code, in accordance with section 8b of Public Act No. 230 of 1972 (MCL 125.1508b), the plumbing inspector of the township is designated as the enforcing agency to discharge the responsibilities of the township under Public Act No. 230 of 1972 (MCL 125.1501 et seq.), to administer and enforce the Michigan Plumbing Code within the township. The township assumes responsibility for the administration and enforcement of the act throughout its corporate limits.

(Comp. Ords. 1988, § 22.051; Ord. No. 395, § 29, 1-14-2019)

Cross reference(s)—Utilities, ch. 90.

Sec. 18-4. Registration of contractors.

A contractor licensed under the Skilled Trades Regulation Act, PA 407 of 2016 who performs work in the township shall register his license with the township. The registration shall be valid until the expiration date of the contractor's license. Registration shall be granted upon payment of a fee in the amount established by township board resolution.

(Ord. No. 395, § 30, 1-14-2019)

Editor's note(s)—Ord. No. 395, § 30, adopted January 14, 2019, renamed § 18-4 from "registration of mechanical contractors" to "registration of contractors."

State law reference(s)—Local registration required, MCL 338.983.

Sec. 18-5. Required deposits.

The director of engineering and utilities, building official or their respective designates shall have authority to require a developer, builder, homeowner or other applicant to deposit with the township an amount reasonably necessary to ensure that such developer, builder, homeowner, or applicant completes its obligations under the township code and ordinances on a timely basis, together with a 20 percent administrative fee to the township. A deposit may be required for any of the following to ensure that:

- (1) A developer or builder completes all site work or improvements, public utility and right-of-way improvements, soil erosion measures, grading, or landscaping associated with an approved site plan, subdivision plan, condominium plan, mobile home park plan, planned unit development plan, special development option plan, special land use approval, or variance, or required by the provisions of any township code, ordinance, standard or regulation.
- (2) A builder or applicant completes all site work or improvements, soil erosion measures, grading, or landscaping within a reasonable specified time period as required by any permit, plot plan, or by the provisions of any township code, ordinance, standard, or regulation.
- (3) Any site work or improvements, or public utility and right-of-way improvements required by the township based upon its inspection will be completed by a reasonable completion date in connection with the issuance of permits for models and other structures prior to completion of such improvements.
- (4) Any outstanding items required by the township based upon its inspection will be completed by a reasonable completion date in connection with the issuance of a temporary certificate of occupancy for a structure or dwelling.
- (5) No damage is done to public or private property, or improvements or landscaping upon public or private property.
- (6) Any site under development is cleaned up on a daily basis, that trash and debris are always contained and disposed of regularly, and that public streets and adjacent properties are kept free from dirt, mud, or construction debris.
- (7) Any other requirements relating to the construction process for which a deposit is required under other applicable provisions of the township codes, ordinances, standards or regulations are completed or satisfied on a timely basis.

Sec. 18-6. Performance guarantee.

- (a) When the director of engineering and utilities, building official or their respective designate determines that a developer, builder, homeowner, or other applicant should make deposit with the township to ensure that such person fulfills its obligations to the township as set forth in section 18-5, the developer, builder, homeowner, or applicant shall deposit with the township an amount determined by the appropriate township official to be necessary to fulfill the unfinished obligations. The amount shall be the sum necessary to perform the outstanding obligations based upon either an approved estimate submitted by the developer, builder, homeowner, or applicant of, or a reasonable estimate made by the director of engineering and utilities, building official or their respective designate. The township board shall establish by resolution or ordinance the minimum performance guarantee for the addition to, or alteration, modification, or new construction of a single-family residence, multi-family residential building or commercial or industrial building.
- (b) The performance guarantee required must be either a cash deposit made with the township or an irrevocable letter of credit drawn upon a financial institution satisfactory to the township.
- (c) If the developer, builder, homeowner, or applicant fulfills their obligations by the specified time, the cash deposit shall be returned without interest, (less a processing fee established by an ordinance or resolution adopted by the township board).
- (d) If the amount of the deposit exceeds \$10,000.00 the developer, builder, homeowner, or applicant may request a rebate of part of the deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- (e) If the developer, builder, homeowner, or applicant fails to complete the required work by the specified date, the township may utilize any or all of the deposited funds or funds available through the letter of credit to complete such person's obligations and to pay the township's administrative fee of 20 percent. If there are excess funds available after completion of the work, the surplus shall be returned.
- (f) The township may require the developer, builder, homeowner, or applicant to execute an agreement in a form satisfactory to the township attorney requiring the developer, builder, homeowner, or applicant to:
 - (1) Fulfill its obligations by a specified date;
 - (2) Deposit with the township or other financial institution acceptable to the township an amount determined to be sufficient to complete such person's obligations, with the 20 percent administrative fee payable to the township; and
 - (3) Authorize the township to utilize the funds for completion of the outstanding items.

The developer, builder, homeowner, or applicant shall be responsible for reimbursement to the township of the cost of preparing or reviewing such agreement, together with any costs or fees incurred by the township in securing use of such funds in the event of the default of the developer, builder, homeowner, or applicant.

(Ord. No. 395, § 31, 1-14-2019)

Sec. 18-7. Penalties for violations of the Michigan State Building, Electrical, Mechanical, Plumbing or International Property Maintenance Code.

- (1) A person or corporation, including an officer, director, or employee of a corporation, or a governmental official or agent charged with the responsibility of issuing permits or inspecting buildings or structures, who does any of the following which is applicable to such person or corporation or such governmental official or agent, shall be responsible for a municipal civil infraction and subject to a civil fine as provided in the

township code of ordinances, plus any costs, damages, and expenses as authorized by section 1-7 of this Code pursuant to Chapter 87 of Public Act No. 236 of 1961 (MCL 600.8701 et seq.):

- (a) Knowingly violates any provision of the state building, electrical, mechanical, or plumbing code, or any rule for the enforcement of any such code.
 - (b) Knowingly constructs or builds a structure or performs any work in violation of the terms of the permit issued for such work.
 - (c) Knowingly fails to comply with any lawful order issued by an enforcing agency or Harrison Township Building Board of Appeals.
 - (d) Knowingly makes a false or misleading written statement or knowingly omits required information or a statement in an inspection report, application, petition, request for approval, or appeal to an enforcing agency, a board of appeals, or any state commission established pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.).
 - (e) Knowingly refuses entry or access to an inspector lawfully authorized to inspect any premises, building, or structure pursuant to Public Act No. 230 of 1972 (MCL 125.1501 et seq.).
 - (f) Unreasonably interferes with an authorized inspection.
 - (g) Knowingly issues, fails to issue, causes to issue, or assists in the issuance of a certificate, permit or license in violation of Public Act No. 230 of 1972 (MCL 125.1501 et seq.) or any rule promulgated under such act or other applicable laws.
 - (h) Knowingly conceals a violation of Public Act No. 230 of 1972 (MCL 125.1501 et seq.) or a rule promulgated under such act or other applicable laws, if such party has a duty to report such violation.
- (2) With respect to subsection (1)(c), a person is responsible for a separate offense for each day that the person fails to comply with a stop construction order validly issued by an enforcing agency and for each week that the person fails to comply with any other order validly issued by an enforcing agency. With respect to subsection (1)(a) or (d), a person is responsible for a separate offense for each knowing violation of this act or a rule promulgated under this act and for each false or misleading written statement or omission of required information or statement knowingly made in an application, petition, request for approval, or appeal to an enforcing agency, a construction board of appeals, a board, or the commission. With respect to subsection (1)(b), a person is guilty of a separate offense for each knowing violation of a condition of a building permit.

(Ord. No. 395, § 32, 1-14-2019)

Editor's note(s)—Ord. No. 395, § 32, adopted January 14, 2019, renamed § 18-7 from "penalties for violations" to "Penalties for violations of the Michigan State Building, Electrical, Mechanical, Plumbing or International Property Maintenance Code."

Sec. 18-8. Adoption of the Property Maintenance Code.

The International Property Maintenance Code, 2018 Edition, as published by the International Code Council, copies of which are on file in the office of the Township Clerk, be and is hereby adopted by reference as the Property Maintenance Code of the Charter Township of Harrison, in the State of Michigan for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and

terms of said Property Maintenance Code on file in the office of the Charter Township of Harrison are hereby referred to, adopted, and made a part hereof, as if fully set out in this, with the additions, insertions, deletions and changes, if any, prescribed below.

302.3.1. Snow and/or ice removal from public sidewalks generally. No person shall permit any snow and/or ice to remain on a public sidewalk in the front, rear or sides of any house, premises, building, lot, unit, or parcel of land owned, occupied or controlled by such person longer than 24 hours after the snow has fallen or ice formed. Whenever any snow and/or ice has fallen or formed on any such sidewalk, the person shall, within 24 hours after the same has fallen or formed, remove all snow and/or ice so far as is practicable and reasonable to allow safe pedestrian use of such sidewalk.

302.3.2. Snow and/or ice removal from public sidewalks adjacent to common areas within a subdivision or adjacent to public streets abutting the subdivision. A homeowner's association of a single family subdivision shall be responsible for removal of any snow and/or ice from (a) a public sidewalk adjacent to a common area within a subdivision, or (b) a public sidewalk adjacent to a public street abutting the subdivision as required by Subsection 302.3.1. If the subdivision does not have an owner's association comprised of all owners of lots within the subdivision, then all of the owners of lots within the subdivision shall be jointly and severally responsible for removal of all snow and/or ice as required by this Subsection.

302.3.3. Snow and/or ice removal from public sidewalks adjacent to common areas within a condominium or adjacent to public streets abutting the condominium. A condominium association of a condominium shall be responsible for removal of any snow and/or ice from (a) a public sidewalk adjacent to a common area within the condominium, or (b) a public sidewalk adjacent to a public street abutting the condominium as required by Subsection 302.3.1.

302.3.4. Failure of owner, subdivision association, condominium association or responsible party to remove snow and/or ice. When an owner, occupant, subdivision association, or condominium association fails to remove snow and/or ice as required by Subsection 302.3.1, and the public sidewalk(s) remains obstructed with snow and/or ice, or if such public sidewalk(s) are unsafe for pedestrian use as a result of the presence of unremoved snow and/or ice, the code enforcement official or other person authorized to enforce these provisions of the Property Maintenance Code may give notice by (a) affixing a tag upon a conspicuous location on the property advising the owner or occupant, or (b) giving notice by personal delivery, facsimile, or email to the resident agent of the subdivision association or condominium association in the case of a responsible subdivision association or condominium association, that the accumulation of snow and/or ice upon the adjoining sidewalks constitutes a violation of this code, and must be removed within 24 hours. The tag or notice shall also state that if the responsible party fails to comply with such order within the specified time, then the Township or its contractor may abate the accumulation of snow and/or ice and assess the expense thereof to the property, or to the responsible subdivision association or condominium association, together with a charge to cover administrative expenses. Upon expiration of the 24-hour period, if the accumulation of snow and/or ice on the public sidewalk(s) has not been removed, and the code enforcement official or other authorized enforcement person determines that the accumulation of snow and/or ice constitutes an obstruction of such sidewalk(s) or a hazard to the safety of the public, the code enforcement official or other enforcement person may proceed to abate such obstruction or public safety hazard.

302.3.5. Abatement of accumulation of snow and/or ice from sidewalk. The code enforcement official shall take all steps necessary to carry out the abatement of an accumulation of snow and/or ice upon a sidewalk, shall keep an accurate record of all expenses in connection therewith, and upon completion of the work to be performed shall submit a report of the work done and all expenses in connection therewith to the Township Treasurer, who shall charge such expenses to the property and the owner thereof, or in the case of a subdivision association or condominium association, to such association and all properties within the subdivision or condominium. Such expenses shall be paid to the Township within 30 days, and shall include, but not be limited to, the actual expenditure of funds to abate the obstruction, the actual cost to the Township for the time spent by Township employees, officers, or agents to abate, or work toward abatement

of, the obstruction (including actual salary, fringe benefits, equipment usage, and other taxpayer-funded expenditures), attorney fees, consulting fees, any court costs incurred for enforcement, and/or similar costs and expenses. The Township's administrative expenses may be set by Township Board ordinance or resolution. The unpaid expenses shall constitute a lien against the property abutting the sidewalk.

302.4. Landscaping and removal of weeds. All landscaping located on the exterior property and located on any premises, including vacated properties, shall be maintained in a neat, orderly, and attractive condition, including, but not limited to, the regular mowing of lawn areas, periodic trimming and pruning of trees and shrubs, the watering and weeding of lawn and landscaped areas, the removal and replacement of dead or diseased trees, shrubs, and plants, the removal of weeds in parking lots, driveways, sidewalks (including sidewalks around the perimeter of a subdivision or condominium development and other public areas and the regular removal of trash and debris from premises. All premises and exterior property shall be maintained free from weeds and plant growth in excess of nine (9) inches. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this terms shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

(Ord. No. 359, 3-25-2008; Ord. No. 388, § 1, 1-14-2016; Ord. No. 395, § 33, 1-14-2019)

Sec. 18-9. Building board of appeals.

(a) *Title, purpose and scope.*

- (1) *Title.* This section shall be known as the Harrison Township Building Board of Appeals Ordinance.
- (2) *Purpose.* The purpose of this section is to provide a building board of appeals; establish qualifications for membership; provide a procedure for appeal; establish fees; and provide for decisions by the appeal board.
- (3) *Scope.* The building board of appeals shall hear appeals pertaining to application of the Michigan State Construction Code PA 230 of 1972 which includes, without limitation, the Michigan Building, Electrical, Mechanical and Plumbing Codes as they have been and will be promulgated and amended from time to time and/or township building ordinance rules adopted under the Michigan Construction Code. The appeal review shall be directed to the correctness of the interpretation; whether the provisions of the Michigan Construction Code fully apply; or whether an equal or better form of construction can be used.

(b) *Composition.*

- (1) *Members of board.* The building board of appeals shall consist of three members appointed by the township board. The members shall serve three-year staggered terms with one member appointed to serve a term of three years, one member to serve a term of two years and one member to serve a term of one year. Thereafter each new member shall serve for three years or until a successor has been appointed.
- (2) *Alternate members.* The building board of appeals shall have first and second alternate members. Each alternate member shall be appointed by the township board to serve for a term of one year.
- (3) *Qualifications of board members and alternates.* Each member of the building board of appeals and each alternate member of the building board of appeals shall have significant experience as an

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- engineer, architect, builder, or superintendent of building construction and shall be knowledgeable about the Michigan Construction Code. At no time shall there be more than two members of the board with the same expertise or business involvement.
- (4) *Absence of members.* Alternate members of the building board of appeals shall attend meetings in the absence of regular members and shall have the same authority as regular members when filling a board position in the regular members absence.
 - (5) *Chairman, vice-chairman and secretary of the board.* The board shall select one of its members to serve as chairman and one to serve as vice-chairman. The vice-chairman shall conduct meetings of the building board of appeals in the absence of the chairman. A secretary or clerk shall be designated to serve as secretary to the board. The secretary shall keep a detailed record on file in the building department of all proceedings of the board of appeals.
 - (6) *Exemption of members.* No member of the appeal board shall pass on any question where the member has an interest or involvement which could be considered a conflict.
 - (7) *Compensation.* Compensation of appeal board members shall be determined by the township board.
- (c) *Appeals procedure.*
- (1) *Appeal.* Any person who feels aggrieved by a decision of the building official or his/her designee relating to that person's real property may file an application of appeal to the building board of appeals. The application for appeal shall specifically set forth the reason(s) for appeal and shall include supporting documentation, if available. The building board of appeals shall hear the appeal and render and file its decision with a statement of reasons for the decision with the building official not more than 30 days after the submission of the appeal. Failure by the board of appeals to hear an appeal and file a decision within the time limit is a denial of the appeal for purposes of authorizing the institution of an appeal to the State Construction Commission. A copy of the decision and statement for the reasons for the decision shall be delivered or mailed, before filing, to the party taking the appeal.
 - (2) *Appeal fee.* The application for appeal shall be accompanied by a refundable \$150.00 fee per individual application. Where identical or distinctly similar parcels and/or address identifies are combined into a single application, a \$25.00 application fee shall be assessed each additional parcel and/or address identity. Such fee shall be held by the township treasurer and refunded only upon a favorable determination by the building board of appeals. The fee shall not be refunded if the decision of the building department is upheld. The fee may be changed, increased or decreased by resolution of the township board as conditions and circumstances warrant.
 - (3) *Notice of meeting.* Upon receipt of application for appeal and accompanying fee, the chairman or secretary of the building board of appeals shall schedule a meeting to be held within 30 days of the application filing date.
 - (4) *Public meeting.* All appeal board meetings shall be public. The appellant, his representative, township official(s) and any other person whose interest may be affected by the appeal shall be given an opportunity to be heard.
 - (5) *Quorum.* A meeting may only be conducted if three members of the appeal board, including alternates, are present. In the event three members and/or alternates are not present, the meeting shall be adjourned to a mutually acceptable date.
- (d) *Decisions.*
- (1) *Action of board.* Action by the building board of appeals shall affirm, modify or reverse the decision of the building department by a concurring vote of at least two members of the three member appeal board then sitting.

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- (2) *Determining vote.* Unless a two-thirds vote of the three-member appeal board reversing the decision of the building department is cast, the decision of the building department shall be considered final.
 - (3) *Decision of the board.* Every decision of the appeals board shall be in the form of a resolution, signed by the chairman and/or secretary of the appeals board. The decision of the building board of appeals shall be clear and succinct with underlying reasons given for the action taken. Copies shall be furnished the appellant and building department.
 - (4) *Modification of building department decision.* If the decision of the building board of appeals results in a modification or variance from the Michigan Construction Code and/or township building ordinance, the application for appeal fee of \$150.00, as well as any \$25.00 additional parcel and/or address identity fees shall not be refunded. It should be noted that a modification or variance is not to be confused with the variances customarily addressed by the zoning board of appeals. This variance is intended to address regulations relating to building construction while the zoning board of appeals variance addresses regulations relating to use of real property and zoning.

After a public hearing the board of appeals may grant a specific variance to a substantive requirement of the Michigan Construction Code if the literal application of the substantive requirement would result in an exceptional, practical difficulty to the applicant, and if both of the following requirements are satisfied:

- (a) The performance of the particular item or part of the building or structure with respect to which the variance is granted shall be adequate for its intended use and shall not substantially deviate from performance required by the code of that particular item or part for the health, safety and welfare of the people of this state.
- (b) The specific condition justifying the variance shall be neither so general nor recurrent in nature as to make an amendment of the code with respect to the condition reasonably practical or desirable.

The board of appeals may attach in writing any condition in connection with the granting of a variance that in its judgment is necessary to protect the health, safety and welfare of the people of Harrison Township. The breach of a condition shall automatically invalidate the variance and any permit, license and certificate granted on the basis of it. In no case shall more than minimum variance from the code be granted than is necessary to alleviate the exceptional, practical difficulty.

- (5) *Enforcement.* Once a decision has been made and the appealing party officially notified, the decision shall be considered final and the building department shall take immediate action in accord with the decision.

An appeal to building board of appeals or the state construction commission or a proper court of jurisdiction does not stay a stop construction order issued by the building official or his/her designee nor prevent the township from seeking an order from a court of competent jurisdiction enjoining the violation of a stop construction order.

In other cases, an appeal to a board of appeals, or to the commission pursuant to this PA 230 of 1972, or to a court of competent jurisdiction pursuant to Act No. 306 of the Public Acts of 1969, as amended, shall act as a stay upon an order, determination, decision or action appealed from, unless the township establishes that immediate enforcement of the order, determination, decision or action is necessary to avoid substantial peril to life or property.

- (6) *Court review.* Any person aggrieved by a decision of the building board of appeals is left to whatever legal remedy(ies) may be available. Any person aggrieved by a decision of the building board of appeals as it relates to the application of the Michigan Construction Code may appeal to the State Construction Code Commission within ten business days after filing of the building board of appeals decision pursuant to PA 230 of 1972 (MCL 125.1516).

(Ord. No. 240, §§ 1—4, 9-18-1988; Ord. No. 395, §§ 34—39, 1-14-2019)

Secs. 18-10—18-40. Reserved.

ARTICLE II. RESERVED¹⁶

Secs. 18-41—18-230. Reserved.

ARTICLE III. MANUFACTURED BUILDINGS¹⁷

Sec. 18-231. 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:

Manufactured building means any structure, either temporary or permanent, assembled at a factory and shipped for construction as one unit or parts of one unit, complete as to heating, electrical, plumbing and all other construction requirements as set forth in the laws of the state, the ordinances of the township, and all building, plumbing and electrical codes adopted by reference and incorporated as a part of the ordinances of the township.

(Comp. Ords. 1988, § 22.851)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-232. Applicable ordinances and statutes.

All manufactured buildings shall be subject to and meet the requirements of the laws of the state and the ordinances of the township applicable to buildings constructed in the township, and nothing contained in this article shall waive the requirements for inspection contained in such ordinances and statutes.

(Comp. Ords. 1988, § 22.852(a))

Sec. 18-233. Requirements for permit.

- (a) Before a building permit is issued for the construction of a manufactured building in the township, proof shall be received by the building official that the manufactured building has been tested, approved and has fulfilled requirements of all applicable laws and ordinances.
- (b) Before such building permit issues, the applicant shall sign an authorization for the building official to remove any panels, parts or construction of the manufactured building to complete the inspection in

¹⁶Editor's note(s)—Ord. No. 395, § 40, adopted January 14, 2019, repealed art. II, §§ 18-41—18-44, 18-61, 18-62, 18-81, 18-82, 18-101—18-106, 18-131, and 18-132. Former art. II pertained to electrical code and derived from Ord. No. 297, adopted March 13, 1995; Ord. No. 310, adopted June 23, 1997 and Ord. No. 333, adopted April 25, 2001.

¹⁷State law reference(s)—Mobile Home Commission Act, MCL 125.2301 et seq.

accordance with the ordinances of the township and the laws of the state, and further providing the applicant will hold the township, its agents and representatives, harmless from any claim for damages caused by or resulting from the removal of panels, parts or construction to accomplish the inspection.

- (c) Before the building permit issues, the applicant shall furnish the building official a warranty by the manufacturer of the manufactured home warranting for a period of ten years on all structural parts that the building was built in a good and workmanlike manner and all other construction, including electrical, plumbing and heating are guaranteed for a period of one year, except for loss through the negligent acts of owners and users after sale to them, and loss due to normal use by the owner and user.

(Comp. Ords. 1988, § 22.852(b)(1), (c), (d))

Secs. 18-234—18-260. Reserved.

ARTICLE IV. MOVING OF BUILDINGS¹⁸

Sec. 18-261. 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:

Building means, as defined in appendix A to this Code, any structure, either temporary or permanent, having a roof supported by columns or walls for the shelter support or enclosure. This shall include tents, awnings, or vehicles situated on private property and used for the purposes of a building. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

(Comp. Ords. 1988, § 22.901; Ord. No. 395, § 41, 1-14-2019)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-262. Notification.

The movers of a building shall notify the fire department, the police department, and all utility companies in writing of the time and route of travel 48 hours in advance of the move.

(Comp. Ords. 1988, § 22.902(b))

Sec. 18-263. Minimum distance per day; protective barriers.

Upon issuance of a building permit, a building shall be moved at least 500 feet per day while it is on any street, alley or public property. Buildings in the process of being moved shall not be left in any street or intersection at night. Any person moving any building shall place a safe and sufficient barrier around the part of the street, alley or other public property so occupied and maintain sufficient colored lights on the building during the night for the protection of the public.

(Comp. Ords. 1988, § 22.902(f))

¹⁸Cross reference(s)—Environment, ch. 34.

Sec. 18-264. Permit.

- (a) *Required.* No person shall move any residential, business or commercial building within or out of the township unless a permit shall first be obtained.
- (b) *Fees, bonds.* There shall be a building permit fee established by resolution of the township board, which may be modified from time to time by the township board, as well as all other bonds and inspection fees provided for in this article as may be modified by the township board.
- (c) *Conditions to be met.* The building official shall refuse to issue a building permit for the location or relocation of any building or structure within the township until the following conditions have been complied with:
 - (1) Until it has been certified by the building official that the building, plumbing, electrical, heating and zoning requirements of the township and the state have been complied with or will be complied with when the moving is completed.
 - (2) Until the building official has certified that the building will conform in general with the existing structures located within the nearest cross streets of the street the building is to be located on.
 - (3) Until the applicant has signed an authorization for the township to complete the building if not completed by the applicant and a certificate of occupancy issued within one year of the date of moving. If the township is required to complete the building for occupancy, the cost as determined by the township may be added to the tax rolls of the property and shall become a lien on the property; and the applicant by applying for this permit does authorize placing the cost on the tax roll.

(Comp. Ords. 1988, § 22.902(a), (c), (e))

Sec. 18-265. Cash bond.

- (a) A cash bond in the amount of \$1,000.00 shall be posted by the mover to indemnify the city against loss, damage, expense, or claims arising from such moving.
- (b) The township treasurer shall not refund the \$1,000.00 moving bond until the building official has certified that the original location of the house or building has been inspected and found to be in an acceptable condition if located within the township and until a certificate of occupancy at the new location has been issued. The cash bond of \$1,000.00 shall be defaulted to the township if the provisions of this article have not been complied with within one year of the date of the moving.

(Comp. Ords. 1988, § 22.902(d), (g))

Secs. 18-266—18-300. Reserved.

ARTICLE V. FENCES

Sec. 18-301. 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:

Property owner means any person who has an interest in property located in the township.

(Comp. Ords. 1988, § 22.952)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 18-302. Permit.

- (a) No property owner shall erect a fence upon his property unless he shall first have obtained a permit from the township building official and conformed to all of the conditions prescribed in this article.
- (b) All applications for erection of a fence must have a detailed drawing sufficient for the building official to establish the location of the fence and such other requirements as the building official may establish by regulation or provision in the application and must comply with all ordinances of the township, including, but not limited to, article VI of the Charter Township of Harrison Zoning Ordinance.
- (c) The permit fee shall be established by resolution of the township board; and the fence shall be constructed within 180 days of the issuance of the permit, or the permit is null and void.

(Comp. Ords. 1988, §§ 22.951—22.954; Ord. No. 395, §§ 42, 43, 1-14-2019)

**ARTICLE VI. ABANDONED AND VACANT PROPERTY REGISTRATION AND
MAINTENANCE¹⁹**

Sec. 18-303. Definitions.

As used in this article the following terms have the meaning set forth herein:

Abandoned vacant property. A residential structure is considered abandoned vacant property if it has not been legally occupied by a human, continuously for 30 days or more and meets any of the following criteria:

- (1) Provides a location for loitering, vagrancy, unauthorized entry or other criminal activity.
- (2) Has one or more broken windows, or two or more windows or doors boarded or partially boarded, restricting ingress and egress through windows and/or doors, for at least 30 days.
- (3) Has water, sewer, electric or gas or any of the foregoing disconnected or not in use.
- (4) Has not been maintained in compliance with ordinances of the township that relate to residential structures and accessory structures, their occupancy or use.
- (5) Is only partially completed and is not fit for human occupancy and/or there are no active building permits for the property that will resort in restoration of the premises, structure or building to a safe and habitable condition.

Building. A structure, either temporary or permanent, having a roof supported by columns or walls for the shelter, support or enclosure. When any portion thereof is completely separated from every other part thereof by division walls from the ground up, and without openings, each portion of such building shall be deemed a separate building.

Foreclosure. The process by which a mortgage is enforced against a parcel of real property through sale or offering for sale to satisfy the debt of the mortgagee.

¹⁹Editor's note(s)—Ord. No. 395, § 44, adopted January 14, 2019, renamed art. VI from "registration and regulation of abandoned and vacant residential structures" to "abandoned and vacant property registration and maintenance."

Mortgagee. A person, firm, corporation or other legal entity holding a mortgage on a property.

Possessory lender. A person firm or corporation that has foreclosed a mortgage on a property but may not have legal or equitable title.

Owner. Every person, co-partnership, association, entity, corporation or fiduciary having legal or equitable title or any interest in any real property, excluding governmental agencies.

Safety and maintenance inspection. A visual inspection to check the minimum requirements as set forth in the International Property Maintenance Code 2018 or its successor Code, for sanitary maintenance, life safety, other obvious hazards and code violations.

Structure. Anything constructed or erected, the use of which requires location on or attachment to the ground, and includes buildings.

Vacant property. An improved lot or parcel of real property with at least one building or structure that is not currently used or occupied for a period in excess of 30 days. A building or structure which remains furnished, has utilities connected or in use, and on property that is maintained while the owner is absent, shall not be considered vacant.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 47, 1-14-2019)

Sec. 18-303.5. Purpose.

The purpose of this article is to help protect the health, safety and welfare of the citizens by preventing blight, protecting property values and neighborhood integrity, avoiding the creation and maintenance of nuisances and to ensure the safe and sanitary maintenance of dwellings, It is the intent of this article to address homes and buildings that have become vacant, abandoned, or otherwise unsupervised thereby having a negative impact on surrounding properties and neighborhoods. Vacant and abandoned homes create increased instances of unsecured or open doors and windows, broken water pipes, flooded basements, theft of metals and other materials, overgrowth of grass, weeds, shrubs, and bushes, illegal dumping and rodent and vermin activity at vacant structures or buildings. Such neglect devalues properties and causes deterioration in neighborhoods and residential areas. It is important for the township to be able to contact owners of vacant properties for property maintenance, utility shutoff, fire safety and police reasons.

(Ord. No. 395, § 45, 1-14-2019)

Sec. 18-303.7. Scope.

The provisions of this article shall apply to all existing residential structures. This article does not relieve an owner from compliance with all other township ordinances, codes, regulations and state law.

(Ord. No. 395, § 46, 1-14-2019)

Sec. 18-304. Inspection requirements foreclosure.

Any possessory lender under a note secured by a mortgage or any person, firm, or corporation holding a mortgage on a property who has filed a complaint for foreclosure by judicial action or is publishing a notice of foreclosure by advertisement, shall within five days of either filing the complaint or publishing the notice, inspect the subject property of the foreclosure proceedings. If the property is vacant or shows evidence of either being abandoned or vacant, the property shall forthwith be registered with the township within ten days pursuant to this article and be subject to all provisions of this article, including, but not limited to, obtaining a safety and maintenance inspection pursuant to section 18-309. The vacant property shall thereafter be inspected by the

owner or legal agent at least monthly until any rights of the lender or party holding a mortgage no longer exists in the vacant property. A possessory lender and/or party holding a mortgage shall undertake all reasonable and necessary steps to continue utility service to the vacant property in order to avoid sump pump failure, back-up, broken pipes, or other damage to the property.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 48, 1-14-2019)

Sec. 18-305. Registration of abandoned and vacant properties.

Owners and possessory lenders of any mortgage on vacant property, jointly and severally, shall be responsible for registering such properties compliant with this article.

Registration requirements do not preclude the township from taking action pursuant to any applicable federal or state law or ordinance of the township, or to issue notices and orders as may apply under other ordinances of the township. Fees shall be charged to defray the township's cost of registering such properties, as shall be determined and established periodically by the township board with township board approval of those fees confirmed by resolution.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 49, 1-14-2019)

Sec. 18-306. Registration information.

Owners who are required to register their properties pursuant to this article shall register with the township providing the following information:

- (1) The legal name and date of birth of each owner, or mortgage holder. If ownership or the entity holding a mortgage is by means of a corporation, limited liability company, partnership, or other non-natural means, the resident agent. The resident agent, managing partner, general partners and/or shareholders names and dates of birth shall be provided.
- (2) Address of persons referred to in subsection (1).
- (3) Telephone number and address of an agent or representative, authorized by the owner and/or party holding a mortgage to handle affairs for the property and to act as the person for notification. Such agent or representative must be capable of traveling to the property within a one-hour driving radius of the township.
- (4) Proof of identification of owners by way of copies of driver's licenses, copies of articles of incorporation, co-partnership agreements or other agreements verifying the existence of such entity.
- (5) A statement which shall set forth the estimated length of time the property is expected to remain unused, reason for non-use and description for all plans for restoration, repair, reuse, maintenance, and/or continuation of utility operation.
- (6) Such additional information as may be required and set forth and any registration form approved by the township supervisor.
- (7) If at any time the information contained in the owner registration form is no longer valid, the owner has ten days to file a new form containing valid, current information. There shall be no fee to update an existing registered owners' current information.
- (8) Once a vacant or abandoned vacant property has been properly registered by the owner, such registration shall be valid and effective for a period not to exceed 365 days, and shall be renewed annually thereafter until a certificate of occupancy has been issued.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 50, 1-14-2019)

Sec. 18-307. Obligation to timely secure residential structure.

Upon a notice to secure a vacant property, building or residential structure being sent by first class mail to any person or entity appearing as an owner of record based on assessing records or upon information supplied pursuant to section 18-306, such residential property, building or structure shall be secured within 72 hours. The township may, but is not required to secure the property, including the removal of debris, cutting of vegetation, boarding the property in whole or in part, or taking other measures to secure the property. All such costs shall be assessable against any owner of the property. Both the owner and any holder of a mortgage shall be responsible to determine at least monthly whether any abandoned and/or vacant property is compliant with the requirements of this article.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 51, 1-14-2019)

Sec. 18-308. Right of entry.

If any owner or mortgage holder fails to secure the property, the township may seek an administrative search warrant in order to permit entry upon the property in order to secure the property. All administrative expenses associated with the issuance of the search warrant shall be recoverable and assessed against any owner and/or mortgage holder of the property jointly and severally.

(Ord. No. 367, § 1, 5-10-2010)

Sec. 18-309. Maintenance of property.

- (a) Each owner and/or mortgage holder of any abandoned or vacant residential property shall be jointly and severally responsible for maintaining the building, structure and property in conformity with applicable law including ordinances of the township. This includes but is not limited to exterior maintenance, vegetation cutting and maintenance, landscaping, snow removal and maintenance and repairs to the building or structure itself. Upon registration of the property pursuant to this article, the owner of that property is responsible for obtaining and paying for the township's "safety and maintenance inspection" of the building, structure and property, obtaining necessary permits, making required repairs and obtaining inspections from the township prior to the reoccupancy of the building or structure, or in the discretion of the building official.

If, at the time of the safety and maintenance inspection, the inspector deems that the electrical, plumbing or mechanical systems pose health or safety hazards and require additional inspection by the licensed code official in that discipline, the owner shall be responsible to obtain and pay for that required permit, inspection and approval.

If an owner fails or refuses to complete the above stated inspections, the possessory lender shall be obligated to complete the inspection upon foreclosure of the property.

- (b) The property shall be kept free of weeds, dry brush, dead vegetation, trash, junk, debris, building materials and any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items, including but not limited to furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned.
- (c) The property shall be maintained free of graffiti, tagging, or similar markings by removal or painting over with an exterior grade paint matching the color of the exterior of the structure.

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- (d) Visible front, side yards and rear yards shall be landscaped and maintained to the neighborhood standard at the time registration was required. Landscaping includes but is not limited to trimming grass, ground cover, bushes, shrubs, hedges or similar plantings, maintaining decorative rock or bark and mulching.
 - (e) Maintenance includes but is not limited to regular watering, irrigation, cutting, pruning and removal of all trimmings. Pools and spas shall be kept in working order so the water remains clear and free of pollutants and debris or drained and kept dry.
 - (f) Each of these requirements shall be cumulative and in addition to any and all other requirements otherwise required by the ordinances of the township or other laws and codes.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 52, 1-14-2019)

Sec. 18-310. Notice, order and posting of abandoned/vacant residential structures.

A notice to register each abandoned and/or vacant property shall be sent to the owner, and shall advise the owner that an abandoned and/or vacant property shall not be occupied until inspected and found to be in full compliance with this article. The township may post a notice on each abandoned structure which sets forth the requirements of this article.

(Ord. No. 367, § 1, 5-10-2010; Ord. No. 395, § 53, 1-14-2019)

Sec. 18-311. Re-occupancy of abandoned and/or vacant residential structures.

An abandoned and/or vacant residential structure shall not be occupied until a certificate of compliance has been issued by the township, and all violations have been corrected in accordance with the applicable requirements of the Michigan Building/Residential Code, Michigan Electrical Code, Michigan Mechanical Code, Michigan Plumbing Code, International Property Maintenance Code and any other applicable provisions of this Code of Ordinances. All mechanical, electrical, plumbing, and structural systems shall be inspected and approved by the township inspectors as being in good repair. In addition, a certificate of compliance shall not be issued until all outstanding costs, inspection fees, assessments and/or liens owed to the township have been paid in full.

(Ord. No. 367, § 1, 5-10-2010)

Sec. 18-312. Outstanding cost and assessment lien.

Any and all fees or costs incurred relating to this article including but not limited to registration fees and costs incurred associated with enforcement activity shall be fully reimbursed to the township by the owners of the property and mortgage holders jointly and severally and shall be considered a lien upon the subject property subject to enforcement in the same manner as ad valorem real property taxes. Such method of enforcement shall be a cumulative remedy. Further, examples of activities for which fees and costs shall be payable, include but are not limited to, costs for preparation of correspondence relating to this article, costs for inspection, costs for vehicle removal, costs for entry of the subject property, costs for preparation and securing of an administrative search warrant, cost for preparation of proceeding with enforcement pursuant to this article.

(Ord. No. 367, § 1, 5-10-2010)

Sec. 18-313. Appeals.

Any person aggrieved by any requirement of this section, may appeal to the township board, furnishing a written application filed within 20 days of the decision, notice, order or action from which an appeal is taken. Such

appeal shall be based on a claim that the true intent of the code or rules adopted herein have been incorrectly interpreted or that the provisions of the code do not fully apply or that the requirements of the code are adequately satisfied by other means, or that the strict application of any requirement of the code would cause an undue hardship.

(Ord. No. 367, § 1, 5-10-2010)

Sec. 18-314. Penalty.

Any violations of this article shall be deemed to be a municipal civil infraction punishable in accordance with state law and this Code. Institution of civil infraction proceedings shall not restrict the township from pursuing further remedies.

(Ord. No. 367, § 1, 5-10-2010)

Sec. 18-315. [Fire damage; permit for construction/demolition.]

If a building is damaged by fire, the owner or possessory lender has 90 days from the date of the fire to apply for a permit to start construction or demolition. Additional ninety-day extensions may be granted by the township provided the owner or possessory lender can demonstrate substantial progress towards completing repairs. Failure to do so will result in the property being deemed vacant and or abandoned and subject to the requirements of this article.

(Ord. No. 395, § 54, 1-14-2019)

Chapter 22 BUSINESSES²⁰

ARTICLE I. IN GENERAL

Secs. 22-1—22-30. Reserved.

ARTICLE II. SEASONAL SALES AND SOLICITORS²¹

²⁰Cross reference(s)—Alcoholic liquor, ch. 6; amusements and entertainments, ch. 10; emergency services, ch. 30; taxation, ch. 78; utilities, ch. 90; office service district O-1, app. A, § 10.10; local business district B-1, app. A, § 10.20; planned shopping center district B-2, app. A, § 10.30; general business district B-3, app. A, § 10.40; office research district OR, app. A, § 12.10; automobile heavy repair garage, app. A, § 13.05; automobile repair and service centers, app. A, § 13.06; businesses of a drive-in nature, app. A, § 13.09; carry-out restaurants, app. A, § 13.10; day care centers and nursery schools, app. A, § 13.16; dry cleaning and laundry establishments, app. A, § 13.17; fast food restaurants, app. A, § 13.18; funeral homes and mortuaries, app. A, § 13.19; gasoline self-service stations, app. A, § 13.20; home occupations, app. A, § 13.26; Harron cable television franchise agreement ordinance, app. B; consumers power gas franchise, app. C.

State law reference(s)—Charter township to have powers of city to regulate businesses, MCL 42.17.

²¹Cross reference(s)—Zoning, app. A.

- CODE OF ORDINANCES
Chapter 22 - BUSINESSES
ARTICLE II. - SEASONAL SALES AND SOLICITORS
DIVISION 1. GENERALLY

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; transient merchants, MCL 445.371 et seq.

DIVISION 1. GENERALLY

Sec. 22-31. 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:

Charitable or non-profit event means any person or group of people assembling on the property owned by the person(s) for a picnic, festival, or other gathering which does not provide a taxable profit.

Distributor means any person who distributes or sells or offers to distribute or sell leaflets, petitions, newspapers or any other written material, or any goods, wares or merchandise, including vegetables, fruits or perishable farm products, or solicits financial contributions in exchange for such materials or products, at any location within the township, including any properties that constitute part of the public right-of-way for highway or street purposes, including any sidewalks or ditches that may be part of the right-of-way.

Employee means any person who acts for or on behalf of any person required to be licensed under this article, whether such employee renders gratuitous service or is paid financial or other valuable compensation for such service, including wages, fixed sums, commission or any other form of remuneration. This term is intended and shall be construed to include any person related by blood or marriage to the person required to be licensed under this article, regardless of age or relationship.

Highway and street right-of-way mean any property within the township acquired, owned, maintained or controlled by any public agency, which property constitutes part of a highway or street for vehicular or pedestrian traffic, including all paved and unpaved portions of a roadway; shoulders of such roadway whether paved or unpaved; ditches adjacent to a roadway; sidewalks; median between paved portions of an established roadway; and any other property constituting part of the public right-of-way property of such highway or street.

Outdoor shopkeeper means any person who is not a transient merchant who has an interest in the property where business is conducted as fee owner, lessee or licensee, who offers goods, wares or merchandise for sale from any place on the land not enclosed within a permanent structure which has been previously approved as part of an overall site plan under township ordinances or is otherwise a lawful fixed and permanent structure upon the premises. However, this definition shall not include such sales that are incidental or in addition to some other principal lawful business conducted on the premises by such person, or the sale of goods, wares or merchandise, including sausage/hotdogs/hamburgers and similar items sold from a portable grill or stand, vegetables, fruits or perishable farm products, raised, produced and manufactured by the person on the premises where the same are offered for sale from an outdoor table or similar stand, shall be permitted to operate without a vendor license. Such table or grill shall not occupy an area greater than 100 square feet and shall not impede parking spaces or pedestrian safety.

Peddler/solicitor means any person who is not a transient merchant who goes about from place to place traveling by foot, wagon, motor vehicle, truck, bicycle or any other form of conveyance selling or offering for sale any goods, wares or merchandise, including vegetables, fruits or perishable farm products as may have been raised, produced or manufactured by such person, including sale or offer to sell by sample or description for delivery at a future time. However, this shall not be construed to mean a person regularly engaged in the business of wholesaler to retailers for resale, or to manufacturers for use in their processes.

Transient merchant means any person engaging temporarily in the retail sale of goods, wares or merchandise, in any place in the township and who, for the purpose of conducting such business, occupies or is

located upon or in any undeveloped real estate, parking lot or other developed parcel of land, truck or other motor vehicle, building, room or structure of any kind. This shall not be construed to apply to any person selling goods, wares or merchandise of any description raised, produced or manufactured by the individual offering the goods, wares or merchandise for sale on the premises where such retail business is being conducted.

(Ord. No. 311, § 20.801, 7-14-1997; Ord. No. 373, § 1, 4-25-2011)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 22-32. Compliance.

It shall be unlawful to sell, attempt to sell, engage in or attempt to engage in the business of transient merchant, peddler/solicitor, outdoor shopkeeper or distributor except in strict compliance with the provisions of this article.

(Ord. No. 311, § 20.802(b), 7-14-1997)

Sec. 22-33. Hours of operation.

No business or solicitation shall be conducted except between the hours of 8:00 a.m. and 9:00 p.m., April through September, and between the hours of 8:00 a.m. and 7:00 p.m., October through March.

(Ord. No. 311, § 20.802(b)(2), 7-14-1997)

Sec. 22-34. Sound device to attract business.

No person shall shout, cry, ring a bell or use any sound device, including loudspeakers or sound amplifiers, for any purpose whatsoever, including the attempt to attract attention to his business activity.

(Ord. No. 311, § 20.802(b)(3), 7-14-1997)

Sec. 22-35. Lighting to attract business.

No person shall use or cause to be employed in the activity any flashing light from a motor vehicle or any other lighting device for the purpose of attracting attention to the business.

(Ord. No. 311, § 20.802(b)(4), 7-14-1997)

Sec. 22-36. Zoning.

No business activity shall be conducted in any location within the township except in zoning districts that allows such activity.

(Ord. No. 311, § 20.802(b)(5), 7-14-1997; Ord. No. 373, § 1, 4-25-2011)

Sec. 22-37. No business within highway or street right-of-way.

No business activity shall be conducted nor shall any person in connection with the activity stand in, upon or otherwise be within the highway or street right-of-way. Further, no provision, term or definition of this article is intended nor shall it be construed as authorizing or permitting the use of or attempt to use any such public right-

of-way, or other public property owned, maintained or controlled by any public agency of the United States, the state, the county, or the township.

(Ord. No. 311, § 20.802(b)(6), 7-14-1997)

Sec. 22-38. Use of private property.

- (a) Nothing in this article is intended or shall be construed as authorizing the use of any private property for any business activity to be licensed under this division except with the express permission of the owners of such property or any other person lawfully authorized to grant such permission.
- (b) Any person soliciting within the township shall abide by any instructions given any person so soliciting by the occupant of any residence within the township where the instructions are an invitation to the solicitor to come upon the premises, or a denial to the solicitor of access to the premises. Such instructions may be oral or in writing, and if in writing, the instructions shall be in the following form:

No solicitors invited.

The letters on such card shall be at least one-third inch in height. For the purposes of uniformity, the township clerk may, at the direction of the township board, provide such cards to the township residents requesting them at the cost of such cards.

- (c) Any such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the directions contained on the card; and any violation of such direction shall be a trespass, punishable as a violation of this article.
- (d) Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peaceably depart from the premises when requested to do so by the occupant; and any refusal to do so shall be deemed a trespass and a violation of this article.

(Ord. No. 311, § 20.802(b)(7), 7-14-1997)

Sec. 22-39. Use of developed property.

No business activity for which a license is required under this division shall be located upon or conducted on any portion of property developed and used for another business which is designated or intended for the parking of vehicles, or the movement or travel of motor vehicles, including driveways.

(Ord. No. 311, § 20.802(b)(8), 7-14-1997)

Sec. 22-40. Vehicular stopping or parking.

No business activity shall be conducted in any place or in any manner that may tend to cause or result in motor vehicular traffic stopping, standing or parking within any highway or street right-of-way unless such stopping, standing or parking is otherwise permitted by law in such location for such business purpose.

(Ord. No. 311, § 20.802(b)(9), 7-14-1997)

Sec. 22-41. Minimum distance from highway or street right-of-way line.

No business activity shall be conducted within 15 feet of the right-of-way line abutting the property upon which such business is being conducted. If the property abuts the intersection of any streets or other roadways

open to motor vehicle traffic, the minimum distance from the right-of-way line shall be 15 feet from the right-of-way line of each such street or roadway.

(Ord. No. 311, § 20.802(b)(10), 7-14-1997)

Sec. 22-42. Touching of person or property of another without permission.

No business shall be conducted in a manner that any person shall touch the person of another or any motor vehicle or other property belonging to another in the course of engaging in the business activity without expressly requesting and obtaining permission prior to such touching.

(Ord. No. 311, § 20.802(b)(11), 7-14-1997)

Sec. 22-43. Wearing badge.

No person shall engage or attempt to engage in any business activity required to be licensed under this division except while wearing, on outer clothing in a prominent place upon the person, that certain identification badge to be issued under the licensing procedures of this division.

(Ord. No. 311, § 20.802(b)(12), 7-14-1997)

Secs. 22-44—22-60. Reserved.

DIVISION 2. LICENSE²²

Sec. 22-61. Required.

It shall be unlawful for any person to sell, attempt to sell, engage in or attempt to engage in any business or other activity as a transient merchant, peddler/solicitor, outdoor shopkeeper or distributor without a license obtained in accordance with the provisions of this article set forth in this division.

(Ord. No. 311, § 20.802(a), 7-14-1997)

Sec. 22-62. Records and enforcement.

- (a) *Records.* The clerk shall maintain a record of each license issued under this division; and such record shall contain the date of expiration of each permit, together with the notation of any violation which may occur, and any other appropriate information.
- (b) *Enforcement.* This division shall be enforced by the County Sheriffs Department, Harrison Township Fire Department, and the Township Building Department.

(Ord. No. 311, § 20.807, 7-14-1997; Ord. No. 354, 4-9-2007)

²²State law reference(s)—Licensing authority, MCL 42.15.

Sec. 22-63. Other licenses and permits.

Each person shall acquire and maintain any and all other licenses or permits required under any other ordinances of the township or laws of the state that may be required for such business activity, including a transient merchant's license as may be required under Public Act No. 51 of 1925 (MCL 445.371 et seq.) and any and all state department of revenue licenses that may be required.

(Ord. No. 311, § 20.802(b)(1), 7-14-1997)

Sec. 22-64. Types of licenses.

- (1) *Three-day license.* A three-day license shall apply to any business activity regulated under this article which the person seeking the license intends to conduct over any period of three consecutive days. The fee for this license shall be, for a single location or area, as established by resolution and if the business shall be conducted in more than one location or area, a sum as established by resolution for each additional location or area. Further, a fee as established by resolution shall be charged for each employee. It shall be renewable within the calendar year in which it is issued for as many successive three-day periods as the licensee may desire upon payment of the prescribed fee for each such license and upon written application on forms to be provided by the office of the township clerk, provided that each of the items of information in the original application and all of the business activity and matters pertaining to such application are substantially identical as originally submitted. If there is any substantial or material change in the information or business activity, a new application shall be made and in the manner and form prescribed in this division for an original application.
- (2) *Three-month license.* This type of license shall apply to any business activity for which a license is required under this chapter which is to be conducted in a mobile fashion, traveling by foot, wagon, motor vehicle, truck, bicycle, or any other form of conveyance for a period not less than three months, or more than six months. The fee for this license shall be, as established by resolution, plus an additional sum as established by resolution for each employee. Such license may be renewed for succeeding the application period as the licensee may desire upon payment of the prescribed fee for each such license and upon written application therefore on forms to be provided by the office of the township clerk, provided that each of the items of information in the original application and all of the business activity and matters pertaining to such application are substantially identical as originally submitted. If there is any substantial, or material change in the information or business activity, a new application shall be made in the manner and form prescribed in this chapter for an original application.
- (3) *Six-month license.* A six-month license shall apply to any business activity for which a license is required under this article which is to be conducted upon a particular parcel of property on a periodic basis in which property the licensee has an interest as owner or lessee under a written lease for a period not less than six months. The fee for this license shall be as established by resolution, plus an additional sum as established by resolution for each employee. Such license may be renewed for succeeding six-month periods as the licensee may desire upon payment of the prescribed fee for each such license and upon written application on forms to be provided by the office of the township clerk, provided that each of the items of information in the original application and all of the business activity and matters pertaining to such application are substantially identical as originally submitted. If there is any substantial or material change in the information or business activity, a new application shall be made in the manner and form prescribed in this division for an original application.
- (4) *Christmas tree and fireworks license.* A Christmas tree and fireworks license shall apply only to the sale of Christmas trees and fireworks and shall be for a period commencing the day following Thanksgiving Day through December 31 and June 15 to July 5 of each calendar year for which a license is issued. This license

shall be issued upon written application of forms to be provided by the office of the township clerk and upon payment of the fee for this license in an amount established by resolution for a single location, and if the business shall be conducted in more than one location, a sum established by resolution for each addition location. This license shall not be renewable from year to year and shall be subject to all of the other licensing procedure and regulation provision of this article except as modified by the following special provision application to this particular business:

- a. Upon receipt of a completed application, the clerk shall forward a copy of a firework application to the planning commission, who shall determine whether the proposed activity is consistent with the uses permitted within the zoning district. The planning commission shall endorse approval or disapproval of the use on the application and return it to the township clerk. If no disapproval is received by the clerk within 30 days, the clerk may issue the license to the applicant.
- b. Hours of operation for Christmas Trees and Fireworks shall be from 8:00 a.m. to 10:00 p.m., Eastern Time.
- c. For Christmas tree and fireworks, a cash bond, as established by resolution, shall be deposited with the township clerk's office, which bond shall be refunded upon presentation of a written certification from the township building department that all Christmas trees and fireworks and debris have been removed from the premises not later than July 6 after the holiday for fireworks and no later than January 10 of the succeeding calendar year for Christmas trees. If the township is required by any circumstance or reason whatsoever to incur any cost in the cleanup of debris and/or removal of trees from the premises, the cost shall be charged against such bond; and only the remaining portion, if any shall be subject to refund upon written application.
- d. Only Michigan legal fireworks may be displayed and sold from approved locations. Approved fireworks are referenced in the State Fire Marshal Bulletin #22.
- e. The location of sales/displays shall not be immediately adjacent to any buildings, sheds, gas stations, or miscellaneous structures.
- f. The maximum weight collectively of all fireworks permitted at a roadside stand shall not exceed 100 pounds.
- g. Not more than 25% of the gross weight of fireworks may be displayed at any time.
- h. Storage of firework in trailers, vehicles, sheds, etc., shall not be permitted.
- i. Fireworks shall be removed from the site/stand each day at the end of the sale period.
- j. The fireworks stand shall be conspicuously posted, "No Smoking," on all sides.
- k. Fireworks may only be displayed in enclosed display cases. GLASS ONLY. The fireworks displayed in the display cases(s) shall not be physically accessible by the public. The sale of fireworks and the transfer of fireworks from the display to a purchaser shall be supervised by an adult, 21 years of age or older.
- l. A portable fire extinguisher shall be provided at each stand. The extinguisher shall have a 4-A and shall be U/L listed.
- m. The fireworks display area shall be secured and supervised at all times.
- n. The site shall be maintained in a neat orderly condition and cleaned each night immediately after the close of sales.
- o. All electrical lines, temporary lighting fixtures, etc., shall comply with all codes and ordinances of Harrison Township.
- p. Fireworks cannot be sold to anyone under the age of 18.

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- q. Nothing within these requirements shall limit uniformed Fire Prevention Personnel from exercising sound judgment and strict enforcement of measures necessary for the safety and welfare of Harrison Township and its populace. If any of the above ordinances are not in full compliance, Harrison Township Fire Department will seize all fireworks from the violator.

(Ord. No. 311, § 20.803(a), 7-14-1997; Ord. No. 337, §§ I, II, 5-23-2002; Ord. No. 354, 4-9-2007; Ord. No. 373, § 1, 4-25-2011)

Sec. 22-65. Nonconforming use license exemption.

Any person who shall have heretofore or who shall hereafter establish a valid nonconforming use as provided in the zoning code, appendix A to this Code, shall be exempt from the licensing requirements of this article upon receiving approval from the township board in accordance with the following procedures and subject to the following conditions:

- (1) Written application for such exemption shall be submitted to the township clerk, who shall forward such application to the planning commission for its review and comments regarding the nonconforming use within the terms of the zoning code, which comments shall be submitted in writing to the clerk within 21 days thereafter.
- (2) Upon receipt of the planning commission comments, the clerk shall place the application on the agenda for township board action, which shall be taken at any regular or special meeting of the board held not later than 30 days after receipt of the planning commission comments. If the board denies the request, it shall set forth in writing the specific reasons for the denial.
- (3) Upon approval of the application by the township board, persons shall thereafter be exempt from the licensing provisions of this article until termination of the nonconforming use as such termination is prescribed for a nonconforming use under the terms of the zoning code.

(Ord. No. 311, § 20.804, 7-14-1997)

Sec. 22-66. Procedure and requirements for issuance of license.

- (a) *Minimum requirements.* The township clerk may issue a license upon written application in compliance with this article, provided the applicant possesses at least the minimum following qualifications:
 - (1) The applicant has not been convicted of any felony involving fraud, misrepresentation, deception, cheating, theft or dishonesty.
 - (2) If the applicant is an individual person, he is of good moral character.
 - (3) If the applicant is any other legal entity, it is properly licensed and registered by and with the appropriate public agency under the applicable laws of the state.
 - (4) The applicant possesses, and produces a copy thereof to the township clerk, all of the required state sales tax, transient merchant's and/or other licenses or permits necessary under the applicable laws of the state for the particular business activity for which a license is requested under this article.
 - (5) The applicant, if an individual, is at least 18 years of age and furnishes to the township clerk a birth certificate, driver's license, or other reliable and satisfactory written document establishing his age.
 - (6) The applicant furnishes to the township clerk a copy of such written instrument under which he contends the right to use the land on which the business activity for which the license is requested is to be conducted. If the applicant is the owner or purchaser of the property, a copy of the deed or land contract shall be furnished to the clerk. If the applicant is a tenant or licensee of the property, a copy of

the written lease or license agreement shall be furnished to the township clerk. If the lease or written license does not expressly authorize the particular business activity for which a license is requested, a written statement from the owner of the property shall be provided on forms available in the office of the township clerk. If the person or organization granting permission to the applicant to use the property is a tenant or lessee of the property, an affidavit from the fee owner of the land shall be furnished certifying that such owner consents to the permission granted by the tenant or lessee for such use.

- (7) The applicant furnishes to the township clerk a copy of a background check done by Macomb Count Sheriff/State Police of the applicant's character and any and all employees as submitted on application.
- (b) *Procedure for issuance of license.* The township clerk shall issue licenses based upon receipt of the following:
- (1) Payment of the required fees.
 - (2) Presentation of all documents required under subsection (a)(4) of this section which meet the requirements of this article.
 - (3) Written application made to the township clerk.
- (c) *Contents of application.*
- (1) The form of application shall be made available by the township clerk and contain at least the following information:
 - a. Name and addresses of the applicant, both permanent and temporary (if applicable).
 - b. Age of the applicant or, if not an individual, the type of organization and each place where licensed and registered as required under the laws of the state.
 - c. If the applicant is regularly employed in another business, or is the owner and operator of a different business, the name and address of employer and/or name and address of such business.
 - d. A brief description of the nature of business and/or goods to be sold under the license requested.
 - e. If any truck or other motor vehicle is to be used in the business, a description of such vehicle with the vehicle registration number and Michigan or other state's license registration number, together with a copy of the insurance policy currently in effect for public liability and property damage coverage for such vehicle.
 - f. A statement as to whether the applicant has ever been convicted of any criminal offense except traffic violations, and if he has, then when, where and what offense for which he was convicted.
 - g. A statement as to whether any civil judgment is outstanding and unpaid against the individual or organization which involves any claim of fraud, misrepresentation or conversion by the applicant, including the court and the case number where the judgment has been entered.
 - h. The street address or other specific location where the business is to be conducted for which the license is requested, together with the nature of the applicant's interest in such premises as owner, purchaser, tenant or licensee.
 - i. The applicant shall submit two copies of a drawing to an approximate scale, which shows the following minimum information:
 1. Dimensions of property.
 2. Location and dimensions of all buildings and structures on property.

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3. Location and dimensions of all parking, driveways and other lanes for motor vehicular travel.
 4. Location and dimensions where merchandise will be located for sale.
 5. All street right-of-way lines and their distance to the location where sales will be conducted.
 6. Location for vehicles to park while conducting business with the applicant.
 7. Location for entrance and exit of vehicles to the premises for purposes of the business of the applicant. This ingress and egress over and across the public right-of-way shall contain written approval on the drawing, or by separate written document, of the county road commission or the state department of transportation, whichever has jurisdiction of the roadway.
- j. Brief description and number of any state sales tax license, transient merchant's license, or other license or permit required for the business activity to be conducted under the laws of the state.
 - k. Name, age and address of each employee who will participate in the business. No person under the age of 14 years may participate in such business unless such person is the child of the owner of the business or the owner is the guardian of such child. In addition, a copy of any work permit required under Public Act No. 90 of 1978 (MCL 409.101 et seq.), known as the Youth Employment Standards Act, shall be furnished with the application. Each employee shall appear before the sheriff's department to be photographed for preparation and issuance of a badge to be worn by such employee as required in this article.
- (2) If the business is to be conducted in a temporary or other structure, the following information shall be stated on the application:
- a. Description or a photograph of the structure.
 - b. Dimensions and materials of which the structure is constructed.
 - c. Specific location of such structure on the premises where it will be situated.
 - d. If the structure is not of a nature to be disassembled and transported from the premises on a daily basis during the period for which the permit is issued, a written certification from the township building department that such structure complies with all applicable ordinances of the township relating to buildings and structures that are not portable or readily removable in nature.
 - e. A statement that the applicant has received a copy of this article and agrees to comply with all of its terms and provisions as well as all other ordinances of the township and laws of the state applicable to such business for which the license is requested; further, that the applicant has or will instruct each of its employees as to all of the requirements of this article relating to their participation in the business and will supervise such employees in a manner to reasonably ensure their compliance with this article and all other ordinances of the township and laws of the state applicable to such business.
- (d) *Partial refund of fees in event of denial.* If the license is denied, the applicant may obtain a refund of half the full fees paid to the clerk at the time of submitting the application, by written request made to the clerk.

(Ord. No. 311, § 20.803(b), 7-14-1997; Ord. No. 354, 4-9-2007)

Sec. 22-67. Revocation or denial of license appeal.

- (a) *Revocation.* Any license issued under this article may be revoked by the township board upon written notice from the county sheriff's department or building department for either of the following causes:
- (1) Fraud, misrepresentation or false statement contained in the application.
 - (2) Violation of any provision of this article or any other ordinance of the township or law of the state relating to the business for which the license was issued, or the qualifications of the licensee as required under this article.
- (b) *Denial.* If a license is denied, or if a license which has been issued is revoked, the applicant shall be entitled to a hearing before the township board upon written request through the office of the township clerk made within ten days of such denial or revocation. Upon receipt of such request, the clerk shall cause the request to be placed upon the agenda of the township board not later than 21 days following its receipt, at which time a full public hearing will be held on the matter; and the applicant may appear and present such evidence as he deems appropriate in support of his request for relief from the denial or revocation. The township board shall also inquire of and receive such evidence as may be presented by any person or department of the township or any other resident of the community which is relevant to the denial or revocation. Within 30 days of the close of the public hearing, the township board shall render its decision and give written notice to the applicant.

(Ord. No. 311, § 20.805, 7-14-1997)

Sec. 22-68. Waiver of fees.

Any bona fide charitable or other nonprofit organization which is not established or operated for political purposes may be issued a waiver of fees required under this article from the township clerk however, the application shall be completed and filed as provided under this article, and the cash bond deposit may be made as required under this article.

Resident service personnel and veterans. Every honorably discharged member of the Coast Guard, soldier, sailor or marine of the military or naval service of the United States who is a resident of this state and who is a veteran of any war in which the United States has been or shall be a participant shall have their right to hawk, vend or peddle his own goods, wares, and merchandise within the township by procuring a license from the township clerk as provided under this article. Upon presentation of a copy of a veteran's license duly issued by the county clerk certifying the application is veteran entitled to hawk, vend or peddle his own goods, the township clerk shall issue a license without cost to the applicant; however, the applicant shall post the cash bond deposit required under this article.

(Ord. No. 311, § 20.806, 7-14-1997; Ord. No. 354, 4-9-2007)

Sec. 22-69—22-90. Reserved.

ARTICLE III. MEDICAL MARIHUANA FACILITIES²³

²³Editor's note(s)—Ord. No. 397, § 1, adopted March 30, 2020, amended art. III, §§ 22-91—22-102 in its entirety to read as herein set out. Former art. III, §§ 22-91—22-102, pertained to similar subject matter, and derived from Ord. No. 392, § 1, adopted January 22, 2018.

Sec. 22-91. Legislative intent.

The purpose of this article is to exercise the police regulatory, and licensing powers of the Charter Township of Harrison by licensing and regulating Grower Facilities and Establishments, Safety Compliance Facilities and Establishments, Processor Facilities and Establishments, and Secure Transporter Facilities and Establishments to the extent permissible under the Michigan Marihuana Facilities Licensing Act (PA 281 of 2016) and the Michigan Regulation and Taxation of Marihuana Act (Initiated Law 1 of 2018) and to protect the public health, safety, and welfare of the residents of the Charter Township of Harrison.

The township finds that the activities described in this article are significantly connected to the public health, safety, security and welfare of its citizens and it is therefore necessary to regulate and enforce safety, security, fire, policing, health and sanitation practices related to such activities and also to provide a method to defray administrative costs incurred by such regulation and enforcement. The township finds that it is necessary to protect the residential neighborhoods by limiting the location and the concentration of the types of medical marihuana facilities and marihuana establishments to a specific area within the township.

It is not the intent of this article to diminish, reduce, or restrict the rights of a Qualified Patient or Primary Caregiver otherwise authorized by the Michigan Medical Marihuana Act or to prohibit the personal possession and cultivation of marihuana by adults 21 years of age or older.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-92. Definitions, interpretation and conflicts.

For the purposes of this article:

- (a) All activities related to marihuana, including those related to a grower facility and establishment, secure transporter facility and establishment, processor facility and establishment, or a safety compliance facility and establishment, shall be in compliance with the rules, and any amendments thereto, of the Marihuana Regulatory Agency, the Michigan Department of Licensing and Regulatory Affairs or any successor agency, the rules and regulations of the Charter Township of Harrison, the Michigan Medical Marihuana Act, the Medical Marihuana Facilities Licensing Act and the Michigan Regulation and Taxation of Marihuana Initiated Law 1 of 2018.
- (b) Any use which purports to have engaged in the cultivation or processing of marihuana into an usable form, or the distribution of marihuana, or the testing of marihuana either prior to or after enactment of this article, but without obtaining the required licensing set forth in this article, shall be deemed to be an illegally established use and therefore not entitled to legal nonconforming status under the provisions of this article, Code of Ordinances, the Township Zoning Ordinances or state law.
- (c) As of the effective date of this article, marihuana is classified as a Schedule 1 controlled substance under Federal law, which makes it unlawful to manufacture, distribute, cultivate, produce, possess dispense or transport marihuana. Nothing in this article is intended to grant immunity from any criminal prosecution under Federal law.
- (d) By accepting a permit issued pursuant to this article, the permit holder waives and releases the township, its officers, elected officials and employees from any liability for injuries, damages or liabilities of any kind that result from any arrest or prosecution of medical marihuana facility owners, operators, employees, clients or customers for a violation of state or federal laws, rules or regulations.
- (e) By accepting a permit issued pursuant to this article, all permit holders agree to indemnify, defend and hold harmless the township, its officers, elected officials, employees and insurers, against all liability, claims or demands arising on account of bodily injury, sickness, disease, death, property loss or

damage or any other loss of any kind, including, but not limited to, any claim of diminution of property value by a property owner whose property is located in proximity to a permitted operating facility or establishment, arising out of, claimed to have arisen out of, or in any manner connected with the operation of either a medical marihuana facility or a marihuana establishment, or use of a product cultivated, processed, distributed or sold that is subject to the permit, or any claim based on an alleged injury to business or property by reason of a claimed violation of the federal Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §1964(c).

(f) By accepting a permit issued pursuant to this article, a permit holder agrees to indemnify, defend and hold harmless the township, its officers, elected officials, employees and insurers, against all liability, claims, penalties, or demands arising on account of any alleged violation of the federal controlled substances act, 21 u.s.c. §801 et seq. Or article 7 of the Michigan Public Health Code, MCL 333.7101 et seq.

(g) The following terms shall have the definitions given:

Application means an application for a permit under this article and include all supplemental documentation attached or required to be attached thereto; the person filing the Application shall be known as the "Applicant."

Article means Chapter 22, Article III of the Harrison Township Code of Ordinances.

Cultivation or cultivate means (1) all phases of growth of marihuana from seed to harvest, and drying, trimming, and curing; or (2) preparing, packaging or repackaging, labeling or relabeling of any form of marihuana.

Department means the Michigan State Department of Licensing and Regulatory Affairs and any successor department or agency within the Department of Licensing and Regulatory Affairs, including the Marihuana Regulatory Agency ("MRA")

Township means the Charter Township of Harrison, Michigan.

Board or board of trustees means the Board of Trustees for the Charter Township of Harrison, Michigan.

Equivalent licenses means that term as defined in Adult-Use Marijuana Establishment Emergency Rule 1(l), or its successor rule. The license types in the following numbered columns are equivalent:

	1	2	3	4	5
Medical (MMFLA)	Grower Facility	Processor Facility	Provisioning Center	Secure Transporter	Safety Compliance Facility
Adult Use (MRTMA) Marihuana Establishment	Marihuana Grower	Marihuana Processor	Marihuana Retailer	Marihuana Secure Transporter	Marihuana Safety Compliance Facility

Grower means a licensee that is a commercial entity located in this state that cultivates dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

License means a current and valid License for a commercial medical marihuana facility or a marihuana establishment issued by the State of Michigan.

Licensee means a person holding a state operating license under the MMFLA or MRTMA.

Location means the particular building or buildings within a permitted property on which the permit holder will be authorized to conduct the medical marihuana facility(s) or marihuana establishment(s) activities pursuant to the permit.

Permit application refers to the requirements and procedures set forth in Sections 23-6 and 23-7.

Marihuana means that termed as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

Marihuana business means a marihuana facility under the MMFLA or a marihuana establishment under the MRTMA, or both.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et. seq. as amended from time to time.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et. seq. as amended from time to time.

MRTMA means the Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, MCL 333.27951 et. seq. as amended from time to time.

Marihuana establishment means a location at which a licensee is required to be licensed to operate a marihuana grower, marihuana safety compliance facility, marihuana processor, marihuana microbusiness, marihuana retailer, marihuana secure transporter, or any other type of marihuana related business licensed to operate by the department pursuant to the MRTMA and this article.

Marihuana retailer shall have the same meaning as that term is defined in Initiated Law 1 of 2018 MCL 333.27953 et seq. (MRTMA).

Medical marihuana facility(ies) means a location at a which a licensee is required to be licensed to operate under the MMFLA and under this article including a grower, processor, safety compliance facility, and secure transporter.

MTA means the Marihuana Tracking Act, MCL 333.27901 et.seq. as amended from time to time.

Ordinance means the ordinance adopting chapter 22, article III and amendments thereto.

Permit means the formal document of approval issued by the township under this article, which shall grant to a permit holder the ability to obtain a license(s) for a commercial medical marihuana facility(s) and/or a marihuana establishment, only for and limited to, a specific location.

Permit holder means the person that holds a current and valid permit issued under this article.

Permitted property means the real property comprised of a lot, parcel or other designated unit of real property (ie; property address) upon which the location is situated.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Processor: shall have the same meaning as that term is defined in PA 281 of 2016, LMCL 333.27101 et. Seq., (MMFLA), and Initiated Law 1 of 2018 MCL 333.27953 et seq. (MRTMA). MMFLA shall apply to medical marihuana facilities and MRTMA shall apply to marihuana establishments.

Provisioning center means a commercial entity that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where marihuana is sold at retail to registered qualifying patients or registered primary caregivers. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the department's marihuana registration process in accordance with the MMMA is not a provisioning center for the purposes of this article.

Safety compliance facility shall have the same meaning as that term is defined in PA 281 of 2016, MCL 333.27101 et. Seq., (MMFLA), and Initiated Law 1 of 2018 MCL 333.27953 et seq. (MRTMA). MMFLA shall apply to medical marihuana facilities and MRTMA shall apply to marihuana establishments.

Secure transporter shall have the same meaning as that term is defined in PA 281 of 2016, MCL 333.27101 et. Seq., (MMFLA), and Initiated Law 1 of 2018 MCL 333.27953 et seq. (MRTMA). MMFLA shall apply to medical marihuana facilities and MRTMA shall apply to marihuana establishments.

Stacked license means more than one marihuana license issued to a single licensee to operate as a class C grower as specified in each license at a marihuana business under the MMFLA or MRTMA or both.

Stakeholder means, with respect to a trust, the beneficiaries, with respect to a limited liability company, the managers or members, with respect to a corporation, whether profit or non-profit, the officers, directors, or shareholders, and with respect to a partnership or limited liability partnership, the partners, both general and limited.

State means the State of Michigan.

Township shall mean the Charter Township of Harrison.

(H) Any term defined by the MMMA, the Medical Marihuana Facilities Licensing Act or the MRTMA and not defined in this article shall have the definition given in the MMMA, the Medical Marihuana Facilities Act or the MRTMA.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-93. Locations and permits authorized.

(a) *Locations authorized.*

(1) The township shall limit the number of locations upon which marihuana businesses are hereby authorized for permits under this article to the following:

- a. Grower/processor: 18 Locations at which Grower Class A, B, or C may operate and processor(s) may locate or co-locate and hold equivalent licenses.
- b. Safety compliance facilities: 2 Locations
- c. Secure transporters: 2 Locations
- d. Provisioning/Retail: (0)

The township board may review and amend these numbers by resolution as it determines to be advisable and in the best interest of the township.

(2) A grower and a processor may co-locate at the same Location.

(3) A grower that has been issued a class C License and has applied to stack license(s) at a location shall apply for and obtain a separate permit from the township for each license stacked at a location.

(4) This article does not apply to, regulate or prohibit any protected patient or caregiver conduct pursuant to MMMA.

(5) The township shall not authorize provisioning facilities within the township.

(b) Prohibition of certain marihuana establishments. The Charter Township of Harrison hereby prohibits retail marihuana establishments from operating within the boundaries of the township pursuant to Initiated Law 1 of 2018 MCL 333.27953 et seq. (MRTMA) including any marihuana delivery business as set forth in the Departments rules. In addition, the township opts out and/or prohibits the following state licenses: marihuana microbusiness, marihuana event organizer license, temporary marihuana event and designated consumption establishments from operating within the township.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-94. Permit required.

- (a) No person shall own or operate a marihuana business within the township without first applying for and receiving a permit from the township clerk's office and must also obtain a License from the State of Michigan.
- (b) A marihuana business shall operate pursuant to the requirements of this article and shall comply at all times with the MMMA, MMFLA, MRTMA, MTA and the general rules of the department, as they may be amended from time to time.
- (c) The township shall assess an annual non-refundable permit fee and/or renewal fee of \$5,000.00 for each medical marihuana facility and marihuana establishment. The annual non-refundable fee shall be due and payable with the application for a permit and upon the application for a renewal of any such permit under this article. Applicant shall also pay any certificate of zoning fees, certificate of occupancy fees and inspection fees to defray the costs incurred by the township for inspection, administration and enforcement of the local regulations regarding the marihuana business.
- (d) A marihuana business must be registered with the building department as part of its certificate of compliance as to be inspected by the zoning, building, electrical, mechanical and plumbing inspectors and the fire and police departments for compliance with applicable local and state laws and codes. The marihuana business must pass annual safety inspections for compliance with the requirement of this article.
- (e) A permit and a renewal permit shall not confer any vested rights or reasonable expectation of subsequent renewal on the applicant or permit holder and shall remain valid only for one year. A permit issued under this article is conditioned on the approval of the applicant by the state pursuant to the MMFLA and MRTMA.
- (f) All applicants for a permit or renewal must be current on taxes and any other financial obligation to the township.
- (g) Each year, any pending applications for renewal or amendment of existing permits shall be reviewed and granted or denied before application for new permits are considered.
- (h) It is the sole and exclusive responsibility of each permit holder or person applying to be a permit holder at all times during the application period and during its operation to immediately provide the township with all material changes in any information submitted on an application and any other changes that may materially affect any license or its permit.
- (i) No permit issued under this article may be assigned or transferred to any person unless the assignee or transferee has submitted an application and all required fees under this article and has been granted a permit by the township and approved by the state. No permit issued under this article is transferrable to any other location.
- (j) The permit issued under this article, as well as the license shall be prominently displayed at the location in a place where it can be easily viewed by the public, law enforcement, township Officials and/or agents, and marihuana regulatory agency's authorized agents. Failure to maintain or display a current permit and license shall be a violation of this article.
- (k) Acceptance by the permit holder of a permit constitutes consent by the permit holder and its owners, officers, managers, agent and employees for any state, federal or local law enforcement to conduct random and unannounced inspections of the marihuana business without a search warrant, and all articles of property in that marihuana business at any time.
- (l) No permit shall be granted or renewed for a marihuana business in a residence.
- (m) A permit holder may not engage in any other marihuana business at the location or on the permitted property, or in its name at another location within the township, without first obtaining a separate permit.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-95. Other laws and ordinances.

In addition to the terms of this article, any marihuana business shall comply with all township ordinances, including without limitation the township zoning ordinance, and with all other applicable federal, state and local ordinances, laws, codes and regulations. To the extent that the terms of this article are in conflict with the terms of any other applicable federal, state or local ordinances, laws codes or regulations, the terms of the most restrictive ordinance, law, code or regulation shall control.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-96. Application for and renewal of permits.

- (a) *Application.* An application for a permit for a marihuana business shall be submitted to the clerk, and shall contain the following information:
- (1) The name, address, phone number and email address of the permit holder and the proposed marihuana business. For purposes of this section, "permit holder" shall have the same definition as "applicant" as set forth in the MRTMA and MMFLA.
 - (2) The names, home addresses and personal phone numbers for all owners, directors, officers and managers of the permit holder, and the marihuana business.
 - (3) One copy of all of the following:
 - a. All documentation showing the proposed permit holder's valid tenancy, ownership or other legal interest in the proposed location and permitted premises. If the applicant is not the owner of the proposed location and permitted premises, a notarized statement from the owner of such location authorizing the use of the location for a marihuana business.
 - b. If the proposed permit holder is a corporation, non-profit organization, limited liability company or any other entity other than a natural person, indicate its legal status, attach a copy of all company formation documents (including amendments), proof of registration with the State of Michigan, and a certificate of good standing.
 - c. A valid, unexpired driver's license or state issued ID for all owners, directors, officers and managers of the proposed marihuana business.
 - d. Evidence of a valid sales tax license if such a license is required by state law or local regulations.
 - e. Non-refundable application fee/renewal fee of \$5,000.00.
 - f. Business and operations plan, showing in detail the marihuana business's proposed plan of operation, including without limitation the following:
 1. A description of the type of marihuana business proposed and the anticipated or actual number of employees. The name of the proposed manager of the marihuana business. The days and hours the marihuana business will be open and/or in operation.
 2. A security plan meeting the requirements of section 22-100(9) of this article which shall include a general description of the security systems(s) and lighting plan showing the lighting outside of the marihuana business for security purposes in compliance with township requirements, current centrally alarmed and monitored security system service

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- agreement for the proposed location, and confirmation that those systems will meet state requirements and be approved by the state prior to commencing operations.
3. A list of material safety data sheets for all nutrients, pesticides, and other chemicals proposed for use in the marihuana business. A copy of a procedural plans for testing of contaminants, including mold and pesticides.
 4. A description and plan of all equipment and methods that will be employed to stop any impact to adjacent uses, including enforceable assurances that no odor will be detected from outside the location.
 5. A plan for the disposal of marihuana and related byproducts that will be used at the business which includes at a minimum how the plan will protect against any marihuana being ingested by any person or animal, indicating how the waste will be stored and disposed of, and how any marihuana will be rendered unusable upon disposal. Disposal by on-site burning or introduction to the sewage system is prohibited.
- g. An identification of any business that is directly or indirectly involved in the growing, processing, testing, transporting or sale of marihuana for the marihuana business.
 - h. Whether any applicant has ever applied for or has been granted any commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction that has been denied, restricted, suspended, revoked, or not renewed and a statement describing the facts and circumstances concerning the application, denial, restriction, suspension, revocation, or nonrenewal, including the licensing authority, the date each action was taken and the reason for each action.
 - i. A site plan of the location and the permitted property. The site plan shall also include an interior floor plan as well as a scale diagram illustrating the location upon which the marihuana business(es) is to be operated, including all available parking spaces and specifying which parking spaces, if any, are handicapped accessible. A location area map of the marihuana business and the surrounding area that identifies that the location of the marihuana business lies in accordance with the industrial marihuana buffer overlay district as set forth in section 14.21 of the Harrison Township Zoning Ordinance.
 - j. Information regarding any other marihuana business that the licensee is authorized to operate in any other jurisdiction within the state, or another state, and the applicant's involvement in each marihuana business.
 - k. Proof of insurance. A licensee shall at all times maintain full force and effect for duration of the license, worker's compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued from a company licensed to do business in Michigan. A licensee shall provide proof of insurance to the township clerk in the form of a certificate of insurance evidencing the existence of a valid and effective policy which discloses the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, the policy number and the names of the additional insureds. The policy shall name the Charter Township of Harrison and its officials and employees as additional insureds to the limits required by this section. A Licensee or its insurance broker shall notify the township of any cancellation or reduction in coverage within seven days of receipt of insurers' notification to that effect. The licensee or permit holder shall forthwith obtain and submit proof of substitute insurance to the township clerk within five business days in the event of expiration or cancellation of coverage.
- (4) Any other information reasonably requested by the township to be relevant to the processing or consideration of the application.

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- (5) Information obtained from the applicant or proposed permit holder related to the licensure under this article, the MMFLA and the MRTMA is exempt from disclosure under the Freedom of Information Act.

(b) *Renewal application and amendment.*

- (1) Each permit issued under this article must be renewed annually. The township clerk shall make renewal and amendment applications and forms available and shall develop rules to determine how applications, forms or supplemental information requests for renewal or amendment will be accepted.
- (2) Renewal applications timelines: A renewal application shall be submitted to and received by the clerk not less than 45 days prior to the expiration of the annual permit, except that an application requesting a change in the location shall be submitted and received not less than 90 days prior to the expiration of the permit. The township clerk shall not accept a renewal application on the 44th day prior to the expiration of the annual permit or any day thereafter. A permit holder whose permit expires and for which a renewal application has not been received in accordance with the time frame set forth in this section and approved by the expiration date shall be deemed to have forfeited the permit under this article.

(3) Amendments.

- a. A marijuana business shall not make or allow any changes to be made in the operation, management, or ownership of the marijuana business as represented in the license application, without first obtaining the approval of the township through an amended application.
- b. An amended application must be submitted when there is a change in any information the applicant or licensee was required to provide to the township or the Department/MRA in the most recent application on file with the township or the Department/MRA, as applicable.
- c. If the township denies an amended application, then a licensee shall be allowed to operate under its license only if the proposed amendments are not in effect and if the license is otherwise valid.

(c) *Approval, issuance, denial and appeal.* All inspections, review and processing of the application shall be completed within 90 days of receipt of a complete application and all required fees.

An Application shall not be approved unless:

- (1) The fire department and the building department has inspected the proposed location and permitted premises for compliance with all laws for which they are charged with enforcement and for compliance with the requirements of this article.
- (2) The township planner has confirmed that the proposed Location complies with the zoning ordinance and this article.
- (3) The township treasurer has confirmed that the applicant and/or any stakeholder is not in default to the township.

The township clerk shall approve or deny the permit application within 90 days of receipt of the completed application and fees.

- a. Medical marijuana facility. Within the time frame for approval, the clerk shall assign an identifying number to an application for submission into a lottery for random selection of those applications approved by the clerk to be issued a permit for an approved medical marijuana facility.

The processing time may be extended upon written notice by the township for good cause, and any failure to meet the required processing time shall not result in the automatic grant of an approved application for submission into a lottery.

Any denial must be in writing and must state the reason(s) for denial. Any final denial of a permit may be appealed to the township board, provided that, the pendency of an appeal shall not stay or extend the expiration

of any permit. The township has no obligation to process or approve any incomplete application; and any times provided under this article shall not begin to run until the township receives a complete application, as determined by the township clerk. A determination of a complete application shall not prohibit the township from requiring supplemental information.

Subsequent to amendments made to this article, a lottery may be held within 100 days from a board approved application acceptance window of time for any available permits subject to the allowable numbers for approved businesses pursuant to section 23-3(a).

b. Marihuana establishment application procedure and selection standards.

Initial receipt period. For a marihuana establishment subject to the numerical limitation set forth in section 22-3, the initial receipt period shall commence and end on dates to be set by resolution of the township board.

The clerk will accept and receive any complete application that includes the information and documents required by section 22-96.

If after close of business on the end date of the initial receipt period for applications for a permit for a marihuana establishment location, the township has received more applications than the number of allowable permits and locations as set forth in section 22-93, the township will decide among competing applications by a competitive process intended to select applicants who are best suited to operate in compliance with the MRTMA. The township will provide applicants with 21 calendar day notice that the applicants must provide supplemental information and documentation to the township to support the following assertions from the applicant to obtain points available within each of the following categories:

CATEGORY	AVAILABLE POINTS
Existing MMFLA Harrison Township Permit Holder	100
Existing MMFLA State license holder for a facility located in Harrison Township	125
Number of current MMFLA Permits at proposed MRTMA location	10 pts per permit -100 pts max
Number of MRTMA Permits Applied for (Class A, B, C and /or processing)	10 pts per permit-100 pts max
Number of Existing and Projected Full Time Employees at location	1 pt per Full Time Employee-40 pts max
New Investments per Million or more (not including building) This category may be applied retroactively to those permit holders that meet this requirement	10 pts per million-40 pts max No points for investments under \$1 million
Re-occupancy of vacant building	20
New site plan/façade improvements to current building	20
Existing MMFLA state license holder proposed timeline to be operational and licensed for an MRTMA Establishment	Within 90 days- 100 pts Within 180 days -50 pts Within 365 -25 pts
TOTAL	MAXIMUM-605

Upon timely receipt of the supplemental information The township clerk shall tally the available points for each applicant according the criteria set forth above and based upon the resulting scores select the applicant who receive the most points to grant a permit for an approved marihuana establishments location. Permits shall be

granted thereafter in descending order. In the event of a tie, score, the clerk shall conduct a random drawing from among the applicants with tied score to determine which applicant shall receive a permit.

- (d) *Applications for new permits where no building is as yet in existence.* Any applicant for a marihuana business permit whose buildings are not yet in existence at the time of the township's initial permit approval shall have one year immediately following the date of the township's initial approval to complete construction of the building, in accordance with subsection 6 of this section, applicable zoning ordinances, building codes and any other applicable state or local laws, rules or regulations, and to commence business operations.
- (e) *Duty to supplement.*
 - (1) If, at any time before or after a permit is issued pursuant to this article, any information required in the permit application, the MMFLA, the MRTMA, or any rule or regulation promulgated thereunder, changes in any way from that which is stated in the application, the applicant, permit holder or licensee shall supplement such information in writing within ten days from the date upon which the such change occurs.
 - (2) An applicant, permit holder or licensee has a duty to notify the township clerk in writing of any pending criminal charge, and any criminal conviction of a felony or other offense involving a crime of moral turpitude by the applicant, any owner, principal officer, director, manager, or employee within ten days of the charge.
 - (3) An applicant, permit holder or licensee has a duty to notify the township clerk in writing of any pending criminal charge, and any criminal conviction, whether a felony, misdemeanor, petty offense, or any violation of a local law related to the cultivation processing, manufacture, storage, sale, distribution testing or consumption of any form of marihuana, the MMMA, the MMFLA, MTA, MRTMA, any building, fire, health or zoning statute, code or ordinance related to the cultivation, processing, manufacture, storage, sale, distribution testing or consumption of any form of marihuana by the permit holder/licensee, any owner, principal officer, director, manager, or employee within ten days of the event.
- (f) *Permit forfeiture.* In the event that a marihuana business does not commence operations within one year of issuance of a permit, the permit holder may submit to the township clerk a written request for a one year renewal permit, pay the renewal fee and the township shall issue a renewal. In the event a permit holder does not commence operations within two years of issuance of initial permit the permit shall be deemed forfeited; the business may not commence operations and the license is not eligible for renewal. The permit holder may appeal to the township board for an extension beyond year two upon a showing of good cause.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-97. Revocation and review.

A Permit granted under this article may be revoked by the township board after an administrative hearing if the township board finds and determines that grounds for revocation exist. Any grounds for revocation must be provided to the permit holder/licensee at least ten days prior to the date of the hearing by first class mail to the address given on the permit application or any address provided to the township clerk in writing subsequent to the filing of an application. A permit applied for and issued under this article may be denied or revoked for the following reasons:

- (1) Any fraud or misrepresentation contained in the permit application.
- (2) Any knowing violation of this article or any code of ordinance violation or zoning ordinance violation.
- (3) Loss of the permit holder/licensee's state marihuana business license.

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- (4) Failure of the applicant to obtain a state marihuana business license within a reasonable time after obtaining a permit under this article.
 - (5) The marihuana business is determined by the township board to have become a public nuisance or otherwise is operating in an unlawful manner or in such a way as to constitute a menace or hazard to the health, safety, or general welfare of the public.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-98. Permit and license as revocable privilege.

A permit issued by this article is a revocable privilege granted by the township and is not a property right. Granting a permit does not create or vest any right, title, franchise, or other property interest. Each license is exclusive to the licensee and a licensee or any other person must apply for and receive the township's approval before a license is transferred, sold, or purchased. A licensee or any other person shall not lease, ledge or borrow or loan money against a license. The attempted transfer, sale, or to the conveyance of an interest in a license without the prior approval of the Department/MRA is grounds for suspension or revocation of the permit or for other sanction considered appropriate by the township.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-99. Location requirements.

- (a) Any grower shall be located in the IND industrial district.
- (b) Any processor shall be located in the IND industrial district.
- (c) Any secure transporter shall be located in the IND industrial district.
- (d) Any safety compliance facility shall be located in the IND industrial district.
- (e) The marihuana business shall conform to all zoning and planning standards set forth for the IND industrial district of the zoning ordinance.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-100. General operational requirements.

Except as may be pre-empted by state law or regulation, the following general requirements for marihuana businesses apply:

- (1) A marihuana business must obtain a state license before they can open for business.
- (2) No person shall reside in or permit any person to reside in the marihuana business or permitted property.
- (3) No person under the age of 18 shall be allowed to enter into the marihuana business without a parent or legal guardian.
- (4) Signs shall comply with the township's sign ordinance.
- (5) There shall be posted in a conspicuous location within each marihuana business a legible sign containing the following warning language:
 - a. The possession, use, or distribution of marihuana is a violation of federal law.

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- c. It is illegal under state law to drive a motor vehicle or to operate machinery when under the influence of, or impaired by, marihuana; and
 - c. No one under the age of 18 years is permitted on the premises.
- (6) Outdoor storage is strictly prohibited.
 - (7) Discharge of toxic, flammable or hazardous materials into the township sewer is prohibited.
 - (8) A copy of premises liability and casualty damage insurance in the amount described in section 22-96 shall be submitted to the township when the applicant has been notified that they have been approved for a permit.
 - (9) Marihuana businesses shall at all times maintain a security system that meets state law requirements and regulations. A description of the security plan shall be submitted with the application for a permit. A separate security system is required for each marihuana business. The security plan must include, at a minimum the following:
 - a. Security surveillance cameras installed to monitor and record all entrances, along with the interior and exterior of the permitted premises and all areas of the premises where persons may gain or attempt to gain access to marihuana or cash maintained by the marihuana business.
 - b. Robbery and burglary alarm systems which are professionally monitored and operated 24 hours a day/7 days a week. The security plan submitted to the township shall identify the company monitoring alarm, including contact information, and updated within 72 hours of any change of monitoring company.
 - c. A locking safe permanently affixed to the location that shall store any processed marihuana and all cash remaining in the marihuana business overnight. For marihuana infused products that must be kept refrigerated or frozen, the marihuana business may lock the refrigerated container or freezer in a manner authorized by the township in place of use of a safe, so long as the container is affixed to the building structure.
 - d. All marihuana in whatever form stored at the marihuana business shall be kept in a secure manner and shall not be visible from outside the location, nor shall it be grown, processed, exchanged, displayed or dispensed outside the location.
 - e. All security recordings and documentation shall be preserved for at least 30 days by the permit holder/licensee and made available to any law enforcement upon request for inspection.
 - (10) The amount of marihuana at the marihuana business and under the control of the permit holder/licensee, owner or operator of the facility shall not exceed that amount permitted by the state license or the township's permit.
 - (11) Smoking or consumption of controlled substances, including marihuana, within the marihuana business is prohibited. It shall be a violation of this article to engage in such behavior, or for a person to knowingly allow such behavior to occur. Evidence of all of the following gives rise to a rebuttably presumption that a person allowed the consumption of marihuana on or within a location in violation of this section:
 - a. The person had control over the location or the portion of the location where the marihuana was consumed.
 - b. The person knew or reasonably should have known that the marihuana was consumed.
 - c. The person failed to take corrective action.
 - (12) All activities of marihuana business must occur indoors.

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- (13) The operation and design of the marihuana business shall minimize any impact to adjacent uses so as not to interfere with the reasonable and comfortable use and enjoyment of another's property, including the control of any odor by maintaining and operating an air filtration system so that no odor is detectable outside the location. Whether or not a marihuana odor emission interferes with the reasonable and comfortable use and enjoyment of another's property shall be measured against the objective standards of a reasonable person. No marihuana shall be cultivated, grown, manufactured or processed in any manner that would emit odors beyond the interior of the premises or which is otherwise discernable to another person. The odor must be prevented by the installation of an operable filtration to ventilation and exhaust equipment. Odors must otherwise be effectively confined to the interior of the location in which the odor is generated. Venting of marihuana odors into the areas surrounding the location is deemed and declared to be a public nuisance. In the event that any odors, debris, dust, fluids or other substances exit a location, the owner of the location and the permit holder/licensee shall be jointly and severally responsible for immediate full clean-up and correction of such condition.
 - (14) All persons working in direct contact with medical marihuana shall conform to hygienic practices while on duty, including but not limited to:
 - a. Maintaining adequate personal cleanliness;
 - b. Washing hands thoroughly in adequate hand washing areas before starting work and at any other time when the hand may have become soiled or contaminated; and
 - c. refraining from having direct contact with marihuana if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.
 - (15) Litter and waste shall be properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where marihuana is exposed.
 - (16) Floors, walls and ceilings shall be constructed and/or maintained in such a manner that they may be adequately cleaned and kept in good repair.
 - (17) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for waste development and minimize the potential for waste becoming an attractant, harborage or breeding place for pests.
 - (18) Marihuana that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.
 - (19) There shall be no other accessory uses permitted within the same location other than those associated with cultivating, processing or testing marihuana. Multi-tenant industrial buildings may permit accessory uses in suites segregated from each marihuana business.
 - (20) All necessary building, electrical, plumbing, and mechanical and fire suppression permits shall be obtained from the township for any portion of the marihuana business in which electrical wiring; lighting and /or watering devices that support the cultivation, growing, harvesting, processing or secure transporting of the marihuana are located.
 - (21) That portion of the marihuana business where any chemicals such as herbicides, pesticide, fertilizers are stored shall be subject to inspection and approval by the township fire department to ensure compliance with the applicable fire code.
 - (22) The dispensing of marihuana at the marihuana business shall be prohibited. no free samples of medical marihuana shall be distributed from any marihuana business.

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- (23) Marihuana business shall be free from infestation by insects, rodents, birds, or vermin, of any kind.
 - (24) Growers shall not produce products other than useable marihuana intended for human consumption.
 - (25) A marihuana business shall be open for inspection during the stated hours of operation and as such other times as anyone is present at the location. No person shall refuse entry to, or in any manner interfere with the inspection of any marihuana business.
 - (26) A grower may co-locate with a processor. However, each marihuana business must acquire separate licenses and permits.
 - (27) Any failure by a permit holder/licensee to comply with the provisions of MMMA, MMFLA, MRTMA, the MTA and the general rules of the department of licensing and regulatory affairs or their successors, as they may be amended from time to time, or this article is a violation of this article and is sufficient grounds for suspension and revocation of the permit issued under this article.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-101. Township requirements.

The township clerk shall provide the following information to the department within 90 days after the township receives notification from the applicant that the applicant has applied for a license under the MMFLA or MRTMA:

- (1) A copy of the local ordinance that authorizes the marihuana business.
- (2) A copy of any zoning regulations that apply to the proposed marihuana business within the township.
- (3) A description of any violation of the local ordinance or zoning regulations included under subdivision (a) or (b) committed by the applicant, but only those violations related to activities licensed under the MMFLA, MMMA and MRTMA.
- (4) The township's failure to provide information to the state licensing board shall not be used against the applicant.
- (5) Information the township receives from the applicant related to licensure under this article is exempt from disclosure under the Freedom of Information Act, 1976 PA 442, MCL 15.231 et seq.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-102. Penalties.

In addition to the possible denial, suspension, revocation or nonrenewal of a license under the provisions of this article, any person, including, but not limited to, any licensee, manager or employee of a marihuana business, or any customer of such business, who violates any of the provisions of this article shall be guilty of a civil infraction and such penalty is a civil fine of not more than \$500.00 in accordance with section 1-7 of this Code.

(Ord. No. 397, § 1, 3-30-2020)

Sec. 22-103—22-149. Reserved.

ARTICLE IV. RESERVED²⁴

Secs. 22-150—22-152. Reserved.

Chapter 26 CIVIL EMERGENCIES²⁵

ARTICLE I. IN GENERAL

Secs. 26-1—26-30. Reserved.

ARTICLE II. EMERGENCY FLOOD CONTROL SYSTEM²⁶

Sec. 26-31. 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:

Appeal means a request for a review of the emergency preparedness committee's or the emergency preparedness officer's interpretation of any provision of this article.

Declaration of flood emergency means a declaration of a flood emergency created by the township supervisor following a meeting of the emergency preparedness committee called for that purpose. Only in the absence of the supervisor at such meeting can the emergency preparedness officer acting through the committee make such a declaration.

Emergency preparedness committee and committee mean the following township officials: supervisor, controller, fire chief, assistant fire chief, superintendent of the water and sewer department, building official, emergency preparedness officer and such other individuals as the township board may from time to time designate.

²⁴Editor's note(s)—Ord. No. 397, § 2, adopted March 30, 2020, repealed art. IV, §§ 22-150—22-152, which pertained to marihuana establishments and derived from Ord. No. 394, §§ 1, 2, adopted November 26, 2018.

²⁵Cross reference(s)—Administration, ch. 2; emergency services, ch. 30; fire prevention and protection, ch. 38.

State law reference(s)—Emergency preparedness, MCL 30.401 et seq.; emergency powers of governor, MCL 10.31 et seq.

²⁶Cross reference(s)—Floods, ch. 42.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15.

Emergency preparedness officer and officer mean the person nominated by the emergency preparedness committee and appointed by the township board by resolution for the purpose of execution of the terms and provisions of this article.

Flood control area means those areas specifically designated as flood control areas by the emergency preparedness officer.

Flood emergency means any high water condition posing an immediate or imminent threat to persons or property as stated in a written declaration to the township board to that effect by the township supervisor or by the emergency preparedness committee acting through the emergency preparedness officer.

(Comp. Ords. 1988, § 25.602)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 26-32. Penalty.

Any person violating any lawful order of the emergency preparedness committee or the emergency preparedness officer or the provisions of this article shall be responsible for a municipal civil infraction.

(Comp. Ords. 1988, § 25.610)

Sec. 26-33. Findings of fact.

Areas of the township are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(Comp. Ords. 1988, § 25.601(B))

Sec. 26-34. Statement of purpose and objective.

It is the purpose and objective of this article to:

- (1) Allow temporary control measures to be utilized by certain specified township personnel or their designees during times of declared flood emergency or in immediate anticipation of a flood emergency;
- (2) Allow specified township personnel or their designees to take steps to safeguard persons and property in the exercise and furtherance of this article;
- (3) Provide for the declaration and determination of a flood emergency;
- (4) Provide for assessment and collection of costs of the township for preventative and/or protective measures taken during the time of a declared flood emergency or in immediate anticipation of a flood emergency;
- (5) Provide for a method of review of action taken by the township during the time of a declared flood emergency or in immediate anticipation of a flood emergency;
- (6) Promote the public health, safety and general welfare of the inhabitants of the township;
- (7) Minimize public and private losses due to a flood emergency; and
- (8) Provide penalties for violations of this article.

(Comp. Ords. 1988, § 25.601(C))

Sec. 26-35. Creation of emergency preparedness committee.

- (a) There is created an emergency preparedness committee in which is vested the power and authority to administer, manage, operate and control the flood control system established by the township and to construe and make effective the provisions of this article. The committee shall consist of at least six individuals as follows:
- (1) Township supervisor.
 - (2) Township controller.
 - (3) Township fire chief.
 - (4) Township assistant fire chief.
 - (5) Superintendent of the water and sewer department.
 - (6) Township building official.
- (b) Each member of this committee shall continue to serve on the committee until his successor has qualified for the office of that particular committee person. The committee may nominate the emergency preparedness committee person. The committee may nominate the emergency preparedness officer from its own number or may elect to nominate an individual from outside the committee. The committee nomination for emergency preparedness officer shall be subject to board approval, and that individual shall serve at the sole discretion of the township board. During such appointment, the emergency preparedness officer shall be a full voting member of the committee.

(Comp. Ords. 1988, § 25.603)

Sec. 26-36. Emergency powers.

During a declared flood emergency, the emergency preparedness committee, acting as a committee or through the emergency preparedness officer, has full power and authority to:

- (1) Order mobilization of community members and township employees.
- (2) Authorize and supervise the installation of temporary dikes, sandbags or other methods of flood prevention or flood protection.
- (3) Enter upon public or private lands and premises to supervise flood control and install, erect and/or remove temporary protective measures.
- (4) Issue directives barring the public from designated flood control areas during the duration of a declared flood emergency.
- (5) Order the evacuation of designated flood control areas and prohibit any person from occupying, walking upon or otherwise using designated areas during the duration of a declared flood emergency.
- (6) Mobilize volunteers.
- (7) Distribute and utilize flood prevention or flood protection materials.
- (8) Establish a communication and distribution center at the township offices or such other alternative sites as may be selected in the sole discretion of the committee.

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- (9) Coordinate local community efforts with the flood protection and flood control efforts of the county, state and United States governments.
 - (10) Incur on behalf of the township expenses in providing flood prevention or flood protection measures.
 - (11) Maintain appropriate accounting records relative to the expenditure of time and expense on the part of township employees and township residents during the duration of the declared flood emergency.
 - (12) Issue such other orders or engage in such other activities as may be necessary to implement the purpose and objective of this article.

(Comp. Ords. 1988, § 25.604)

Sec. 26-37. Authority to incur expenses.

Specific authority is granted to the emergency preparedness committee acting as a committee or through the emergency preparedness officer to incur on behalf of the township expenses in providing flood prevention or flood protection measures pursuant to the provisions of this article. The actual cost to the township of providing flood prevention or protection measures pursuant to the provisions of this article shall be prorated and apportioned by the township among the lots or parcels for which flood prevention or protection has been provided; and the actual costs to the township, as prorated and apportioned, shall be charged to the relevant land owner to be assessed pursuant to section 26-38. Where prevention or protection is provided, a minimum charge established by resolution per lot or parcel affected shall be charged to the landowner to be assessed pursuant to section 26-38.

(Comp. Ords. 1988, § 25.605)

Sec. 26-38. Collection of expenses.

- (a) The full amount of any charges assessed pursuant to section 26-37, with respect to each lot or parcel of land for which flood prevention control or protection has been afforded pursuant to this article, shall be a special assessment to be spread against such land and property, to be assessed, levied and collected at the same time and in the same manner as other township taxes, and shall be returned in the same manner for nonpayment.
- (b) The cost incurred by the township in affording flood protection control or flood prevention pursuant to this article shall be a lien against the real property affected and shall be reported to the assessing officer of the township, who shall assess the cost against the property for which the flood protection or flood prevention has been provided.
- (c) The owner or party in interest in whose name the affected property appears upon the last local tax assessment records shall be notified of the amount of such costs by first class mail at the address shown on the township records. If the owner or party in interest in whose name affected the property appears upon the last local tax assessment record fails to repay the costs within 30 days after mailing by the assessor of the notice of the amount, the assessor shall add the costs to the next tax roll of the township; and the costs shall be collected in the same manner as by law all other taxes are collected by the township.

(Comp. Ords. 1988, § 25.606)

Sec. 26-39. Termination of flood emergency.

The township supervisor or the emergency preparedness committee acting as a committee or through the emergency preparedness officer shall declare the termination of a flood emergency by issuance of a written directive to that effect to the township board, stating the effective date and the time of the termination.

(Comp. Ords. 1988, § 25.607)

Sec. 26-40. Review.

Any person may request a hearing before the emergency preparedness committee for the purpose of reviewing the necessity of the continued implementation by the township of the emergency flood control system and procedures described in this article. Such review may include but shall not be limited to the necessity for continued declaration of a flood emergency, the adequacy or inadequacy of the flood prevention or flood protection procedures taken, the reasonableness of costs incurred by the committee or the officer in providing flood prevention or flood protection methods, and the reasonableness of costs incurred by the committee or officer in providing flood prevention or flood protection methods and the reasonableness of the appointment of costs among the affected landowners. The procedures to be followed in the processing of any application for review, including the assessment and amount of an application fee, shall be established by resolution of the township board. A copy of such resolutions shall be kept on file in the township clerk's office for public inspection. Any person aggrieved by a decision or order of the committee or the officer may appeal the decision or order to the township board and may request a further hearing before that body. The township board is specifically authorized to hear and decide any purported or alleged error in the implementation of this article by the committee or the officer; and the township board shall have the authority to reverse or affirm, wholly or partly, or may modify the order of the committee or the officer in any fashion as may be deemed by the township board necessary and proper. Any person aggrieved by the final decision or order of the township board may appeal the decision or order to the circuit court within 20 days from the date of the decision of the township board.

(Comp. Ords. 1988, § 25.608)

Sec. 26-41. Disclaimer of liability.

This article shall not create liability on the part of the township, its officers or employees, including but not limited to the emergency preparedness committee and the emergency preparedness officer, for any flood damages that result from reliance on this article or any administrative decision lawfully made under this article.

(Comp. Ords. 1988, § 25.609)

Chapter 28 DOWNTOWN DEVELOPMENT AUTHORITY

Sec. 28-1. Title.

This chapter shall be known as the "Downtown Development Authority Ordinance" of the Charter Township of Harrison.

(Ord. No. 384, § 1, 2-9-2015)

Sec. 28-2. Determination of necessity; purpose.

The township board hereby determines that it is necessary for the best interests of the public to create a public body corporate which shall operate to increase property tax valuation where possible in the business district of the township, promote economic growth, halt property value deterioration, and eliminate the causes of that deterioration, pursuant to Act 197 of the Public Acts of Michigan, 1975, as amended.

(Ord. No. 384, § 2, 2-9-2015)

Sec. 28-3. Definitions.

The terms used in this chapter shall have the same meaning as given to them in Act 197 or as hereinafter in this section provide unless the context clearly indicates to the contrary. As used in this chapter:

Act 197 means Act No. 197 of the Public Acts of Michigan of 1975, as amended.

Authority means the Harrison Township Downtown Development Authority created by this chapter.

Authority board or board of directors means the board of directors of the authority, the governing body of the authority.

Downtown district means the downtown district designated by this chapter, as now existing or hereafter amended, and within which the authority shall exercise its powers.

Township means the Charter Township of Harrison, County of Macomb, State of Michigan.

Township board means the Township Board of the Charter Township of Harrison.

(Ord. No. 384, § 3, 2-9-2015)

Sec. 28-4. Creation of authority.

There is hereby created pursuant to Act 197 a downtown development authority for the township. The authority shall be a public body corporate and shall be known and exercise its powers under the title of the "Harrison Township Downtown Development Authority". The authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purposes of its incorporation as provided by this chapter and Act 197. The enumeration of a power in this chapter or in Act 197 shall not be construed as a limitation upon the general powers of the authority.

(Ord. No. 384, § 4, 2-9-2015)

Sec. 28-5. Termination.

Upon completion of its purposes, the authority may be dissolved by the township board. The property and assets of the authority, after dissolution and satisfaction of its obligations, shall revert to the township.

(Ord. No. 384, § 5, 2-9-2015)

Sec. 28-6. Description of the downtown district.

The downtown district shall consist of the territory in the township described as Exhibit A, attached hereto and made a part hereof,²⁷subject to changes as may hereafter be made pursuant to this chapter and Act 197.

(Ord. No. 384, § 6, 2-9-2015)

Sec. 28-7. Board of directors.

The authority shall be under the supervision and control of the board. The board shall consist of the township supervisor and eight members. Members shall be appointed by the township supervisor, subject to approval by the township board. Not less than a majority of the members shall be persons having an interest in property located in the downtown district. Not less than one of the members shall be a resident of the downtown district, if the downtown district has 100 or more persons residing within it. Members shall be appointed to serve for a term of four years, except that of the members first appointed, an equal number, as near practicable, shall be appointed for terms of one year, two years, three years, and four years. A member shall hold office until the member's successor is appointed and qualified. Before assuming the duties of office, a member shall qualify by taking and subscribing to the constitutional oath of office. An appointment to fill a vacancy shall be made by the township supervisor for the unexpired term only. Members of the board shall serve without compensation, but shall be reimbursed for actual and necessary expenses. The chairperson of the board shall be elected by the board. The board shall adopt bylaws governing its procedures subject to the approval of the township board.

(Ord. No. 384, § 7, 2-9-2015)

Sec. 28-8. Powers of the authority.

Except as specifically otherwise provided in this chapter, the authority shall have all powers provided by law subject to the limitations imposed by law and herein:

- (a) The authority shall not have the power to take private property for any purpose.
- (b) The authority shall not levy an ad valorem tax on the real and tangible personal property not exempt by law and as finally equalized in the downtown district, unless specifically approved by the township board.
- (c) The authority shall not borrow money or issue its revenue bonds or notes to finance all or part of the costs of acquiring or constructing property in connection with the implementation of a development plan in the downtown district or to refund or refund in advance bonds or notes, unless specifically approved by the township board.

(Ord. No. 384, § 8, 2-9-2015)

Sec. 28-9. Fiscal year—Adoption of budget.

- (a) The fiscal year of the authority shall coincide with the fiscal year of the township, or such other fiscal year as may hereafter be adopted by the township board.
- (b) The board shall prepare annually a budget and shall submit it to the township board for approval in the manner and at the time, and which budget shall contain the information required of municipal departments.

²⁷Note(s)—Exhibit A is on file and available for public inspection at the offices of the township.

The board shall not finally adopt a budget for any fiscal year until the budget has been approved by the township board. The board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the ordinance authorizing the revenue bonds.

- (c) The authority shall submit financial reports to the township board at the same time and on the same basis as departments of the township are required to submit reports. The authority shall be audited annually by the same independent auditors auditing the township and copies of the audit report shall be filed with the township board.

(Ord. No. 384, § 9, 2-9-2015)

Sec. 28-10. Approval and adoption of the development plan and tax increment finance (TIF) plan.

It is hereby determined that the Downtown Development Authority Development Plan and Tax Increment Finance (TIF) Plan (collectively referred to as the "plan") of the Downtown Development Authority of the Charter Township of Harrison constitutes a public purpose. The plan is hereby approved and adopted. A copy of the plan shall be maintained on file in the township clerk's office and shall be cross-indexed to this ordinance [Ordinance No. 386].

(Ord. No. 386, § 1, 5-18-2015)

Chapter 30 EMERGENCY SERVICES²⁸

ARTICLE I. IN GENERAL

Sec. 30-1. Fees established by resolution.

The township board shall establish by resolution the fees to be charged for its ambulance and EMS service, including charges for resident and nonresident patients transported, method of billing such fees for insurance coverage and state department of social services, interest charged upon nonpayment, and method of collection.

(Comp. Ords. 1988, § 40.002)

Secs. 30-2—30-30. Reserved.

ARTICLE II. EMERGENCY RESPONSES TO INCIDENTS INVOLVING OPERATION OF MOTOR VEHICLES OR WATERCRAFT UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES²⁹

²⁸Cross reference(s)—Businesses, ch. 22; civil emergencies, ch. 26; fire prevention and protection, ch. 38.

²⁹Cross reference(s)—Alcoholic liquor, ch. 6.

Sec. 30-31. 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:

Emergency response means:

- (1) Providing, sending and/or utilizing general services, police, fire, and/or rescue personnel of the township to an accident involving a motor vehicle or watercraft where one or more of the drivers/operators were found to be operating the motor vehicle or watercraft while under the influence of an alcoholic beverage or controlled substance or the combined influence of alcohol or a controlled substance; or
- (2) Stopping and arrest by a police officer of a motor vehicle driver or watercraft operator who was operating the motor vehicle or watercraft while under the influence of an alcoholic beverage or controlled substance.

Expense of emergency response means the responsible costs incurred in making an emergency response as set forth in subsections (1) and (2) of this section, including but not necessarily limited to the costs of providing police, fire, rescue and emergency medical services at the scene of the incident, which costs shall include wages of the township personnel responding to the incident. The expense of an emergency response as set forth shall include the expense of conducting and analyzing preliminary chemical breath analysis tests and chemical tests of blood, urine and/or breath to determine the amount or presence of alcohol or controlled substances in the blood and the costs of processing or analyzing other physical evidence.

(Comp. Ords. 1988, §§ 20.090, 20.210)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 30-32. Purpose.

The township finds that a significant number of motor vehicle and watercraft arrests involving accidents occurring in the township or township waters involve drivers/operators operating a motor vehicle or watercraft while under the influence of an alcoholic beverage and/or controlled substance. In addition, the township finds that motor vehicle and watercraft accidents involving drivers who are operating a motor vehicle or watercraft while under the influence of an alcoholic beverage and/or controlled substance present a greater likelihood of personal injury and/or property damage. As a result, a significantly greater operational/financial burden is suffered by the township government.

(Comp. Ords. 1988, §§ 20.090, 20.210)

Sec. 30-33. Liability for expenses.

- (a) Any person who operates a motor vehicle or watercraft while under the influence of an alcoholic beverage, controlled substance or combination in a manner so as to cause an emergency response shall be responsible and/or liable for the expenses of that emergency response as well as any and all costs incurred for prosecution of the matter.
- (b) For purposes of this section, it shall be presumed that a person was operating a motor vehicle or watercraft under the influence of an alcoholic beverage if chemical analysis of that driver's blood, urine or breath indicates that the amount of alcohol in the driver's blood was 0.07 percent or in excess of 0.07 percent. Any amount of a controlled substance determined by a urine, blood or other recognized and accepted test shall satisfy the "under the influence" requirement.

(Comp. Ords. 1988, §§ 20.090, 20.210; Ord. No. 344, § I, 5-24-2004)

Sec. 30-34. Administration and payment of expenses.

- (a) A detailed invoice for payment of emergency and/or other service expenses shall be promptly prepared and delivered by first class mail or personal service to persons deemed liable pursuant to this article.
- (b) A person who is liable for the payment shall make payment in full to the township treasurer within ten days of receipt of the detailed invoice.

(Comp. Ords. 1988, §§ 20.090, 20.210)

Cross reference(s)—Administration, ch. 2.

Sec. 30-35. Failure to pay expenses within ten days.

- (a) A person who is liable for payment of expenses for emergency services, other services or both and who fails to make payment in full to the township treasurer within ten days of receipt of a detailed invoice, shall be considered to have committed a civil infraction.
- (b) Failure to make payment within ten days of receipt of invoice shall cause notification to be provided the appropriate district court, together with a request that the invoice be given consideration at the time of determining sentence on the operating under the influence of an alcoholic beverage or controlled substance violation.
- (c) In addition, or as an alternative method of collection, the township may commence a civil action against an individual who is liable for payment of expenses for emergency and other services when that individual fails to make payment in full to the township treasurer within the ten-day period.

(Comp. Ords. 1988, §§ 20.090, 20.210)

Sec. 30-36. Civil liability.

The infraction encompassed by this article shall be construed to be civil in nature and shall not be construed to conflict, contravene, enlarge or reduce any criminal liability or other civil responsibility which may be imposed by a judge under state law for the identical offense.

(Comp. Ords. 1988, §§ 20.090, 20.210)

Chapter 34 ENVIRONMENT³⁰

³⁰Cross reference(s)—Animals, ch. 14; buildings and building regulations, ch. 18; moving of buildings, § 18-261 et seq.; floods, ch. 42; historical preservation, ch. 46; land development, ch. 54; land divisions, ch. 58; parks and recreation, ch. 66; solid waste, ch. 74; utilities, ch. 90; waterways, ch. 94; zoning, app. A; restoring unsafe buildings, app. A, § 3.24; environmental provisions for zoning, app. A, § 5.00 et seq.

State law reference(s)—Natural Resources and Environmental Protection Act, MCL 324.101 et seq.; power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15.

ARTICLE I. IN GENERAL

Sec. 34-1. Portable toilets.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Nonresidential district means property zoned or used primarily for nonresidential purposes.

Portable toilet means a self-contained sewage holding facility that is not installed in a boat or vehicle, that is not connected to a municipal sewer line, and that requires periodic removal of sewage for disposal in an approved municipal sewer.

Residential district means property zoned or used primarily for residential purposes.

Seasonal use means a period of 11 or more days.

Temporary use means a period of ten or less days.

- (b) *Penalty.* Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this section is responsible for a municipal civil infraction and responsible for a civil fine of not more than \$500.00 and costs of prosecution.

- (c) *Residential districts.*

(1) Seasonal use of a portable toilet in residential districts is prohibited.

(2) Temporary use of a portable toilet in residential districts is allowed if the following requirements are met:

- a. A permit is secured from the township building department. Such a permit shall be issued upon a showing of compliance with all applicable laws and ordinances.
- b. A permit may only be granted for a maximum of ten consecutive days in any 30-consecutive-day period, unless the toilet is required by state law.
- c. Except for toilets placed pursuant to section 355 of the Michigan Penal Code (MCL 750.355), a portable toilet shall not be placed in any required yard setback unless specifically approved by the township building department.

- (d) *Nonresidential district.*

(1) Temporary use of a portable toilet in nonresidential districts and use of a portable toilet at construction sites for any duration is allowed without securing a permit.

(2) Seasonal use of a portable toilet in nonresidential districts is allowed if the following applicable requirements are met:

- a. Municipal service is not available or is impractical.
- b. If the use is for a period of 30 or less days, a permit is secured from the township building department.
- c. If the use is for a period of 31 or more days, a permit is secured from the township building department after review and recommendation by the township planner, engineer and building

official and approval of the township planning commission. A permit application for this use shall include a diagram showing the proposed location and screening.

- d. Prior to granting a permit, the township building department or the planning commission shall require proper location, screening, accessibility and adequacy of the proposed portable toilet use.
 - e. The planning commission may approve a seasonal use that is for more than one year; however, the permittee must each year certify in writing to the planning commission that the site complies with the diagram submitted with the permit application, that there are no changes in circumstances, and that municipal service remains unavailable or impractical.
- (3) The township building department shall revoke a seasonal use permit issued for more than one year upon the motion of the township planning commission.
- (e) *Recreational use.*
- (1) The planning commission, by recommendation of the parks and recreation committee, shall have the authority to permit the use of a portable toilet for a period of 11 or more days on any property located within the township used for recreational purposes as required to accommodate the health, safety and welfare of the activity. Placement shall cease upon completion of recreational activity.
 - (2) Recreational use of a portable toilet is allowed if the following applicable requirements are met:
 - a. Municipal service is not available or is impractical.
 - b. A permit is secured from the township building department after review and recommendation by the township planner and building official. A permit application for this use shall include a diagram showing the proposed location and screening.
 - c. Prior to granting a permit, the planning commission shall require proper location, screening, accessibility and adequacy of the proposed portable toilet use.
 - d. The planning commission may approve a recreational use that is for more than one year; however, the permittee must each year certify in writing to the planning commission that the site complies with the diagram submitted with the permit application, that there are no changes in circumstances, and that municipal service remains unavailable or impractical.
- (f) *Permit fees.* When an application is made for a permit required by this section, a fee shall be paid in an amount as adopted by resolution of the township board of trustees.
- (Comp. Ords. 1988, §§ 25.651—25.655; Ord. No. 349, §§ II, III, 6-5-2005)

Secs. 34-2—34-30. Reserved.

ARTICLE II. FILLING AND DUMPING³¹

Sec. 34-31. Permits.

- (a) It shall be unlawful for any person to deposit any materials upon the land or water within the township without first obtaining a permit from the township building official as provided in this article. This official

³¹State law reference(s)—Soil erosion and sedimentation control, MCL 324.9101 et seq.

may, upon application made, permit the dumping and filling within the township limits with soil, sand, clay containing not more than 25 percent of concrete and stone less than 16 inches in diameter. The building official shall prepare an application form, including the following information and such other information as may be required:

- (1) The description of the area to be filled, nature and quantity of fill, existing and proposed grade and drainage patterns.
 - (2) A surety bond shall be required by the building official to insure adherence to the specified provisions of this article and the provisions of regulations issued by the building official. Such bond shall be in an amount equal to the estimated cost of restoring the site to a safe, healthy, sightly and satisfactory condition.
 - (3) The premises must be regularly graded to prevent the collection of standing water.
 - (4) Within three months following the issuance of the permit, such parcel of land shall be graded in such a manner as to prevent the collection of water, to provide proper drainage as provided by ordinance, and to leave the ground surface fit for the growing of turf and/or the development of other land uses permitted in the zoning district.
 - (5) The application must consent to reasonable inspection by the building official or his duly authorized representative without prior notice.
- (b) Any permits issued under this section shall be canceled without notice by the building official upon violation of any of the provisions of this article or other ordinances of the township relating to the permit provided that the holder of the permit may appeal to the township board upon cancellation of the permit, but no work shall be commenced unless permitted by the township board.
- (c) There is established an inspection fee in the amount established by resolution.

(Comp. Ords. 1988, §§ 35.001, 35.002, 35.004)

Sec. 34-32. Prohibition on filling and dumping.

Filling and/or dumping in the township with any rubbish, garbage, radioactive materials, combustible paints, solvents, oils, acids or other like materials, wood, scrap or any putrescible materials shall not be permitted. This article is not intended to include topsoil or other materials utilized in normal landscape activities.

(Comp. Ords. 1988, § 35.003)

Secs. 34-33—34-60. Reserved.

ARTICLE III. NUISANCES³²

Sec. 34-61. 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:

³²State law reference(s)—Public nuisances, MCL 600.2801 et seq.

Abate and *abatement* mean demolition, removal, repair, maintenance, construction, reconstruction, replacement and reconditioning of structures, appliances, appurtenances or equipment; and it shall also include removal, transportation, burying, disposal and treatment of refuse, manure or other substance or media capable of causing obnoxious odors or of attracting or breeding flies, and the application of chemicals, insecticides or other substances or the use of mechanical means to control, eradicate and eliminate the nuisance conditions, including screen belts of trees and fences.

Nuisance and *public nuisance* mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes but is not limited to any condition or use of premises which injures or endangers the safety, health, comfort or repose of the public or interferes with or destroys or renders dangerous any street, highway or public walk; the keeping or the depositing on, or the scattering over, the premises of any of the following: junk, trash, debris, noxious matter, lumber, abandoned, discarded or unused objects or equipment such as automobiles, furniture, stoves, refrigerators, freezers or containers. Public nuisances shall also include but are not limited to any blight or blighting factors or other conditions or uses forbidden by any provision of this article and the common and statutory law of this state. (Comp. Ords. 1988, § 35.152(2); Ord. No. 395, § 55, 1-14-2019)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 34-62. Failure to comply.

All persons or entities who own, manage, lease, rent, or occupy any structure shall be equally responsible for keeping the structure in a clean and habitable condition and shall take all necessary precautions to prevent any nuisance or other condition detrimental to public health, safety, or general welfare from arising thereon. Failure to comply with the prohibitions, requirements and provisions of this article shall constitute a violation of this article. A person who violates this article is responsible for a municipal civil infraction. The civil infraction fine for violation of any of the provisions of this article is \$500.00.

(Comp. Ords. 1988, § 35.161(4); Ord. No. 395, § 56, 1-14-2019)

Editor's note(s)—Ord. No. 395, § 56, adopted January 14, 2019, renamed § 34-62 from "fine" to "failure to comply."

Sec. 34-63. Purpose of article.

It is the purpose of this article to prevent, reduce or eliminate blight, potential blight, nuisances or potential nuisances and to provide for the removal, vacation, repair, demolition or eradication, by the property owner and/or occupant or by the township, of any condition, building or structure which is or threatens to be a public nuisance or is or may threaten to be dangerous to the public health, safety and welfare of the residents of the township. It is the duty of the person who creates, causes, allows, suffers or permits the existence of a nuisance to abate the nuisance. Failure to abate a nuisance is a violation of this article and subject to a penalty as provided in section 34-62 of this Code and to any injunctive relief as ordered by a court of competent jurisdiction as set forth in section 2-155 of this Code.

(Comp. Ords. 1988, § 35.152(1); Ord. No. 395, § 57, 1-14-2019)

Sec. 34-64. Reserved.

Editor's note(s)—Ord. No. 395, § 58, adopted January 14, 2019, repealed § 34-64. Former § 34-64 pertained to abating nuisance, unsafe buildings or structures, or blighting conditions and derived from § 35.160 of the Comp. Ords. of 1988.

Sec. 34-65. Enforcement; penalties; removal by township; assessment; collection.

- (a) This article shall be enforced by such persons who shall be so designated by the township board.
- (b) With respect to violation of any provision of this article, the owner and/or occupant of any property upon which any of the causes of blight or blighting factors set forth in section 34-66, any unwholesome substances set forth in section 34-68, any injurious substances set forth in section 34-69, or unsafe structures set forth in section 34-72 are found to exist, the owners and occupants shall be notified in writing to remove or eliminate such causes of blight, blighting factors, unwholesome substances or injurious substances within ten days after service of the notice. Such notice may be served personally or by certified mail, return receipt requested, addressed to such owner or occupant at the address shown on the tax records.
- (c) Upon failure to comply with such notice within the time allowed by the enforcement officer, the owner and/or occupant shall be in violation of this article and the enforcement officer may proceed with the issuance of a municipal civil infraction citation, and/or request an administrative search warrant and/or seek any other legal proceeding. The Township may seek any and all injunctive relief required to eliminate blight factors, injurious substance and unsafe structures in addition to any fines and costs imposed.
- (d) If the owner and/or occupant refuse to comply with the notice as it relates to an unsafe structure, the building official shall cause to be posted at each entrance of the unsafe structure a placard bearing the words: Do not enter. This Structure is Unsafe and its Use and Occupancy has been prohibited by the Township of Harrison in accordance with the Code of Ordinances and the International Property Maintenance Code.
- (e) When in the opinion of the building official, or his/her designee, there is an actual and immediate danger of failure or collapse of a structure or any part of a structure which would endanger life, or when any structure or part of a structure has fallen and life is endangered by the occupancy of the structure, the building official is hereby authorized and empowered to order and require the occupants to vacate the structure immediately and the provisions of this article relating to notice are not applicable. The building official or his/her designee shall cause to be posted at each entrance to the structure a notice reading as follows: Do not enter. The Building is Unsafe and its Use or Occupancy has been prohibited by the Township of Harrison.
- (f) When in the opinion of the building official or his/her designee, there is an actual and immediate danger of collapse or failure of a structure or any part of a structure which would endanger life, or when any structure or a part of a structure has fallen and life is endangered by the occupation of the structure, the building official or his/her designee, shall cause the necessary work to be done to make the structure or part of the structure temporarily safe, whether or not legal proceedings herein described have been instituted. The cost of making the structure or any part of the structure temporarily safe shall be a lien against the real property and shall be reported to the township assessor, who shall assess the costs against the property on which the structure is located.

(Comp. Ords. 1988, § 35.161; Ord. No. 395, § 59, 1-14-2019)

Sec. 34-66. Causes of blight or blighting factors; treatment as nuisance.

It is determined that the following uses, buildings or structures and activities are causes of blight or blighting factors which if allowed to exist will tend to result in blighted and undesirable neighborhoods, and shall therefore constitute and be treated as public nuisances. No person shall maintain or permit to be maintained any of these causes of blight or blighting factors upon any property in the township owned, leased, rented or occupied by such person:

- (1) *Junk vehicles.* In any area, the storage upon any property of junk automobiles, junk motor-driven vehicles, trailers in disrepair, contractor's equipment in disrepair, or boat hulls in disrepair is not permitted, except in a completely enclosed building or where otherwise specially permitted by the township building official. For the purposes of this article, the term "junk automobiles, junk motor-driven vehicles, trailers in disrepair, contractor's equipment in disrepair, or boat hulls in disrepair" shall include any such article which is not licensed for use upon the highways of the state and/or lakes and waterways, for a period in excess of 30 days, and shall also include, whether so licensed or not, any of those articles which is inoperative for any reason, for a period in excess of 30 days.
- (2) *Building materials.* In any area, except where specifically permitted, the storage upon any property of building materials unless there is in force a valid building permit issued by the township for construction upon the property, the construction is progressing within a reasonable time frame and the materials are intended for use in connection with such construction, except the temporary storage of building materials which in the opinion of the building inspector are not of a nature to be unsightly or a cause of blight. Building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other material used in constructing any structure.
- (3) *Junk, rubbish.* In any area, except where specifically permitted, the storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in a rodent proof receptacle, in such a manner as not to create a nuisance for a period not to exceed 30 days. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances or other cast-off material of any kind, whether or not the material could be put to any reasonable use.
- (4) *Uninhabitable dwellings.* In any area, the existence of any structure or part of any structure which, because of fire, wind or other natural disaster, or physical deterioration, is otherwise dangerous to the safety of persons or property, is no longer habitable if a dwelling, nor useful for any other purpose for which it may have been intended.
- (5) *Vacant buildings.* In any area zoned for residential purposes, the existence of any vacant dwelling, garage or other outbuilding unless such buildings are kept securely locked, windows kept glazed or neatly boarded up, and otherwise protected to prevent entrance by vandals. Vacant buildings not in compliance with the provisions of Chapter 18, Article VI of the Code of Ordinances "Registration and Regulation of Abandoned and Vacant Residential Structures."
- (6) *Partially completed structures.* In any area, the existence of any partially completed building or structure unless such building or structure is in the course of construction in accordance with a valid and subsisting building permit issued by the township, the owner obtains and complies with all inspections for each permit obtained relative to the construction and unless such construction is completed within a reasonable time.
- (7) The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for a period 30 days or more so that the property is unfit for its intended use.

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- (8) The property is improved real property that has remained vacant for 30 days and that is not maintained in accordance with the Townships property maintenance codes, vacant dwelling ordinance or other provisions of the Code of Ordinances.
 - (9) The property has been declared a public nuisance in accordance with any Building, Plumbing, Mechanical, Electrical, Property Maintenance, Fire Code of the Township or other related provisions of the Code of Ordinances.

(Comp. Ords. 1988, § 35.153; Ord. No. 395, § 60, 1-14-2019)

Sec. 34-67. Noises.

- (a) *Prohibited noises.* Among others, each of the following acts is declared to be unlawful and is prohibited; but this enumeration shall not be deemed to be exclusive, namely:
 - (1) *Horns and signal devices.* Between the hours of 11:00 p.m. and 7:00 a.m. of the following day, the sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or to give warning of intent to get under control, or, if no motion, only as a danger signal after brakes have been applied, or as brakes are being applied, and deceleration of the vehicle is intended; the creation by means of any such horn or signal device of any unreasonably loud or harsh sound, and the sounding of such a horn or device for an unnecessary and unreasonable period of time.
 - (2) *Racing of motors.* The racing of motors while they are being tuned up, or the backfiring of engines in automobiles during tune-ups or warm-ups, creating any unreasonably loud or harsh sound between the hours of 11:00 p.m. and 7:00 a.m. of the following day.
 - (3) *Radios and musical instruments.* The playing of any radio, television, stereo system or musical instruments in such manner or with such volume, particularly between the hours of 11:00 p.m. and 7:00 a.m. of the following day, or at any time or place, so as to annoy or disturb the quiet, comfort or repose of persons in any office or in any dwelling, hotel or other type of residence, or of any person in the vicinity.
 - (4) *Shouting and whistling.* Unnecessary or unreasonably loud shouting and whistling at any time or place in the township.
 - (5) *Hawking.* The hawking of goods, merchandise and newspapers in a loud and boisterous manner.
 - (6) *Animal and bird noises.* The keeping of any animal or bird which, because of frequent or long-continued noise, shall disturb the comfort or repose of any person.
 - (7) *Whistles or sirens.* The blowing of any whistle or siren, except to give notice of the time to begin or stop work, or as a warning of fire or danger.
 - (8) *Sound trucks.* To operate or cause to be operated a sound truck with radio or amplifier within the township without first having obtained a permit from the township clerk. Such a permit shall be issued upon a showing that the proposed activity will not disturb the peace and that the proposed activity will comply with all laws and ordinances.
 - (9) *Noise of commotion in vehicles.* To make a commotion or make unnecessarily loud noises, whereby the peace and good order of the neighborhood is disturbed, or persons owning or occupying property in the neighborhood are disturbed or annoyed.
 - (10) *Tire noise.* To operate any motor vehicle in such manner as to cause its tires to be skidded whereby excessive noise shall be emitted and the peace and good order of the neighborhood disturbed.

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- (11) *Electronically amplified sound systems in motor vehicles.* The operation of an electronically amplified sound system in or on a parked, idling or moving vehicle, including motorcycles and mopeds, which produces sound that is clearly audible more than 50 feet from such vehicle. The person operating or in control of such vehicle shall neither operate such sound system nor permit or acquiesce in the operation of such sound system in the proscribed manner.
- (12) *Manual and mechanical construction equipment.* It shall be unlawful for any person to use, operate or cause to be used or operated, within the township any manual tools, steam, gasoline or motor driven, or power excavating, grading, construction and/or erection equipment, or like or similar equipment, the use or operation of which creates or has a tendency to create, the emission of odors, fumes or smoke, or which creates noise or vibration, resulting in the disturbance of the peace and quiet of the township upon any Sunday or legal holiday prior to 10:00 a.m. or upon any other day of the week, prior to 7:30 a.m. in the morning or after 8:00 p.m.
- (b) *Exceptions.* None of the prohibitions in subsection (a) of this section shall apply to or be enforced against emergency vehicles, any police or fire vehicle or ambulance while engaged in responding to any public emergency, highway maintenance and construction; necessary excavations or repairs of bridges, streets or highways by or on behalf of the township, county or state during the night, when the public safety, welfare and convenience renders impossible to perform such work during the day; or the reasonable use of stationary amplifiers or loudspeakers in the course of public addresses.

(Ord. No. 316, §§ 1, 2, 11-10-1997; Ord. No. 335, § 1, 8-27-2001)

State law reference(s)—Motor vehicle noise, MCL 257.707a et seq.

Sec. 34-68. Deposit of unwholesome substances; prohibitions.

No person shall, within the limits of the township, by himself or another, throw, place, deposit or leave in any street, lane, alley or other public or private place any animal or vegetable substance, dead animals, fish, shavings, dirt, rubbish, excrement, filth, unclean or nauseous water or liquor, hay, straw, soot, offal, garbage, swill, or any other article or substance whatever which may cause any offensive, unwholesome or nauseous odor or endanger the health of the public.

(Comp. Ords. 1988, § 35.155)

State law reference(s)—Littering, MCL 324.8901 et seq.

Sec. 34-69. Injurious substances; prohibition.

No person shall, by himself or by another, throw, place, deposit or leave in any street, highway, lane, alley or other public place, or in any private place or premises, any glass, broken or unbroken, or any metal, stone, earthenware, tacks, cinders, or other substances of a nature likely to cause injury to travelers or pedestrians, automobiles, bicycles, or vehicles, or to injure any horse or other animal, or which might injure, cut or puncture any pneumatic tire.

(Comp. Ords. 1988, § 35.156)

State law reference(s)—Vehicles scattering load, MCL 257.720.

Sec. 34-70. Drainage of lots, lands, excavations.

If any lands, excavations, cellars, crawl spaces underneath a structure, vaults, sewers or drains placed on premises within the township shall be damp, unwholesome, offensive or filthy, or be covered during any portion of

the year with stagnant or impure water, or shall be in such condition as to produce offensive exhalations, the building official may require it to be drained, filled up, cleansed or purified by the owner, occupant or person in charge of such lot, premises or place.

(Comp. Ords. 1988, § 35.157)

Cross reference(s)—Land development, ch. 54.

Sec. 34-71. Anti-smoke regulations.

No person shall create, cause or maintain any nuisance within the township by the unreasonable creation of dust, smoke, fly ash or noxious odors, offensive or disturbing to adjacent property owners and residents of the area.

(Comp. Ords. 1988, § 35.158; Ord. No. 395, § 61, 1-14-2019)

State law reference(s)—Air pollution, MCL 324.5501 et seq.

Sec. 34-72. Unsafe structures prohibited.

It is unlawful and hereby prohibited for any owner or his agent to keep or maintain or occupy any dwelling or structure, or portion thereof, as an unsafe or dangerous building. It shall be unlawful for any person to occupy a placarded structure or part thereof, or for any owner, occupant or agent responsible for the structure to allow anyone to occupy the placarded structure. It shall be unlawful for any person to deface or remove a placard without the approval of the building official or his/her designee.

An unsafe or dangerous building is defined in this section as a building or structure having one or more of the following conditions:

- (1) A door, aisle, passageway, stairway or other means of exit not conforming to the township fire code.
- (2) Any portion of a building or structure that has been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or other causes so that the structural strength or stability of the building or structure is appreciably less than it was before such damage and is less than the minimum requirements of this section or any building code of the township for a new building or similar structure, purpose or location.
- (3) Any portion or member or appurtenance of a building or structure that is likely to fall, become detached or dislodged, or to collapse and injure persons or damage property.
- (4) The building or structure or any part, because of dilapidation, deterioration, decay, faulty construction, 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 is likely to fall or give way.
- (5) A portion of the building or structure has settled to such an extent that walls or other structural portions of the building or structure have materially less resistance to winds than is required in the case of new construction by this section or the building code of the township.
- (6) The building or structure or any portion is manifestly unsafe for the purpose for which it is used, it shall be considered that such dwelling does not meet the requirements of this section.
- (7) The building or structure is damaged, by fire, wind or flood, is dilapidated or deteriorated and becomes an attractive nuisance to children who might play in the building or structure to their danger, becomes

a harbor for vagrants, criminals or immoral persons, or enables persons to resort thereto for the purpose of committing a nuisance or unlawful acts.

- (8) The building or structure used or intended to be used for dwelling purposes, including the adjoining grounds, because of dilapidation, decay, damage, faulty construction or arrangement or for other reason, is unsanitary or unfit for human habitation, is in a condition that is likely to cause sickness or disease when so determined by the health officer, or is likely to injure the health, safety or general welfare of those living within.
- (9) A building or structure is vacant, dilapidated and open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers.

(Comp. Ords. 1988, § 35.159; Ord. No. 395, § 62, 1-14-2019)

State law reference(s)—Dangerous buildings, MCL 125.538 et seq.

Secs. 34-73—34-100. Reserved.

ARTICLE IV. VEGETATION³³

Sec. 34-101. 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:

Noxious weeds means Canada thistle, dodders, mustard, wild carrot, bind weed, perennial sowthistle, hoary alyssum, ragweed, poison ivy, poison sumac, and any other weeds which may create a condition detrimental to the public health, safety and welfare.

(Comp. Ords. 1988, § 35.101)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 34-102. Allowing growth of weeds; unlawful.

It shall be unlawful for the owner and occupant of any lot or lands, either public or private, within the township to allow or maintain on any portion of such lot or lands the growth of any noxious weeds.

(Comp. Ords. 1988, § 35.102)

Sec. 34-103. Limit on height, distance from building; shrubs, brush.

It shall be unlawful for the owner or occupant of any lot or lands, either public or private, within the township to allow or permit grass or weeds of any kind to grow upon any such lot or lands to a height of more than nine inches from the ground or within a distance of 80 feet from any existing building on the property of another or from the property line. It shall be unlawful to permit the growth of shrubs, wild bushes or brush on any property in the township to a height or density which might constitute a traffic or fire hazard. The obligation of the owner or

³³State law reference(s)—Weed control, MCL 247.61 et seq.

occupant of any property in the township is to cut down, remove or destroy any grass, weeds, shrubs, bushes or brush that shall extend to the center of the road fronting on the property of such owner or occupant.

(Comp. Ords. 1988, § 35.103; Ord. No. 357, 3-25-2008; Ord. No. 370, § 1, 9-13-2010; Ord. No. 388, § 5, 1-14-2016)

Cross reference(s)—Buildings and building regulations, ch. 18.

Sec. 34-104. Reserved.

Editor's note(s)—Ord. No. 370, § 2, adopted Sept. 13, 2010, repealed § 34-104 which pertained to violation and fine and derived from Comp. Ords. 1988, § 35.104.

Sec. 34-105. Removal by township.

- (a) Whenever it appears to the ordinance enforcement officer, the township supervisor or the person appointed by the township board as weed commissioner, either by a written complaint signed by a resident of the township or upon their own knowledge and belief, that there exists on any lot or lands situated in the township grass, noxious weeds, weeds of any kind, or in any combination, which have grown to a height of more than permitted by section 34-103, the ordinance enforcement officer or any person so appointed by the township board shall possess the authority to enter upon any premises in the township in order to cut or otherwise remove any such grass or weeds exceeding 12 inches in height.
- (b) Where grass and/or weeds are cut or removed by the township in the manner set forth in subsection (a) of this section, the charges per lot sizes shall be review each year by the board of trustees to determine the amount to be charged to the landowner, such charges to be assessed pursuant to section 34-106. The amount shall be charged to the landowner as set forth in section 34-106. Performance of such work by the township under this section shall not relieve the owner or occupant of the prosecution or penalties prescribed in section 34-104.
- (c) The township shall publish a notice in a newspaper of general circulation in Macomb County during the month of March that weeds not cut by May 1 of that year may be cut by the township and the owner of the property charged with the cost under subsection (b) of this section. This notice shall state that failure to perform such work in that time stated shall result in entry upon the premises by the ordinance enforcement officer or other persons so appointed by the township board to perform the work, charging the cost plus administrative costs to the landowner. These charges are to be assessed pursuant to section 34-106. The notice shall further describe methods of treating and eradicating the noxious weeds.

(Comp. Ords. 1988, § 35.106; Ord. No. 351, § 1, 3-12-2006; Ord. No. 357, 3-25-2008; Ord. No. 370, § 3, 9-13-2010)

Sec. 34-106. Collection of expenses.

The full amount of any charges assessed pursuant to section 34-105, with respect to each lot or parcel of land upon which grass or noxious weeds have been cut or removed pursuant to this article, shall be a special assessment to be spread against such land and property to be assessed, levied and collected at the same time and in the same manner for nonpayment.

(Comp. Ords. 1988, § 35.107)

Chapter 38 FIRE PREVENTION AND PROTECTION³⁴

ARTICLE I. IN GENERAL

Sec. 38-1. 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:

Costs means:

- (1) All fees, charges and other expenses associated with the response to mitigation and cleanup of hazardous or dangerous materials and substances, including standby situations;
- (2) All fees, charges and other expenses for the repair, decontamination or replacement of equipment, apparatus, materials and supplies;
- (3) All fees, charges and other expenses necessarily incurred to ensure the protection of the public health, safety or welfare of the township and the persons in the township in excess of those fees, charges and other expenses usually and customarily incurred in providing emergency response services; and
- (4) In the case of an intentionally caused fire emergency, all fees, charges and other expenses incurred in providing emergency response services.
- (5) All fees, charges and costs incurred as a result of the fire department responding to a utility line failure.

Hazardous or dangerous materials and substances means any substance, including but not limited to alcohol, gunpowder, dynamite, crude petroleum or any of its byproducts, fuel oils, pyroxylin, combustible finishes, and other commodities of a similar nature or quality and all other substances which constitute a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or endanger, cause or are capable of causing loss, injury or damage to persons, property or the environment.

Intentionally caused fire emergency, means a fire intentionally caused by the owner or occupant of property and/or structure which requires an emergency response by the fire department, police department and/or other emergency support agencies.

(Ord. No. 403, § 1, 10-25-2021)

Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed the former § 38-1, and enacted a new § 38-1 as set out herein. The former § 38-1 pertained to cost recovery and derived from Comp. Ords. 1988, § 23.013.

³⁴Cross reference(s)—Buildings and building regulations, ch. 18; civil emergencies, ch. 26; emergency services, ch. 30; unlawful fires in parks, § 66-46; fire hydrant rates, § 90-117; private fire lanes, sprinkler systems, § 90-204.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; fire prevention and protection of persons and property, MCL 29.1 et seq.

Sec. 38-2 Authority to collect costs.

The fire department shall have the authority to collect all costs incurred for the use of its equipment, apparatus, manpower and supplies, or incurred by reason of loss, damage or contamination of its equipment, apparatus and materials in providing emergency services in situations which involve utility line failures, spills, leaks, releases, accidents including but not limited to motor vehicle accidents, or related occurrences of hazardous or dangerous materials or substances; and shall have the authority to collect all costs incurred for the use of its equipment, apparatus, manpower and supplies or incurred by reason of loss of or damage to its equipment, apparatus and materials in providing emergency services in the case of an intentionally caused fire emergency.

(Ord. No. 403, § 1, 10-25-2021)

Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed the former § 38-2, and enacted a new § 38-2 as set out herein. The former § 38-2 pertained to prohibited parking; destruction of system connection; misdemeanor and derived from Comp. Ords. 1988, §§ 20.501, 20.502.

Sec. 38-3. Persons responsible for costs.

All costs referred to in section 38-2 shall be charged against and be the responsibility of the owner or operator of the property, equipment, vehicle or container causing, contributing, allowing or the persons failing to manufacture, keep, store, transport or otherwise handle or dispose of hazardous or dangerous materials or substances in a manner and by a method so as not to constitute a fire hazard or pose a substantial present or potential hazard to the public health, safety or welfare, or to endanger or cause loss, injury or damage to persons, property or the environment, and, in the case of an intentionally caused fire emergency, the persons who proximately caused the fire and any other persons who are responsible for the actions of such persons. Any costs that result from a response to a utility line failure shall be the responsibility of the owner and/or operator of the utility line. Such costs shall constitute a debt of the persons responsible and be collectible in the same manner as an obligation under an expressed or implied contract.

(Ord. No. 403, § 1, 10-25-2021)

Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed the former § 38-3, and enacted a new § 38-3 as set out herein. The former § 38-3 pertained to definitions and derived from Ord. No. 376, adopted Aug. 27, 2012; Ord. No. 387, adopted Sep. 14, 2015; Ord. No. 396, adopted Feb. 25, 2019.

Sec. 38-4. Statement for services rendered.

The fire department shall submit a statement showing the costs associated with emergency services referred to in this division to the responsible person by first class mail or personal service, and the amount of the fee charged pursuant to the provisions of this division.

(Ord. No. 403, § 1, 10-25-2021)

Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed the former § 38-4, and enacted a new § 38-4 as set out herein. The former § 38-4 pertained to prohibited fireworks and derived from Ord. No. 376, adopted Aug. 27, 2012; Ord. No. 380, adopted Aug. 12, 2013; Ord. No. 387, adopted Sep. 14, 2015; Ord. No. 396, adopted Feb. 25, 2019.

Sec. 38-5. Delinquent accounts.

Any person responsible for emergency services under this division who fails to remit the fee charged within 30 days of the date of the statement of services rendered shall be considered delinquent. All such delinquent accounts shall be collected as provided by law.

(Ord. No. 403, § 1, 10-25-2021)

Editor's note(s)—Ord. No. 403, § 1, adopted Oct. 25, 2021, repealed the former § 38-5, and enacted a new § 38-5 as set out herein. The former § 38-5 pertained to novelties and derived from Ord. No. 376, adopted Aug. 27, 2012.

Sec. 38-6. Minors.

- (a) A minor shall not ignite, discharge or use any consumer fireworks, at any time, nor on any day, including national holidays, and the day before and after a national holiday.
- (b) A minor shall not ignite, discharge or use any low impact fireworks or novelty fireworks, unless under the supervision of a parent, or guardian, and the ignition, discharge and use is within the permitted hours and does not violate the provisions of this article and the Act.

(Ord. No. 376, § 2, 8-27-2012)

Sec. 38-7. Public property.

- (a) No person shall at any time or on any day ignite, discharge or use and fireworks, including consumer fireworks, low impact fireworks and novelties in public parks.
- (b) No fireworks including consumer fireworks, low impact fireworks and novelties shall be discharged, used or ignited on any public property, including public streets, sidewalks, easements and rights of ways as well as school property.

(Ord. No. 376, § 2, 8-27-2012)

Sec. 38-8. General restrictions.

- (a) No person shall discharge fireworks or novelties other than in a manner prescribed by the manufacturer's directions for use and no person shall discharge consumer fireworks while within a building or enclosed space within 50 feet of a flame or flammable surface; within 20 feet of a property line; within any public roadway or public right of way; within, upon, or from a motor vehicle; at any person, vehicle or conveyance; within 500 feet of a gasoline service station; during weather conditions involving wind speeds in excess of ten miles per hour; from any location not at ground level; from any surface that is not flat and level; without keeping a bucket of water or garden hose ready to address accidents; within 25 feet of a building; from within any type of container or other object that could reasonably be foreseen to impede the aerial progress of the firework, or to cause a fire or explosion after its ignition.
- (b) An individual who uses, ignites, or discharges consumer fireworks or low impact fireworks while under the influence of alcoholic liquor, a controlled substance, or a combination of alcoholic liquor and a controlled substance is guilty of a misdemeanor, punishable by up to 30 days in jail and/or a fine up to \$500.00, or if the violation caused damage to the property of another person, by up to 90 days in jail and/or a fine up to \$500.00.

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- (c) A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property of another person without that organization's or person's express permission to use those fireworks on those premises. A person who violates this subsection is responsible for a state civil infraction as provided by in the Act.
 - (d) No person shall, either individually or in concert with another person, cause damage to any private or public property by the use, discharge or ignition of any fireworks. Any violation of this subsection is subject to any penalty imposed by the Act.
 - (e) A law enforcement officer and or/fire official may confiscate and impound all fireworks and fireworks paraphernalia involved in causing a violation of this article. If the impounded items are lawful to possess, they may be retained as evidence until any court proceedings or citations have been adjudicated and any probationary periods have been completed. If the impounded items are unlawful to possess the police department or fire department shall dispose of or destroy the items in accordance with evidence protocols that will still allow for effective prosecution of the charged offenses without actual retention of the items. If any fireworks are retained by the township, they shall be stored in compliance with the Act and rules promulgated under the Act. The person from whom the fireworks are seized under the Act or this article shall pay the actual costs of storage and/or disposal of the seized fireworks. The police department may dispose of the seized fireworks by providing them to a disposal organization approved by the Macomb County Sherriff or designee, or by allowing them to be used by the police, fire and code enforcement agencies for training purposes.

(Ord. No. 376, § 2, 8-27-2012)

Sec. 38-9. Applicability of general ordinances.

Nothing in this article shall preclude the enforcement of ordinances or laws of general applicability at any time or on any day regardless of whether the conduct or offense is secondary or incidental to the use, discharge or ignition of fireworks.

(Ord. No. 376, § 2, 8-27-2012)

Sec. 38-10. Display fireworks.

- (a) The township board may permit articles pyrotechnic, display fireworks and special effect fireworks in Harrison Township, pursuant to the provisions of the Act and this article.
- (b) Any person wishing to conduct an articles pyrotechnic, display fireworks or special effects display shall, at least 45 days prior to any display, submit an application on a form furnished by the township, pay the required fee and shall secure permission from the township board prior to any such fireworks display.
- (c) The site plan of the area where the articles pyrotechnic, display fireworks or special effects display is to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and within the discharge site fallout area. The site plan shall furthermore set forth the distance separating any fireworks and any spectator viewing areas. All site plans shall be forwarded to the fire chief and/or his designated alternate for approval, including any recommended conditions, prior to coming before the township board for its approval.
- (d) A copy of any required state or federal permit for the fireworks display shall be submitted with the application.
- (e) Proof of insurance meeting the requirements of this article and Act No. 256 of the Public Acts of 2011 shall be submitted with the application.

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- (f) The application shall include information as to the competency and qualifications of the fireworks display operators, as required by NFPA 1123.
- (g) The township board shall approve an application for an articles pyrotechnic, display fireworks or special effects display if it finds that all of the following standards are satisfied:
- (1) The application and accompanying documentation is complete and conforms to the requirements of this article.
 - (2) The operator of the fireworks display is competent and qualified to conduct the fireworks display, per NFPA 1123.
 - (3) The fire chief or his/her designated alternate has approved the application and site plan.
 - (4) The fireworks display will not have an adverse effect upon public safety.
 - (5) The time, duration, location of the fireworks or special effects display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity or otherwise violate the township's nuisance abatement ordinance.
 - (6) The township board, in approving an application hereunder, shall have the authority to impose such conditions as it determines in its sole reasonable discretion are necessary to assure that the fireworks display will satisfy the above standards.
- (h) Requirements and restrictions.
- (1) The person conducting the fireworks display shall follow NFPA 1123 for fireworks display and/or the township requirements set forth herein, whichever are more restrictive.
 - (2) A minimum safe area of 250 feet radius, plus an additional 70 feet radius for each inch by which the fireworks shell exceeds three inches in diameter shall be required. The township board shall have the authority to grant a variance from this requirement where it determines in its sole reasonable discretion that, given the nature of the subject site; the nature of the surrounding area and/or the nature of the proposed fireworks display, that a variance will not have a material adverse impact on public safety. In no event, however, shall the applicant fail to comply with the minimum requirements of NFPA 1123.
 - (3) The applicant shall maintain personal injury liability insurance/property damage liability insurance in the amount of \$1,000,000.00 for each event. The township shall be named as an additional insured on the insurance policy.
 - (4) The township board shall not issue a permit to a nonresident person until the person has appointed in writing a member of the state bar or a resident agent to be the person's legal representative upon whom all process in an action or proceeding against the person may be served.
 - (5) The applicant shall be responsible for all shells being fired. In the event one or more of the shells does not explode, the applicant shall secure the area until the unexploded shell(s) is found and properly disposed of.
 - (6) The consumption of alcohol immediately prior to and during the fireworks display by any person involved in conducting the display is prohibited.
 - (7) A fireworks display conducted hereunder shall conform with all specifications set forth in the approved application and site plan, as well as with any conditions imposed by the township board in granting such approval.
 - (8) The applicant shall cause the site of the fireworks display to be cleaned up within 24 hours after the fireworks display has ended.

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- (9) A permit is not transferable and shall not be granted to a minor.
 - (10) The township board shall by resolution adopt a fee and or cost schedule for the display fireworks application. Such fee and costs schedule shall be in an amount sufficient to cover the costs of investigation, review and inspection by the township of the application and premises which will be used in the display fireworks, articles pyrotechnic and or special effects.

(Ord. No. 376, § 2, 8-27-2012)

Sec. 38-11. Penalties.

Any person that violates any provision of this ordinance shall be deemed responsible for a civil infraction of \$1,000.00 for each violation of the ordinance. The remittance of \$500.00 of the fine collected shall be allocated to the Macomb County Sherriff Department as the enforcing agents of the township.

(Ord. No. 380, § 2, 8-12-2013; Ord. No. 396, § 3, 2-25-2019)

Secs. 38-12—38-30. Reserved.

ARTICLE II. FIRE ALARM SYSTEMS

Sec. 38-31. 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:

Telephone number includes any additional numbers assigned by a public utility company engaged in the business of providing communications services and facilities to be used by any system connected with the fire department of the township when the primary telephone is in use.

(Comp. Ords. 1988, § 20.555)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 38-32. Fine.

The municipal civil infraction fine for a violation of this article is \$500.00.

(Comp. Ords. 1988, § 20.557)

Sec. 38-33. Written consent of department required.

No person shall use or operate or cause to be used or operated, or arrange, adjust, program or otherwise provide or install any device or combination of devices that will upon activation, either mechanically, electronically, or by other automatic means initiate the calling, dialing, or connection to any telephone assigned to the fire department by a public telephone company, without the prior written consent of such department.

(Comp. Ords. 1988, § 20.551)

Sec. 38-34. Application.

Any person who wishes to use or operate or cause to be operated, or arrange, adjust, program or otherwise install a dialer type alarm system shall first make written application to and obtain written approval from the fire department indicating the disposition and reasons.

(Comp. Ords. 1988, § 20.552)

Sec. 38-35. Investigation, approval; appeal, hearing.

Upon receipt of any application under this article, the fire department shall conduct an investigation as to the type of dialer type alarm system proposed to be installed and whether use of such system by the applicant would be harmful to the health, safety and welfare of the residents of the township. Upon completion of the investigation, approval in writing shall be given by the fire chief or assistant chief before the dialer type alarm system is installed by the applicant in the applicant's premises. If the application is denied, the applicant may appeal to the township board the decision of the fire chief or assistant chief. The township board shall provide a public hearing within 30 days to review the decision of the fire chief or assistant chief and either approve or disapprove the decision of the fire chief or assistant chief.

(Comp. Ords. 1988, § 20.553)

Sec. 38-36. Knox box entry system.

- (1) A Knox Box entry system shall be installed on any property having a commercial fire suppression system or fire alarm system.
- (2) All fees associated with the installation of the above system shall be the responsibility of the responsible party of the property
- (3) Fire Chief, Fire Marshal or their designee at their discretion has the authority to require the Knox Box entry system on any property with cause and explained in writing to the property.
- (4) Property has ninety (90) days to comply from the date of the written notice requiring the installation of the system. A failure to install the system is a violation of this Chapter and subject to penalties as set forth in Section 38-82 of the Code of Ordinances.
- (5) The Fire Chief or Fire Marshal has the authority to extend the date of the township. completion at their direction.

(Ord. No. 400, § 6, 2-8-2021)

Sec. 38-37. Fire department connection labeling.

- (1) Fire Department Connection (FDC) labels shall be installed on all property that is equipped with a fire department connection in conjunction with the sprinkler system.
- (2) FDC Labels shall consist of a white background with red letters
- (3) The size of the letters shall be no less than four (4) inches in height
- (4) The location of the FDC Label shall be no fewer than (60) inches from the ground and no more than eighty-four (84) inches from the ground and placed directly above the Fire Department Connection

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- (5) A Property is hereby required to install and maintain FDC labels within ninety (90) days from the effective date of this ordinance. Failure to comply with the FDC label requirements is a violation of this Chapter and subject to penalties as set forth in Section 38-82 of the Code of Ordinances.
- (6) The Fire Chief or Fire Marshal has the authority to extend the date of completion at their direction.
- (Ord. No. 400, § 7, 2-8-2021)

Secs. 38-38—38-70. Reserved.

ARTICLE III. FIRE PREVENTION STANDARDS

Sec. 38-71. Code adopted.

There is adopted, pursuant to the provisions of section 23 of Public Act No. 359 of 1947 (MCL 42.23, MSA 5.46(23)), by the township for the purpose of prescribing regulations governing conditions hazardous to life and property by fire or explosion, the 2015 International Fire Code including Appendix Chapters A through M, as published by the International Code Council and the 2021 National Fire Prevention Association Code 303 to govern marinas and related facilities within the township. Copies of both of the adopted codes are on file in the office of the clerk, all of which is adopted by reference and incorporated in this section as fully as if it was set out at length; and the complete provisions of such Codes shall be controlling within the limits of the township except as amended in this article.

(Comp. Ords. 1988, § 23.001; Ord. No. 330, § I, 3-13-2000; Ord. No. 339, 11-12-2002; Ord. No. 395, § 63, 1-14-2019; Ord. No. 400, § 1, 2-8-2021)

State law reference(s)—Adoption by reference, MCL 42.23.

Sec. 38-72. Code modifications.

The 2015 edition of the International Fire Code is amended as follows:

307.1 shall be amended in its entirety to read as follows:

General- No person shall cause or permit any open burning of fuel, garbage or other combustible refuse or waste material, including by any way of description but not by way of limitation, leaves, grass, brush, lake weeds and tree clippings.

307.4 shall be amended in its entirety to read as follows:

Open burning is prohibited within the Township.

307.4.1 shall be amended to read as follows:

Bonfires. A bonfire shall not be conducted within 50 feet (15 240 mm) of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions that could cause a fire to spread within 50 feet (15 240 mm) of a structure shall be eliminated prior to ignition. A bonfire permit is required to be obtained prior to burning material at a bonfire. Permits are issued by the Fire Marshal, Fire Chief or their designee. Fire Marshal shall inspect the property to assure compliance prior to issuing the bonfire permit. Fuel for a bonfire shall consist only of seasoned dry firewood. The pile shall be no greater than 6 feet in diameter and 4 feet high. The bonfire shall at all times be monitored and attended to by an adult. An extinguishing source shall be present at all times at the bonfire. The Fire

Code Official is authorized to order the extinguishment of the bonfire in the event it produces noxious smoke and or becomes a hazardous situation.

307.4. 2 shall be amended to read as follows:

Recreational fires shall not be conducted within 25 feet (7620 mm) of a structure or combustible material. Conditions that could cause a fire to spread within 25 feet (7620 mm) of a structure shall be eliminated prior to ignition. Recreational fires shall be no larger than 3 feet in diameter by 2 feet high. Fuel for the recreational fire shall consist only of clean, dry seasoned wood and ignited with a small quantity of paper. An extinguishing source shall be always present. The fire shall at all times be monitored and attended by an adult. If the recreational fire produces noxious, nuisance smoke and or becomes a hazardous situation, the Fire Code Official is authorized to order the extinguishment.

308.1.6.2 shall be amended to read as follows:

308.1.6.2 Portable and fixed open flame fueled devices. Portable and fixed open-flame devices fueled by flammable or combustible gases or liquids shall be enclosed or installed in such a manner as to prevent the flame from contacting combustible material. Portable and fixed open flame devices include commercial device fueled by liquid propane gas or Natural Gas. Devices shall be a minimum of 10 feet from any combustible.

(Comp. Ords. 1988, § 23.001A; Ord. No. 330, § 1, 3-13-2000; Ord. No. 339, 11-12-2002; Ord. No. 395, § 64, 1-14-2019; Ord. No. 400, § 2, 2-8-2021)

Sec. 38-73. Definitions in Fire Prevention Code.

- (a) *Municipality or jurisdiction.* Whenever the term "municipality" or "jurisdiction" is used in the International Fire Code or any annex of the code, it shall be held to mean the township.
- (b) *Enforcement officer or official.* Whenever the term "enforcement officer" or "Official" is used in the International Fire Code, or any appendix of the code, it shall be held to mean the fire chief on the township fire department and/or his designee.

(Comp. Ords. 1988, § 23.002; Ord. No. 339, 11-12-2002; Ord. No. 395, § 65, 1-14-2019; Ord. No. 400, § 3, 2-8-2021)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 38-74. Code enforcement.

The fire chief shall be responsible for the enforcement of this article. The fire marshal shall be appointed on the basis of examination or other method for determining qualifications. Other qualified fire department personnel may be authorized by the fire chief to administer and enforce this article.

(Comp. Ords. 1988, § 23.003)

Sec. 38-75. Violation.

It shall be unlawful for any person to violate this article, to permit or maintain such a violation, to refuse to obey any provision of this article, or to fail or refuse to comply with any provision or regulation except as variation may be allowed by the action of an authorized representative of the fire department, in writing. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or any other person in control of the premises. Prosecution or lack of prosecution of either the owner, occupant or the person in charge shall not be deemed to relieve any of the others.

(Comp. Ords. 1988, § 23.004)

Sec. 38-76. Enforcement.

- (a) It shall be the duty of the fire marshal and other authorized fire department personnel to enforce all laws and ordinances of the township covering the following:
 - (1) The prevention of fires;
 - (2) The storage, sale and use of combustible, flammable or explosive materials;
 - (3) The installation and maintenance of automatic and other fire alarm systems and fire extinguishing equipment;
 - (4) The maintenance and regulation of fire escapes;
 - (5) The means and adequacy of exit in case of fire from factories, schools, hotels, lodginghouses, asylums, hospitals, churches, halls, theaters, amphitheatres and all other places in which numbers of persons work, live or congregate from time to time for any purpose;
 - (6) The investigation of the cause, origin and circumstances of fires; and
 - (7) The maintenance of fire cause and loss records.
 - (8) Reserved.
- (b) The fire marshal and other authorized fire department personnel shall have such other powers and perform such other duties as are set forth in other sections of this article and as may be conferred and imposed from time to time by law. The fire chief may delegate any powers or duties under this article to the fire marshal or any other qualified fire department personnel and shall prepare instructions for the fire marshal and other authorized personnel and forms for their use in the reports required by this article.

(Comp. Ords. 1988, § 23.005; Ord. No. 355, 4-9-2007; Ord. No. 395, § 66, 1-14-2019)

Sec. 38-77. Permits/fire marshal orders.

Permits may be issued pursuant to this article as permitted by township ordinance and pursuant to fire department policy. The permit fees for all permits, certificates, approvals and other functions performed under this Chapter by the fire department shall be payable to the fire department and shall be in an amount as set forth in a schedule of fees to be maintained at the fire department headquarters. A copy of the schedule, as amended from time to time, shall be posted at the fire department.

The fire marshal or other authorized and qualified department personnel shall inspect and approve any receptacles, process, vehicles, or storage places to be used for any purposes for a determination as to compliance with this article. The fire marshal shall inspect or cause to be inspected all premises on a periodic basis and shall make such orders as shall be necessary for the enforcement of the laws and ordinances governing the premises and for safeguarding life and property from fire.

(Comp. Ords. 1988, § 23.006; Ord. No. 339, 11-12-2002; Ord. No. 400, § 4, 2-8-2021)

Sec. 38-78. Application of article.

The provisions of this article shall apply equally to both public and private property, and it shall apply to all structures and their occupancies except as otherwise specified.

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(Comp. Ords. 1988, § 23.007)

Sec. 38-79. Exercise of police power.

This article and the adoption of the fire codes and standards as set forth in this article shall be deemed an exercise of the police powers of the township for the preservation and protection of the public health, peace, safety, and welfare; and all provisions of this article, the IFC, annex A -M, of such code and the NFPA Code 303 shall be liberally construed for that purpose.

(Comp. Ords. 1988, § 23.008; Ord. No. 395, § 67, 1-14-2019; Ord. No. 400, § 5, 2-8-2021)

Sec. 38-80. Applicability of other laws.

- (a) Nothing in this article shall be construed, interpreted or applied to abrogate, nullify or abolish any law, ordinance or code adopted by the township governing the construction, alteration, addition, repair, removal, demolition, use, location, occupancy and maintenance of buildings specifically regulated in this Code. When any provision of this article is found to be in conflict with any building, zoning, safety, health or other applicable law, ordinance or code existing on the effective date of this article or later adopted, the provision which establishes the highest standard for the promotion and protection of the safety and welfare of the public shall prevail.
- (b) The minimum standards established by this article or any part of this article are expressly subject to Public Act No. 207 of 1941 (MCL 29.1 et seq.) and the rules and regulations promulgated under the authority of this act except as expressly provided in this article.

(Comp. Ords. 1988, § 23.009; Ord. No. 395, § 68, 1-14-2019)

Sec. 38-81. Appeals.

- (a) Where any person seeks relief from the decision or interpretation of a fire official enforcing the provisions of this article, including permits, certificates, waivers, alternate materials, alternate methods, approvals or variances or matters of code interpretation, that person may request reconsideration of the decision or interpretation by appealing, in writing, to the fire marshal within 15 days of the receipt of the decision, stating the reasons why relief is sought and what decision the person feels should be forthcoming. The fire marshal shall, within ten days after receiving a copy of the appeal in writing, render a written decision within ten days.
- (b) After the issuance of a written opinion by the fire marshal, any person seeking further relief regarding the provisions of this article may appeal to the township board of appeals as established by and in accordance with the International Fire Prevention Code Sections 108.1 and 108.2, as adopted by the township. Such appeal shall be in writing and directed to the board of appeals within 14 days following receipt of the fire marshal's written opinion. The board may, after hearing such appeal, affirm, annul or modify the action of the fire marshal by a majority vote. The decision of the board or a copy of the minutes of the appeal hearing shall be mailed to the appellant within 14 days after the conclusion of the hearing. Any decision of the board shall be final, and further recourse shall be through established legal procedures.
- (c) A filing fee shall accompany each notice of appeal to the board of appeals in an amount as set forth in a schedule of fees on file in the township clerk's office.

(Comp. Ords. 1988, § 23.010; Ord. No. 395, § 69, 1-14-2019; Ord. No. 403, § 1, 10-25-2021)

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Sec. 38-82. Violations.

- (a) If a notice of violation is not complied with within the time prescribed by the code official, the code official may:
- (1) Commence a municipal civil infraction action by issuing a municipal civil infraction notice or citation directing the alleged violator to correct within a prescribed period the violation or to appear in court;
 - (2) Request the legal counsel for the township to institute the appropriate proceedings at law or equity to restrain, correct or abate the violation or to require removal or termination of the unlawful use of the building or structure in violation of the provisions of this article or of the order of direction pursuant to this article.
- (b) A person who shall violate any provision of this article or any provisions adopted under this article, or any person who fails to comply with or who shall violate or fail to comply with orders made under this article or who shall build in violation of any specifications or plans submitted and approved under this article or any certificate or permit issued under this article and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the fire marshal or the building board of appeals, within the time fixed in this article, shall severally for each and every such violation and noncompliance respectively be responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$50.00, plus costs and other sanctions, from each infraction. Repeat offenses under this article shall be subject to increased fines as provided by this section. As used in this section, "repeat offenses" means a second (or any subsequent) violation of the same requirement or provision of this code committed by a person within any 90-day period and for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this article shall be as follows:
- (1) The fine for any offense which is a first repeat offense shall be not less than \$150.00, plus costs.
 - (2) The fine for any offense which is a second repeat offense, or any subsequent repeat offense, shall be not less than \$250.00 each, plus costs.
 - (3) The fine for any offense which is a third repeat offense, or any subsequent repeat offense, shall be not less than \$500.00 each, plus costs.

Each day on which any violation of this article occurs or continues constitutes a separate offense subject to separate sanctions. The code official as appointed by resolution of the township board is designated as the authorized township official to issue municipal civil infraction citations for violations of this article.

(Comp. Ords. 1988, § 23.011; Ord. No. 324, § 1, 5-11-1998; Ord. No. 331, 4-10-2000; Ord. No. 395, § 70, 1-14-2019)

Chapter 42 FLOODS³⁵

ARTICLE I. IN GENERAL

³⁵Cross reference(s)—Buildings and building regulations, ch. 18; emergency flood control system, § 26-31 et seq.; environment, ch. 34; land development, ch. 54; utilities, ch. 90; waterways, ch. 94; zoning, app. A.

Sec. 42-1. Floodplain management provisions of the state construction code.

- (a) *Agency designated.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act No. 230 of the Public Acts of Michigan of 1972, as amended, the building official of the township is hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Harrison under Act No. 230 of the Public Acts of Michigan of 1972, as amended. The township assumes responsibility for the administration and enforcement of said Act throughout its corporate limits.
- (b) *Code appendix enforced.* Pursuant to the provisions of the state construction code, in accordance with Section 8b(6) of Act No. 230 of the Public Acts of Michigan of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the building department within the township.
- (c) *Designation of regulated flood prone hazard areas.* The Federal Emergency Management Agency (FEMA) Flood Insurance Study (FIS) Macomb County, Michigan All Jurisdictions" dated December 30, 2020 and the Flood Insurance Rate Map(s) (FIRMS) panel numbers of:

NUMBERS	EFFECTIVE DATE
26099CIND0D	12/30/20
26099C0263G	9/29/2006
26099C0264J	12/30/20
26099C0351J	12/30/20
26099C0352J	12/30/20
26099C0353J	12/30/20
26099C0354J	12/30/20
26099C0356J	12/30/20
26099C0357J	12/30/20
26099C0358J	12/30/20
26099C0359J	12/30/20
26099C0361J	12/30/20
26099C0362J	12/30/20

and dated December 30, 2020 are adopted by reference for the purposes of administration of the Michigan Construction Code and declared to be part of Section 1612.3 of the Michigan Building Code, and to provide the content of the "Flood Hazards" section of Table R301.2(1) of the Michigan Residential Code.

(Ord. No. 355, 4-9-2007; Ord. No. 378, § 1, 11-26-2012; Ord. No. 399 § 1, 12-14-2020)

Secs. 42-2—42-30. Reserved.

ARTICLE II. RESERVED.

Secs. 42-31—42-83. Reserved.

Editor's note(s)—Ord. No. 399 § 2, adopted December 14, 2020, repealed Art. II, §§ 42-31—42-83, which pertained to flood damage prevention and derived from Comp. Ords. 1988, §§ 25.551(B), 25.551(C), 25.551(D), 25.552, 25.553(A), 25.553(B), 25.553(C), 25.553(D), 25.553(E), 25.553(F), 25.553(G), 25.554(A), 25.554(B), (C), 25.554(D), 25.555(A), 25.555(B), 25.555(C) ; Ord. No. 358, adopted March 25, 2008; Ord. No. 378, § 2, adopted Nov. 26, 2012.

Chapter 46 HISTORICAL PRESERVATION³⁶

ARTICLE I. IN GENERAL

Secs. 46-1—46-30. Reserved.

ARTICLE II. HISTORICAL COMMISSION³⁷

Sec. 46-31. Establishment.

The Harrison Township Historical Commission is established.

(Comp. Ords. 1988, § 12.681)

Sec. 46-32. Membership.

The historical commission shall consist of nine members who shall be residents, landowners or business owners within the township and recommended by the supervisor and appointed by the township board. Each member shall serve for a term of three years.

(Comp. Ords. 1988, § 12.683)

Sec. 46-33. Officers, meetings and records.

- (a) The historical commission shall each year elect a chairman, vice-chairman, treasurer, recording secretary, corresponding secretary, historian and any other officers from its membership as it may deem necessary.
- (b) The historical commission shall hold meetings regularly and shall designate the time and place of such meetings.
- (c) The historical commission shall adopt its own rules of procedure and shall keep a record of its proceedings.

(Comp. Ords. 1988, § 12.684)

Cross reference(s)—Officers and employees, § 2-61 et seq.

³⁶Cross reference(s)—Buildings and building regulations, ch. 18; environmental, ch. 34; land development, ch. 54; land division, ch. 58; utilities, ch. 90; zoning, app. A.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; historic districts, MCL 399.201 et seq.

³⁷Cross reference(s)—Administration, ch. 2.

Sec. 46-34. Purpose.

The purpose of the historical commission shall be to:

- (1) Collect, arrange and preserve historical material, including books, pamphlets, maps, charts, manuscripts, papers, copies of domestic and foreign records and archives, paintings, photographs, statuary, and other objects and material illustrative of and relating to the history of the township;
- (2) Procure and preserve narratives of the early pioneers, their exploits, perils, privations and achievements;
- (3) Collect material of every description relative to the history, language, literature, progress or decay of area Indian tribes;
- (4) Collect, prepare and display in the museum of the historical commission objects indicative of the life, customs, dress and resources of the early residents of the township, and publish source materials and historical studies relative to and illustrative of the history of the township;
- (5) Further public interest in all matters relating to the history of the township; and
- (6) Initiate and participate in educational and research programs.

(Comp. Ords. 1988, § 12.682)

Sec. 46-35. Duties and powers.

- (a) The historical commission shall acquire, collect, own and exhibit, in the name of the township, articles of historical interest and value which pertain to the history of the township.
- (b) The historical commission shall acquire, take and hold, by purchase, gift, devise, bequest or otherwise, such real and personal property as may be proper for carrying out the objects and functions for which it is established; and any property, real or personal, received in trust shall be held in the name of the township, but in conformity with the terms of any trust.
- (c) The historical commission shall otherwise promote public interest in and preserve the history of the township.

(Comp. Ords. 1988, § 12.685)

Sec. 46-36. Donations and receipts.

- (a) All donations of moneys or property, real or personal, shall be received by the historical commission as charitable contributions for public purposes pursuant to Internal Revenue Code section 170(c) unless otherwise designated by the donor.
- (b) All moneys collected or received by the historical commission from any source shall be paid forthwith to the township treasurer, and such moneys shall be used only to offset and defray the expenses of the historical commission. All moneys received by the historical commission shall be held for the exclusive use of the historical commission for public purposes.

(Comp. Ords. 1988, § 12.686)

Sec. 46-37. Expenditures.

Neither the historical commission nor any of its members shall incur any expense or create any obligation or liability upon the township.

(Comp. Ords. 1988, § 12.687)

Chapter 50 HUMAN RELATIONS³⁸

ARTICLE I. IN GENERAL

Secs. 50-1—50-30. Reserved.

ARTICLE II. HANDICAPPED GRIEVANCE PROCEDURE

Sec. 50-31. 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:

Grievance means a complaint, either verbal or written, by an individual based on alleged violations as to barrier-free access and/or discrimination against handicapped persons in employment practices, policies, program services and/or benefits as practiced or as allowed by the township.

Handicapped person means any person exhibiting a temporary or permanent impairment or condition which causes that person to use a wheelchair, causes that person to walk with difficulty or insecurity, affects sight or hearing to the extent that the person is exposed to danger, or causes faulty coordination or reduces mobility, flexibility, coordination or perceptiveness, and includes persons who are limited in ambulation.

Individual means any handicapped person, independent contractor, agent or employee of the township who is adversely affected by the lack of any barrier-free design or the existence of any discriminatory employment practices, policies, services or benefits provided or refused to be provided by the township. Specifically excluded from the scope of this policy and procedure are job applicants of the township as those persons would have adequate remedies under both the local collective bargaining agreement ratified with AFSCME Local No. 1103, the International Association of Fire Fighters (IAFF), Local 1137 as well as the Federal Fair Employment Practices Act.

Program coordinator means the administrator of the township handicapped grievance procedure. This person shall be appointed by the township board to sit at the discretion of the board.

(Comp. Ords. 1988, § 12.651)

Cross reference(s)—Definitions generally, § 1-2.

³⁸Cross reference(s)—Administration, ch. 2; personnel, ch. 70.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; Elliott-Larsen Civil Rights Act, MCL 37.2101 et seq.

Sec. 50-32. Verbal procedure, barrier-free access complaints.

- (a) Any handicapped person may verbally present his grievance relative to an alleged violation as to barrier-free access to any township-owned and/or township-operated public buildings to the program coordinator in an effort to immediately resolve the cause of the grievance. The program coordinator shall, upon receipt of such a grievance, immediately investigate the allegations of the grievance.
- (b) The program coordinator shall, within 15 days of the receipt of any verbal grievance as set forth in this article, make a written recommendation to the township board setting forth alternative methods of resolving the alleged violation or condition complained of, with a copy to be given to the aggrieved party.
- (c) A written recommendation of the program coordinator shall contain an opinion as to whether a barrier-free design, as requested by the grievant, is required under the federal revenue sharing guidelines. All legal or other authority for such determination shall be included.
- (d) Following submission of such recommendation to the township board, the same procedures would be used as with any written grievance.

(Comp. Ords. 1988, § 12.652)

Sec. 50-33. Written procedure; submission to township board.

- (a) Except as set forth in section 50-32, all grievances shall be made in writing to the program coordinator and shall contain specific and complete information regarding the alleged violation. Arrangements for submission of a grievance by way of personal interview or tape recording will be made available for the visually impaired or those with motor impairments the severity of which would make a written grievance an impracticable task.
- (b) All written grievances shall be submitted to the program coordinator within 30 calendar days of the alleged violation or the date of discovery of the alleged violation.
- (c) Within 15 working days of the receipt of any written grievance, the program coordinator shall respond in writing (or any other method understood by the grievant) to the allegations set forth in the grievance. The response shall offer a proposed resolution of the matter or shall contain a full explanation as to the position of the township with respect to the nature of the complaint.
- (d) If the written response by the program coordinator does not satisfactorily resolve the issue, the grievant may request a hearing before the township board of trustees. Any such request must be made by the grievant, in writing, within 15 days from the date of the written response of the program coordinator. The request shall be delivered or mailed to the township board at 38151 L'Anse Creuse, Harrison Charter Township, MI 48045.
- (e) The matter shall then be placed on the agenda of the next regularly scheduled meeting of the township board of trustees; provided that any request received by the township less than seven days from the date of the next regularly scheduled board meeting shall be placed on the agenda of the following regularly scheduled board meeting.
- (f) The grievant shall be given an opportunity at the board hearing to present his case in support of the grievance. The program coordinator shall also be given an opportunity to rebut the charges and present evidence in support of the written response to the grievance. In addition, the program coordinator shall prepare for the township board a rough estimate of the cost, administrative procedure and the time of township employees necessary to implement the changes or alterations suggested or requested in the written grievance.

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- (g) Within 30 working days of the initial hearing before the board of trustees, the board shall make a determination relative to resolution of the grievance. This determination shall be made by a duly enacted resolution of the board.

(Comp. Ords. 1988, § 12.653)

Sec. 50-34. Board action; resolution of grievance; implementation.

- (a) In determining the appropriate resolution of the grievance, the township board shall make a conscious effort to objectively decide the issues involved within the spirit and intent of the federal revenue sharing guidelines.
- (b) If the determination of the township board involves the alteration or addition to any township-owned or township-operated public building, the final resolution shall include a statement relative to the necessary plans to be implemented, an estimate of the cost, including advertising costs, engineering costs or any other related expense relative to the implementation of the planned development.
- (c) Where the final resolution of the township board involves any policy or program changes or any construction, the resolution shall also include a time table within which the projected resolution of the grievance shall be fully implemented. No more time shall be allowed than is necessary and reasonable given a diligent and expeditious effort by the township.

(Comp. Ords. 1988, § 12.654)

Sec. 50-35. Arbitration; notice.

- (a) If the final resolution of the township board is not sufficient or does not satisfactorily resolve the issues, the grievant may proceed to file a petition in writing for binding arbitration as provided for by the terms of the collective bargaining agreement between the township and AFSCME Local No. 1137. Such petition shall be filed within five working days of receipt by the grievant of the final resolution of the township board.
- (b) Notice of any such petition for binding arbitration pursuant to subsection (a) of this section shall be given in writing, with a copy of the petition to the office of federal revenue sharing in Washington D.C.

(Comp. Ords. 1988, § 12.655)

Sec. 50-36. Alternative appeal.

Notwithstanding the provisions of section 50-35, any grievances unsatisfactorily resolved following receipt by the grievant of the resolution of the township board can be submitted by the grievant to the state civil rights commission and/or the office of federal revenue sharing for an investigation and disposition relative to the allegations set forth in the original grievance as well as any alleged improprieties in the township grievance procedure.

(Comp. Ords. 1988, § 12.656)

Sec. 50-37. Program coordinator; appointment.

The business address of the program coordinator shall be 38151 L'Anse Creuse, Harrison Township, MI 48045, telephone number 466-1400. The office hours for the program coordinator are Monday through Friday from 8:00 a.m. to 4:30 p.m. The township board shall by resolution, no later than the effective date of this article, appoint an initial program coordinator. The resolution shall include the name, business address, telephone number

and office hours of the program coordinator. A copy of the resolution, as well as any subsequent resolution appointing a subsequent program coordinator, shall be kept on file at the office of the township clerk and shall be made available for public inspection upon request.

(Comp. Ords. 1988, § 12.657)

Cross reference(s)—Officers and employees, § 2-61 et seq.

Sec. 50-38. Retention of grievance records.

All written grievances received by the program coordinator, together with all related responses and written documentation, shall be maintained and kept by the township for a period of three years from the date of the original grievance.

(Comp. Ords. 1988, § 12.658)

Chapter 54 ENGINEERING STANDARDS³⁹

ARTICLE I. IN GENERAL

Sec. 54-1. 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:

Alley means any dedicated public way affording a secondary means of access to abutting property, and not intended for general traffic circulation, and not more than 20 feet wide.

Building service sewer (drainage water) means any drainage-water pipe extension from a building foundation drain outlet, located five feet outside of a building or dwelling unit, to a public stormwater drain.

Building service sewer (wastewater) means the sewer extension from a building drain outlet point, located five feet outside of a building or a dwelling unit, to a point of connection with a public sanitary sewer.

Building service water supply pipe means any water supply mains, pipes, services and/or appurtenances, except meters, that extend from a point of connection with the building water piping, located five feet outside of a building or a dwelling unit, to a point of connection with the public water supply system.

Customer wastewater disposal outlet means the point of connection to the public sewer.

³⁹Cross reference(s)—Buildings and building regulations, ch. 18; environment, ch. 34; drainage of lots, lands and excavations, § 34-70; floods, ch. 42; historical preservation, ch. 46; utilities, ch. 90; waterways, ch. 94; zoning, app. A.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15; Land Division Act, MCL 560.101 et seq.

Editor's note(s)—Ord. No. 338, § I, adopted July 22, 2002, amended the chapter title from "Land Development" to "Engineering Standards". With this name change the alphabetical sequence of chapter titles within this Code has been broken.

Customer water supply outlet means either the outlet on the customer side of a stop valve near the public easement or public right-of-way line (in the case of a supply for a single building) or on the customer side of a master water meter where the township has allowed the use of a master water meter to serve special types of customers.

Department means the sewer and water department of the township.

Development and *developer's project* and *project* mean a specifically designated site being developed (or proposed for development) by a developer.

Ditch and *drainage swale* mean an open channel used to transport water, groundwater, surface water runoff, or drainage water from any source.

Drainage facilities and *drainage water facilities* mean any storm sewers, lakes, ponds, streams, rivers or storm drains, including facilities designated as county drains, that receive water from lands owned by more than one owner.

Dwelling unit means a building or portion of a building, designed for occupancy by one family for residential purposes and having cooking facilities.

Easement means an acquired legal right for the specific use of land owned by others.

Foundation drain service pipe means a conveyance pipe that receives only foundation drain groundwater seepage, exclusive of directly and intentionally introduced surface water runoff.

GPS means the global positioning system presently installed in the township.

Harrison coordinates means the coordinate values for most of the apparent and visible section, quarter corners and monuments on file in the office of the township engineer.

Land developer and *developer* mean a person who intends to develop land by making various improvements to the land as described under "site improvements."

Land development and *the development of land* mean the reshaping of the land environment to provide for the elements or amenities associated with community living. Items considered as these elements or amenities include any of the items listed under the definition for "site improvements."

Lot means a parcel of land occupied or intended to be occupied by a main building or a group of such buildings and accessory buildings, or utilized for the principal use and accessory uses, together with such yards and open spaces as are required under the provisions of the zoning ordinance, appendix A to this Code. A lot may or may not be specifically designated as such on public records. Each such parcel shall also have its front line abutting a public street or a recorded easement.

Mains and *water mains* as applied to the water supply facilities and connections, mean any water supply conveyance pipe larger than two inches in diameter.

Michigan Department of Environmental Quality and *MDEQ* mean the state agency which regulates water supply facilities in the state and certain wastewater disposal facilities in the state.

Michigan Department of Transportation and *MDOT* mean the state agency which operates state roadways and federal expressways.

Michigan Water Resources Commission and *water resources commission* and *WRC* mean the state agency which regulates the discharge of wastewater and drainage water to the natural outlets of the waters of the state and provides various rules and regulations to control such waters.

Mobile home park (trailer court) means any plot of ground upon which two or more trailer coaches, and buildings, occupied for dwelling or sleeping purposes are located.

Natural outlet means any drainage water outlet, including storm drains and sewers, into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

Open drain means a large open channel used to transport water, groundwater, surface water runoff or drainage water from any source.

Parking lot means a designated area used primarily for the off-street parking of motor vehicles.

Parking lot bay means a portion of the width of a parking lot which includes a set of parking stalls on either side of a driveway provided for access to such parking stalls.

Plat means a map or chart of a subdivision of land as defined in Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Plot plan means a scaled topographic drawing of existing and proposed modifications to land utilized for or zoned for single and duplex residential dwelling.

Preliminary subdivision plan means a preliminary plat showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration, as defined in Public Act No. 288 of 1967 (MCL 560.101 et seq.).

Private wastewater disposal system means a septic tank with subsurface soil absorption facilities; wastewater treatment facilities; or similar methods of wastewater disposal that may be approvable by the county health department and/or the MDEQ.

Private water supply system means any system by which potable groundwater is withdrawn and supplied that may be approvable by the county health department and/or the MDEQ.

Public sanitary sewer means a sanitary sewer intended to be located in public easements or public rights-of-way that collects (or is intended to collect) wastewater from more than one user or premises and that is required to receive the approval and issuance of a construction permit from the municipal wastewater control section of the MDEQ.

Public sewer and *public drain* mean a common sewer or drain that serves more than one user or premises and is controlled by the township sewer and water department or another governmental agency.

Public utility company and *utility company* mean a legally constituted firm, corporation, or agency, other than the township or a county agency acting under a contract with the township, that operates under a franchise or agreement approved by the township for the purpose of installing and operating public utilities, including but not limited to gas piping, electric or telephone wiring (underground or overhead), oil piping, television cable, water supply, transmission mains, sanitary sewer interceptors, and/or drainage facilities. The Detroit Metro Water Department is a public utility company under this definition.

Public water main means a main, existing or proposed, in public easements or public rights-of-way that is intended to serve more than one user or premises and that is required to receive the approval and issuance of a construction permit from the municipal water supply section of the MDEQ. The service pipe, extending from a public water main to a customer water supply outlet, shall also be considered public.

Right-of-way and *ROW* mean land dedicated, reserved, used or to be used for a street, alley, walkway or other public purposes.

Road commission shall mean the road commission of Macomb County.

Sanitary sewer and *wastewater sewer* mean a sewer, together with appurtenances, that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities or groundwaters, stormwaters and surface waters that are not admitted intentionally.

Services, as applied to the water supply facilities and connections, means any water supply conveyance pipe, outside of a building.

Sewage force main and *force main* mean a wastewater conveyance pipe which carries wastewater under pressure.

Sewer means a pipe or conduit that carries wastewater or drainage water.

Sight distance means the unobstructed (straight line) length of view from a driver's eye height of 3.5 feet to an object height of six inches.

Site improvements and *improvements* mean such operations, acts of construction, or changes affecting land that increases the value, utility or habitability of the site, including but not limited to site grading; drainage water sewers, culverts or drains; sanitary sewers; wastewater disposal facilities; water supply piping; water supply facilities; gas piping; oil piping; television cable; electric power supply wiring; telephone wiring; roadway surfacing or paving; parking lot paving; driveways; bridges; lakes, ponds or lagoons; sidewalks; landscape walls and fences; and/or other appropriate appurtenant items.

Site plan means the plan required under the township zoning ordinance, appendix A to this Code, for site plan review for all projects other than a land subdivision plat.

SPCS `83 means the state plan coordinate system based upon the NAD `83 Geodetic Reference System. The value of the international foot shall be used.

Stop valve and *curb stop* mean the valve placed on a building service water supply pipe that is located at a customer water supply outlet.

Stormwater drain and *storm drain* and *storm sewer* mean a watercourse or a sewer intended for the conveyance of water, groundwater, surface water runoff, drainage water, or other water from any source exclusive of intentionally admitted wastewater.

Stormwater inlet structure means a structure designed and constructed to intentionally admit surface water runoff, drainage water, or other water from any source exclusive of intentionally admitted wastewater.

Street means any street, avenue, boulevard, road or other right-of-way that provides for vehicular or pedestrian access to abutting properties by the general public, and includes the land between the street right-of-way lines, whether improved or unimproved.

- (1) *Street, public*, means a right-of-way that provides for vehicular and pedestrian access to abutting properties that is deeded or dedicated to the road commission of the county, MDOT, or other governmental agency authorized to own road ROW and/or operate vehicular transportation facilities.
- (2) *Street, private*, means a right-of-way that provides for vehicular and pedestrian access to abutting properties for the general public, but is not deeded or dedicated to the road commission of the county, MDOT or other related governmental agency for ownership, operation or maintenance.
- (3) *Street, major*, means an arterial street which is intended to serve as a large-volume trafficway for both the immediate municipal area and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term on the major thoroughfare plan to identify those streets comprising the basic structure of the major thoroughfare plan.
- (4) *Street, local*, means any street, private or public, which is intended primarily for access to or through abutting properties. Local streets shall have or shall be considered to occupy a 60-foot-wide right-of-way.
- (5) *Street, collector*, means a street intended to carry traffic from local streets to major roads as designated on the township master thoroughfare plan. Collector streets shall have an 86-foot-wide right-of-way.

Superintendent means the person appointed by the board to manage the sewer and water department.

Surface water runoff and stormwater mean that part of rainfall or melting snowfall that reaches the stormwater drain as runoff from natural land surfaces, building roofs or pavements.

Tabulation of quantities means a list of construction items as usually used in the underground and pavement construction industry (e.g., as used by the MDOT) and compatible with the township construction specification items, together with the quantity of each item planned to be constructed.

Thoroughfare plan means that portion of the township's master plan that sets forth the location, alignment and dimensions of existing and proposed street rights-of-way adopted by the township.

Township engineer means the staff registered professional engineer or the consulting engineer representing the township in this position.

Trunk storm sewer means a public storm sewer having a diameter of 24 inches or larger.

Underdrain pipe means a geotextile wrapped perforated pipe installed underground for the specific purpose of lowering a high groundwater condition or draining a granular subbase by receiving groundwater seepage and conveying it to a stormwater drain. Farm drain tile is not underdrain pipe.

Unpolluted water and drainage water mean water of a quality equal to or better than the effluent criteria currently in effect (as specified by the MDEQ), or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the township sanitary sewers and wastewater disposal system.

User means the owner or occupant of any premises connected with and/or using any of the facilities operated by the department.

Utility company's contractor means a construction contractor engaged by the utility company to install public utilities for the utility company; or, in cases where the utility company has a construction division that installs its own utilities, shall mean the utility company.

Wastewater and sewage mean the spent water of a community, including liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

Wastewater treatment works and sewage treatment plant mean facilities for treating wastewater, industrial wastes and sludge.

Watercourse means a natural or artificial open channel for the passage of water either continuously or intermittently.

(Ord. No. 308, § 14.022, 8-26-1996; Ord. No. 338, §§ II, III, 7-22-2002)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-2. Fine.

The municipal civil infraction fine for violation of any provision of this chapter is a fine of \$500.00.

(Ord. No. 308, § 14.090, 8-26-1996)

Sec. 54-3. Purpose of chapter.

The purpose of this chapter is to:

- (1) Regulate and control all land development within the township and to promote the safety, public health and general welfare of residents of the township;

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- (2) Provide minimum requirements for site improvements for land development;
 - (3) Establish standards for engineering design and detailed engineering plans and specifications for site improvements;
 - (4) Provide for construction standards for land development site improvements;
 - (5) Promote the orderly layout and use of land; and
 - (6) Control building development within the floodplain areas.

(Ord. No. 308, § 14.012, 8-26-1996)

Sec. 54-4. Legal basis.

This chapter is adopted pursuant to, and in accordance with, Public Act No. 246 of 1945 (MCL 41.181 et seq.) and Public Act No. 288 of 1967 (MCL 560.101 et seq.) and should be read in conjunction with the township subdivision ordinance, land division ordinance, chapter 58; township zoning ordinance, appendix A to this Code; township flood damage prevention ordinance, chapter 42, article II; township water system control ordinance, chapter 90, article III; township sewer use ordinance, chapter 90, article IV; and township building code ordinance, chapter 18.

(Ord. No. 308, § 14.013, 8-26-1996)

Sec. 54-5. Scope.

- (a) This chapter applies to all land development causing or requiring the reshaping, grading or regrading of such land. The proposed installation of any improvements, including but not limited to public utilities such as gas piping, electric or telephone wiring (underground or overhead), oil piping, television cable, regional water supply transmission mains, regional sanitary sewer interceptors, and/or drainage facilities, is subject to the provisions contained in this chapter.
- (b) Site grading, including fill and excavation, and site drainage requirements apply to all land within the township. This chapter shall not apply retroactively to the development of land (except that any redevelopment or new construction shall comply with the applicable provisions of this chapter), including:
 - (1) Subdivisions or developments completed prior to the effective date of the ordinance from which this chapter is derived.
 - (2) A single parcel, or a single lot in a subdivision recorded prior to the effective date of this chapter, intended for only a one-family or two-family dwelling unit.
 - (3) Agricultural purposes.
- (c) This chapter does not repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except as provided in this chapter. Where this chapter imposes a greater restriction or more demanding requirement upon land than is imposed or required by other ordinances of the township, the provisions of this chapter shall control.

(Ord. No. 308, § 14.014, 8-26-1996)

Secs. 54-6—54-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT⁴⁰

DIVISION 1. GENERALLY

Sec. 54-41. Administration.

This article shall be administered by a township employee or employees designated by the township board.
(Ord. No. 308, § 14.015, 8-26-1996)

Sec. 54-42. Variances.

- (a) *Criteria for granting.* The administrator may authorize a variance from the provisions of this chapter when he determines that undue hardship may result from strict compliance with specific provisions or requirements of this chapter. In granting any variance, the administrator may prescribe other conditions that he deems necessary or desirable for the public interest. No variance shall be granted unless the administrator finds:
- (1) There are special circumstances or conditions affecting the situation such that a strict application of the provisions of this chapter would deprive the applicant of reasonable use of his property.
 - (2) That the variance is necessary for the preservation and enjoyment of the substantial property right of the applicant.
 - (3) That the granting of the variance will not be unduly detrimental to the public welfare or injurious to other property in the township.
 - (4) That such variance will not have the effect of nullifying the interest and purpose of this chapter nor violate the provisions of other state or federal regulations.
- (b) *Application.* Any person may apply for such variance by requesting a variance in writing, stating fully and clearly the reasons for the request and including any supplemental information and data which he believes may aid in the analysis of the proposed request.

(Ord. No. 308, §§ 14.061, 14.062, 8-26-1996)

Sec. 54-43. Fees.

- (a) *Plan review, administration fees.* Plan review and administration fees shall be as established by resolution.
- (b) *Construction inspection charges.* To cover the cost of construction inspection, the applicant shall pay a minimum cash deposit to the township water and sewer department.
- (c) *Cash bonds, utility companies.* To guarantee the restoration of land and/or other physical features, affected by the construction of the public utility, a utility company's contractor shall make a cash bond payment in the amount established by resolution.

⁴⁰Cross reference(s)—Administration, ch. 2.

Sec. 54-44. Survey requirements.

All surveys prepared for submission to the township for any purpose shall conform with the following requirements:

- (1) All surveys shall tie into and include coordinate values based upon Michigan SPCS-NAD '83 Coordinate System.
- (2) If available, both hard copy and computer disc compatible to the township system shall be submitted.
- (3) At least two of the permanent GPS monuments shall be used in establishing a bearing and tying into the Harrison coordinates, and shall be shown as referenced point monuments on the survey.
- (4) Several pairs of monuments are available for direct bearing reference. If independent monuments are used, a bearing rotation shall be provided and traverse work submitted by a licensed professional land surveyor.
- (5) All bearings shall be based upon the Harrison coordinate system.
- (6) The section corner, private claim and/or monument coordinate values on file in the office of the township engineer may be used to tie to township coordinates, provided they have been personally validated by a licensed professional land surveyor as the true corner of monument by affidavit recorded at the office of the county register of deeds, in accordance with Public Act No. 74 of 1970 (MCL 54.201 et seq.).
- (7) Use of government corners not yet listed at the township shall be conditioned upon first establishing such corners by survey into the system with a minimum accuracy of 1 in 20,000 using the established GPS network monuments only, and recording of an affidavit accordingly pursuant to Public Act No. 74 of 1970 (MCL 54.201 et seq.).
- (8) If GPS receivers are used to establish new points and values for the township system, it shall be established using the three township GPS monuments. GPS traverse closures shall be run. If values are acceptable (at least 1 in 80,000), the points may then be accepted by the township if approved by the township engineer. Such establishment shall require a licensed professional land surveyor to install a permanent monument similar to existing township GPS monuments in conformance with specifications provided by the township engineer.
 - a. Sea level factor and scale factor shall be applied to all values during surveys, so that all final values are on the NAD '83 Michigan State Plane Coordinate System ellipsoid.
 - b. $GF = SF \times SLF$
Earth's radius = 10,925,646 feet.
 - c. A mean grid factor of 0.999877150 used in the original work for computations.
- (9) Global positioning stations installed by the township have been clearly marked, and shall not be disturbed, moved, removed or otherwise modified in any circumstance.
- (10) If any person shall disrupt the precise position or location of any monument:
 - a. Such person shall immediately cause written notice to be provided to the township engineer.
 - b. The monument shall be properly reestablished pursuant to the directions, and under the supervision, of the township engineer.

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- c. All costs and expenses of such monument reestablishment shall be borne by the person responsible for the disruption.

(11) Elevations shall be in United States Geological Survey (1929) (USGS) Datum or National Geodetic Vertical Datum (NGVD).

(Ord. No. 308, § 14.028, 8-26-1996)

Sec. 54-45. Residential plot plan submittals.

(a) *Generally.*

- (1) Plot plans are required by the township as an integral part of the permitting procedure for residential structures. For new buildings or expanding of an existing building's footprint exceeding 50 percent of the existing structure floor area, township approval of both building plans and a plot plan must be secured before a building permit can be issued.
- (2) These requirements must be met before a plot plan receives approval. Subsections (b) through (e) of this section are not intended to be an exhaustive list of requirements, but rather a set of guidelines.

(b) *Topographical survey requirements.*

- (1) For lots platted within five years of plot plan submittal, no topographical survey is required unless a nonconformity to the subdivisions approved grading plan or drainage plan has been demonstrated.
- (2) For all lots platted over five years prior to the submittal of the plot plan, and all acreage/nonplatted parcels, full topographic survey is required. Surveys require location and description of all underground utilities; rims and inverts of all manholes, catchbasins and stop boxes; north arrow; property corners, irons, monuments and fences; a 50-foot grid of existing elevations, to 50 feet off-site (including lot corners); elevations must be corrected to conform to USGS/township datum with the benchmark used being depicted on the plans; existing structures with finished grade and finished floor elevations of all structures on adjacent lots; all vegetation and trees on adjacent lots and lot to be developed; and the public drainage course to which the proposed lot will drain. This list is not intended to be all-inclusive.

(c) *Legal description.* A complete and accurate legal description of the lots to be developed must be included with the plan. The plan drawing must include lot dimensions and bearings, easement, address, lot number, name and ROW width of adjacent streets and setback dimensions.

(d) *Grading and drainage.*

- (1) A grading plan is required with all plot plan submittals and must include the following information: Proposed elevations at all lot corners, along side lot lines immediately adjacent to existing and/or proposed structures, in swales and ditches at regular intervals not to exceed 50 feet, at all proposed building corners and at corners and centerlines of septic fields. The plan must contain sufficient information to detail the drainage of the lot. All site drainage must be directed to a public drain. If no public drain is immediately available or adjacent to the site, it will be the responsibility of the site developer to extend drainage to the site from an approved outlet. When insufficient depth exists to service a site, it may be necessary for the developer to deepen the existing drain to service the site.
- (2) Existing elevations at property lines shall be met by new construction. In no case shall on-site drainage be directed to an adjacent site or shall existing off-site drainage patterns be interrupted. Open drains will generally be permitted on or off the site when existing off-site drains are not enclosed and extension of drainage to the site is necessary. Slopes of swales on the site shall be 0.50 percent or greater.

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- (3) Storm drains shall be designed to conform to section 54-152. On-site storm sewers, when servicing only the parcel being developed, are to be a minimum of six-inch diameter and are to be constructed of minimum schedule 40 PVC or SDR 23.5 ABS, or equal.
 - (4) *Utility leads.* The minimum slopes shall be sufficient to provide a velocity of 2.5 fps or greater. When servicing more than one parcel, the pipe shall be a minimum eight-inch diameter and be constructed in a 12-foot-wide easement dedicated to the township. A larger pipe may be necessary if the acreage being drained by the pipe is incapable of handling a ten-year storm over the subject drainage area.
 - (5) Catchbasins are to be a minimum of two-foot diameter and be constructed of manhole block or precast concrete. Rims and grates are to be EJIW 1020 or 1037 with type N grade (or equal).

(e) *Utilities.*

- (1) *Sanitary sewer.* A four-inch minimum diameter sanitary sewer lead shall be provided for each residence, leading to a sanitary sewer or septic system. The lead shall have a minimum slope of one percent and shall be constructed of a minimum schedule 40 PVC or SDR 23.5 PVC or ABS. No more than one single-family residence shall utilize an individual lead.
- (2) *Water.* A minimum one-inch, type "K" copper water lead shall be provided for each single-family residence accessing the township's water supply.
- (3) *Storm sewer.* A sump pump lead shall be provided for each residential structure so equipped. The lead shall be a minimum three-inch diameter and be constructed of a minimum schedule 40 PVC or SDR 23.5 ABS. The lead must outlet to an approved public drain.
- (4) *Utility leads.* All utility leads are to access the respective public utility adjacent to the site to be developed. The crossing of lot lines with lead extensions or the construction of spaghetti leads is prohibited.

(Ord. No. 308, § 14.039, 8-26-1996; Ord. No. 338, § IV, 7-22-2002)

Secs. 54-46—54-70. Reserved.

DIVISION 2. CONSTRUCTION PERMIT FOR SITE IMPROVEMENTS OR PUBLIC UTILITIES

Sec. 54-71. Required.

Except for agricultural purposes, it shall be unlawful for any person to begin the development of land (including grade alterations and fills) or install public utilities within the township without first obtaining a permit for construction.

(Ord. No. 308, § 14.041, 8-26-1996)

Sec. 54-72. Procedure.

Any person desiring to proceed with the development of land or install public utilities shall apply for a permit for construction from the township water and sewer department in accordance with the procedures in this division.

(Ord. No. 308, § 14.042, 8-26-1996)

Sec. 54-73. For projects where the construction contractor is engaged by the township (or by the county agent under contract with the township).

Where the construction contractor is engaged by the township or by the county agency under contract with the township, the contractor will not be required to acquire (nor have in his possession) a permit for construction. However, the contractor shall restore all land and/or other physical features affected by the work to a condition equal to or better than that existing at the time construction was begun. Filling or grading of private lands in conjunction with such projects shall not occur without securing a permit to construct for the individual property.

(Ord. No. 308, § 14.042(A), 8-26-1996)

Sec. 54-74. For projects where the construction contractor is engaged by a public utility company other than the township.

- (a) For projects where the construction contractor is engaged by a public utility company other than the township, the public utility company shall prepare and present to the township water and sewer department plans and specifications for the proposed utility, whether it be an underground utility or an overhead utility (including a single pole relocation), in accordance with the standard utility locations indicated in section 54-162. Furthermore, the utility company shall ascertain where the location (horizontally or vertically) may be in possible conflict with utilities proposed by the township.
- (b) Upon completion of the plans and specifications for the public utility, the utility company shall make an application for a plan review on a form furnished by the township water and sewer department. As part of this application, the utility company shall submit the following:
 - (1) Three sets of completed plans and specifications as proposed to be used for the construction of the utility.
 - (2) A cash payment, computed according to the schedule promulgated pursuant to section 54-43 as the plan review-administration fee.
 - (3) Such other information and data as the township engineer deems necessary to enable the approval of the plans and specifications.
- (c) Upon approval of the plans and specifications by the water and sewer superintendent and the township engineer, but prior to commencement of construction, the utility company's contractor shall apply for a permit for construction of a public utility on a form furnished by the township water and sewer department. As part of this application, the utility company's contractor shall submit the following:
 - (1) Three sets of approved plans and specifications.
 - (2) A cash deposit (in an amount promulgated pursuant to section 54-43) to be held as a bond by the township to guarantee that all land and/or other physical features affected by the work are restored to a condition equal to or better than that existing at the time construction was begun.
 - (3) Such other information and data as the township engineer deems necessary to enable the approval of the construction permit.
- (d) After issuance of the construction permit, the contractor may proceed with construction. The contractor shall restore all land and/or other physical features affected by the work to a condition equal to or better than that existing at the time construction was begun.
- (e) Upon completion of the construction, the utility company's contractor shall submit a request (along with any supporting data deemed necessary by the township) for written approval and acceptance by the township of

the restoration work. Upon approval of the restoration work by the township, the cash bond will be returned to the contractor. However, if the utility company's contractor does not act in a timely manner to perform the restoration work, the township reserves the right to use whatever portion of the money as is reasonable and necessary to accomplish the restoration work and return the balance of the money to the contractor upon completion of the restoration work.

- (f) Upon completion of the work, record plans shall be submitted on a format approved by the township engineer.

(Ord. No. 308, § 14.042(B), 8-26-1996)

Sec. 54-75. For all other development projects.

- (a) For projects other than those regulated in section 54-74, the developer shall engage a registered professional engineer who shall prepare plans and specifications for the proposed site improvements in accordance with current engineering design and plan preparation standards contained in this division or otherwise adopted by the township or set forth by the township engineer.
- (b) Upon completion of the plans and specifications for the site improvements, the developer shall make an application for a plan review on a form furnished by the township water and sewer department. As part of this application, the developer shall submit the following:
 - (1) Three copies of completed plans and specifications as proposed to be used for the construction of the site improvements.
 - (2) A tabulation of quantities in sufficient detail to enable the township engineer to make a reasonable estimate of construction cost of all proposed work. The developer's engineer shall prepare an estimate of construction cost of the proposed work which may be used in lieu of the township engineer's estimate. The estimate is to be based on the cost for the township to publicly bid and construct the project.
 - (3) A cash payment, computed according to the schedule promulgated pursuant to section 54-43 to cover cost of the plan review administration fee.
 - (4) Such other information and data as the township engineer deems necessary to enable the approval of the plans and specifications.
- (c) Upon approval of the plans by the township engineer, the township engineer will coordinate the securing of necessary approvals for the construction of township utilities from other reviewing agencies. The applicant shall furnish such plans and other documents as are necessary to accomplish such approvals. However, after approval of the plans by the township, the developer's engineer shall obtain approval from the road commission of the county, the county public works office (drains and soil erosion), the MDOT, or any other agency (where applicable) where the approval is not obtained by the township engineer. Also, the developer's engineer shall forward plans to any public utility and/or other agency whose facilities or rights-of-way may be affected by the proposed construction. In granting approval of the plans, it shall be understood that the approval of such plans includes the addition of the current construction detail sheets, standards and/or construction specifications as applicable.
- (d) Upon securing approvals and construction permits from all other appropriate agencies, the developer shall make an application for a permit for construction of site improvements on a form furnished by the township sewer and water department. As part of this application, the developer shall submit the following:
 - (1) Three sets of approved plans and specifications, including the executed construction contract documents, that shall contain as a minimum:

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- a. Certificates of insurance, with the township named as co-insured, showing satisfactory workers' compensation insurance, public liability insurance, and property damage insurance, including motor vehicle exposure and specific coverage for explosion and underground hazards. The limits shall be as determined by the administrator.
 - b. A maintenance and guarantee bond to the township in the amount of 50 percent of the construction contract cost, to guarantee for a period of two years from the date of final written acceptance of such improvements the correction of any defects or deficiencies in the improvements covered under the construction permit.
 - c. The contractor's proposal form, indicating his unit prices and total construction cost price for which he is to perform the contract.
- (2) A cash deposit (in an amount promulgated pursuant to section 54-43), from which the final cost of construction inspection, administration, construction water and/or sewer usage, and any related miscellaneous township expenses shall be deducted.
 - (3) Such other information and data as the township engineer deems necessary to enable the approval of the construction permit.
- (e) Upon approval of the construction permit by the township engineer and the superintendent, the developer's construction contractor shall perform the construction under detailed inspection by a representative of the township engineer.
 - (f) Upon completion of construction and prior to using any of the facilities covered under the construction permit, the developer shall apply for a written final approval and acceptance of the improvements. As part of this application, the developer shall submit the following:
 - (1) Sworn statements and waivers of lien, indicating that all public improvements have been paid for in full.
 - (2) Two sets of record drawings (one mylar and one print) from the developer's engineer indicating as-built measurements and/or as-built elevations for the improvements including as-built elevations of drainage swales, inverts of utilities, rim elevations, lead locations, field changes, etc. If the record plans are computer generated, the township engineer may require submittal of CAD files in a format compatible with township systems.
 - (3) An appropriate transfer of title for all parts of the improvements which will be public sewer and/or public water main, together with copies of recorded easements for public utilities as signed by all persons having an interest in the land. A title search statement indicating the names of all persons of interest (certified by a recognized title insurance company) shall accompany the copies of recorded easements.

(Ord. No. 308, § 14.042(C), 8-26-1996; Ord. No. 338, § V, 7-22-2002)

Secs. 54-76—54-110. Reserved.

ARTICLE III. SITE IMPROVEMENTS

Sec. 54-111. Guarantee for completion of site improvements.

After site plan approval or final preliminary subdivision approval by the township planning commission and engineering plan approval, but before the issuance of building permits for buildings within the development, the

developer shall provide the township with a guarantee for the satisfactory completion of the required site improvements for the development. Such guarantee shall be in the form of cash, certified check, or in the form of a surety bond or irrevocable letter of credit acceptable to the township. The amount of the deposit shall be set by the township board based on the estimated construction cost of the improvements as determined by the township engineer. The township shall release funds from the deposit as site improvements are completed and approved by the township, in proportion to the amount of improvements satisfactorily completed. However, if the improvements required by section 54-116 and section 54-117 are not completed, the builder of a home on a lot within the land development, prior to the issuance of occupancy permits, shall provide the township with a cash bond guaranteeing satisfactory completion of the requirements of section 54-116 and section 54-117. Occupancy permits shall not be issued until such improvements are installed or sufficient cash bonds are provided.

(Ord. No. 308, § 14.038, 8-26-1996; Ord. No. 338, § VI, 7-22-2002)

Sec. 54-112. Site grading and drainage water collection and disposal systems.

- (a) It shall be unlawful for any person to change the drainage pattern of any land by excavating, grading or filling without first obtaining a permit for construction from the township. Each site shall be graded for the purpose of directing surface water runoff to appropriate drainage water collection and disposal systems as is necessary, and such work shall be done in a manner which will not cause drainage water from the site to flow onto adjacent land nor obstruct the flow of existing drainage from adjacent properties. Drainage water collection and disposal systems shall be provided to collect surface water runoff and/or building foundation drain groundwater seepage. The drainage water collection system shall consist of enclosed storm sewers and watercourses throughout the project. An extension of the storm sewer system shall be provided to furnish an outlet for foundation drain service pipes for each building. The collected drainage water shall be conveyed to a point of disposal that shall be a public stormwater drain.
- (b) When in the opinion of the township engineer and/or the county public works office commissioner there is inadequate drainage water outlet capacity, and an adequate drainage water outlet cannot be reasonably engineered and constructed, the developer shall install an adequate detention basin with controlled outlet facilities to limit the rate of flow of drainage water from his site. Final approval of any plans which include a detention basin shall be conditioned upon an operation and maintenance special assessment district agreement with the township. The following shall apply:
 - (1) Detention basins on private developments, where ownership will remain consolidated over an extended period of time, such as industrial sites, shopping centers, apartment complexes, etc., shall remain in private ownership, subject to township review as to size, design and proper operation. Maintenance and liability shall remain with the property owner.
 - (2) Detention basins serving predominantly single-family areas or a platted subdivision may be dedicated to the township for ownership and maintenance, subject to the criteria established in section 54-152 and subject to case-by-case review and approval by the planning commission and the township board. Such development shall be required to file a standing stormwater facility operation and maintenance special assessment district agreement prior to final plat approval.
 - (3) Sites for detention basins shall be shown on the preliminary and final plats, site plans and engineering plans.

(Ord. No. 308, § 14.031, 8-26-1996; Ord. No. 338, §§ VII, VIII, 7-22-2002)

Sec. 54-113. Street and parking lot pavement and rights-of-way.

- (a) All residential land developments, whether single-family or multiple-family, shall be served by paved roadways, having a width and type of pavement as indicated in section 54-163.
- (b) All industrial developments shall be served by concrete paved roads having a width of pavement as indicated in section 54-163. Commercial and industrial developments shall be served by paved roadways. Paving for commercial developments shall be of the type and width as indicated in section 54-163.
- (c) Commercial and industrial developments shall be served by paved driveways and parking lots.
- (d) Where any land development abuts or includes a proposed collector street as indicated on the master thoroughfare plan, or where it is deemed essential by the planning commission or the township board to provide for continuity to other parts of the public road system through the subject land development, the developer of such land development shall be responsible for the installation of the collector street or other local streets, with dedication, of the right-of-way to the use of the public.
- (e) Where the township zoning ordinance, appendix A to this Code, requires off-street parking, each 90-degree parking space (or stall) shall be ten feet in width and 20 feet in length. Parking areas shall be paved with either a concrete pavement or a bituminous aggregate surface course. All paved areas shall have concrete curbs adjacent to sidewalks and landscaped areas. Moreover, parking lots shall be designed in accordance with standards contained in this article and/or as required in article 6 of the township zoning ordinance.

(Ord. No. 308, § 14.032, 8-26-1996)

Sec. 54-114. Potable water supply and distribution system.

- (a) All developments shall be serviced by a potable water supply and distribution system acceptable to the township. A site plan or a preliminary subdivision plat submitted to the township shall be accompanied by data describing the type of potable water supply and distribution system that is to be provided for the development.
- (b) For all developments, the developer shall provide a water main distribution system to service each proposed building site. The water main distribution system shall be connected to the township water supply distribution system and conveyed to the township for operation and maintenance.

(Ord. No. 308, § 14.033, 8-26-1996)

Sec. 54-115. Wastewater collection and disposal system.

- (a) All developments shall be serviced by a wastewater collection and disposal system acceptable to the township. A site plan or a preliminary subdivision plat submitted to the township shall be accompanied by data describing the type of wastewater collection and disposal system that is to be provided for the development.
- (b) For all developments, the developer shall provide sanitary sewers to service each proposed building site and shall connect them to a public wastewater disposal system. Individual existing single-family and duplex-family residential sites without access to public sanitary sewer may extend and connect to the public sewer system or may develop an individual on-site treatment system. All wastewater disposal systems shall be designed in a manner acceptable to the township engineer and the county health department.

(Ord. No. 308, § 14.034, 8-26-1996)

Sec. 54-116. Sidewalks.

- (a) Sidewalks shall be constructed completely across the project where it abuts existing or proposed public streets except in existing residential subdivisions without sidewalks which are more than 50 percent developed and/or where the existing road right-of-way is not wide enough to accommodate a sidewalk.
- (b) In all projects a sidewalk shall be provided within the right-of-way on both sides of all existing or proposed streets located within the project. The requirement for sidewalks on both sides of a local street may be waived by the planning commission when an acceptable and more imaginative alternative for pedestrian circulation is proposed by the developer. The requirements of this section include corner closures, interior and major road sidewalks.
- (c) The outside edge of the five-foot-wide sidewalk will normally be located one foot inside the road right-of-way. For mobile home parks and multiple-family projects with private street systems, the walk may be located adjacent to the street pavement and the width determined so the walk will have a usable width of four feet.

(Ord. No. 308, § 14.035, 8-26-1996)

Sec. 54-117. Trees.

Unless a sanitary sewer or water main is not yet installed where planned along a street, the developer shall plant at least one tree (minimum one-inch diameter, six feet in height) per lot or building site on each side of all township streets except section line roads. Street trees shall have a minimum spacing of 60 feet and a maximum spacing of 70 feet. The type of tree shall be determined by the township.

(Ord. No. 308, § 14.036, 8-26-1996)

Sec. 54-118. Underground wiring.

The developer shall provide for all local distribution lines for telephone, electric, television and/or other similar services distributed by wire or cable to be placed underground entirely throughout the area to be developed for residential use, except for main supply and perimeter feed distribution lines which service areas outside the development area, and except for surface facilities related to underground service (such as aboveground closure or terminals); and such wires, conduits or cables shall be placed within private easements which shall be provided to such service companies by the developer. All such facilities shall be constructed in accordance with standards of construction approved by the state public service commission.

(Ord. No. 308, § 14.037, 8-26-1996)

Secs. 54-119—54-150. Reserved.

**ARTICLE IV. ENGINEERING DESIGN
AND PLAN REQUIREMENTS AND
SPECIFICATIONS AND STANDARDS
FOR CONSTRUCTION OF
SITE IMPROVEMENTS⁴¹**

Sec. 54-151. Generally.

- (a) All plans except plot plans submitted shall be on 24-inch by 36-inch white prints having blue or black lines and shall be neatly and accurately prepared. Judgment should be exercised in the design, layout and presentation of proposed improvements.
- (b) Engineering plans shall have a scale, not to exceed one inch equals 40 feet horizontal. Profile views shall have a scale of one inch equals four feet vertical and a horizontal scale compatible with the plan view.
- (c) Any land development project requiring more than one sheet of plans must be submitted with a general plan having a scale of one inch equals 100 feet (or larger scale) showing the overall project layout (including building locations) and indicating the location of all site improvements proposed.
- (d) Street names, lot or property lines, and property identification and address numbers shall be shown on all plans.
- (e) Sewers in easements shall be located at least three feet away from parcel or lot boundary lines. A variation to this requirement can be granted by the administrator upon presentation of data indicating another location is best suited.
- (f) Superimposed on a general plan of the site shall be a topographic survey and contour lines of the project area, including the area at least 100 feet outside of the project area. Where the contour of the land is such that contour lines do not provide enough information to evaluate a proposed grading scheme, spot elevations taken on a 50-foot grid shall be shown instead. Contour lines shall be shown at intervals as follows:
 - (1) Where the general slope of the land is one percent or less, the interval shall be one foot.
 - (2) Where the general slope of the land is more than one percent but less than five percent, the interval shall be two feet.
 - (3) Where the general slope of the land is five percent or greater, the interval shall be five feet.
- (g) Any underground or overhead public utilities shall be located in the road (public or private) right-of-way according to the schedule entitled "Standard Utility Locations" shown in section 54-162.
- (h) All sewers and those water mains having a diameter of 16 inches or greater shall be indicated in profiles. There shall be a separate plan and profile view for each utility. However, it shall be the responsibility of the

⁴¹Cross reference(s)—Buildings and building regulations, ch. 18; utilities, ch. 90.

design engineer to ascertain that the depth of the storm sewer (or storm drain) does not interfere with the building service sewers crossing the storm sewer. Profiles shall indicate the size of pipe, class of pipe, slope of the utility, and control elevations of the utility. The existing and proposed grade lines shall be shown along the profile view of each utility. The profile shall show all points where utilities cross one another with elevations for each utility calculated and shown. The designer shall maintain a one-foot vertical clearance between underground utilities. Water mains shall have 18 inches of vertical clearance from sanitary sewer mains and services.

- (i) Elevations shall be based on U.S. Geological Survey Datum. The township benchmarks shall be used where available, and at least three benchmarks shall be indicated on the plans for each 40 acres or less of the project site area. A minimum of two benchmarks shall be provided on each utility profile sheet.
- (j) Finish grade elevations planned for each structure shall be indicated on the plan view and the profile view.
- (k) A copy of the site boundary survey with computed control lines indicated, or a copy of the computed plan, if applicable, shall be submitted with the engineering plans.
- (l) Plans shall have all lettering a minimum height of one-tenth of an inch and be of such quality as to provide for a clear and legible microfilm or scanned record.
- (m) All plans and specifications submitted shall bear the seal and original signature of the registered professional engineer responsible for their preparation.
- (n) The plans covering all of the required site improvements for a specifically designated area of the developer's land shall be submitted as one package before any plan review shall commence.
- (o) The plan shall contain a location map and any other pertinent data determined necessary by the township engineer to properly review the plan.

(Ord. No. 308, § 14.051, 8-26-1996; Ord. No. 338, §§ IX—XI, 7-22-2002)

Sec. 54-152. Site grading and drainage water collection and disposal.

- (a) All sets of plans which include plans for storm sewers shall include the current township storm sewer detail sheets, which shall be considered an inseparable part of the plans when the plans are approved.
- (b) A site grading and drainage water collection and disposal plan is required for all developments; except if the building site is a site in a subdivision or other project for which a general site grading plan has been submitted and approved, no separate grading plan or permit will be required. A rear yard (in the case of land subdivisions) or a general site-enclosed storm drainage system shall be designed for all land development projects. If there are any upstream watershed drainage areas which need to be drained through the site under design consideration, sufficient capacity and depth shall be provided to take fully developed upstream watershed drainage areas which need to be drained through the site under design consideration, sufficient capacity shall be provided to take fully developed upstream drainage into the system.
 - (1) Each subdivision shall have an overall grading plan showing grades for rear yards, sidewalks and rear yard catchbasins. Storm sewers, building finish floor grades, brick ledge (ground) grades and direction of surface drainage flow shall be shown.
 - (2) Rear yard storm sewers shall be required in all subdivisions. Catchbasins (two-foot minimum diameter) shall be placed at every other property corner so that every lot directly abuts a catchbasin in at least one corner. All catchbasin outlet sewers shall extend in side lot easements to the public storm sewer in the road right-of-way.

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- (3) Any required rear yard drain easements shall be a minimum of six feet wide. All side yard drain easements shall be a minimum of 12 feet wide. The township engineer shall require additional easement width when sewer size or depth, soils or other conditions warrant a wider easement.
- (c) Site grading for all building sites shall be reviewed to determine that proposed and/or actual site grading is proper and that drainage from land lying upstream is not obstructed and that downstream properties will not be diversely effected by runoff from the property under design consideration.
- (1) Before a certificate of occupancy for any building is issued, the administrator shall approve the final site grading and drainage for each building; the administrator shall require that a survey, drawing, and certificate, done by a registered professional engineer or registered land surveyor, be furnished by the developer indicating that the work has been done in conformity to the approved site grading and drainage plan.
- (2) It shall be unlawful for any person to interfere with, modify or obstruct the flow of drainage water across any property in any manner different from the approved plan. The exception to this requirement is grading plans for single-family or duplex dwelling units, which may be approved by the township engineer.
- (3) During periods of the year when weather conditions make site grading work unfeasible, a temporary certificate of occupancy may be issued, subject to the furnishing of a satisfactory bond, letter of credit, or cash deposit in an amount determined by the township engineer guaranteeing the completion of the work when weather conditions permit.
- (4) Any property owner claiming to be aggrieved by any site grading work, or decision of the administrator relative to site grading of a parcel of property, shall have the right to appeal the decision of the administrator to the township building board of appeals. Such an appeal must be requested in writing, stating fully and clearly the reasons for the request, and including any supplemental information and data which may aid in the analysis of the proposed request. Written notice of the date and time of the hearing shall be delivered to the owner of the property on which the grading work has been, is being or will be performed. In conjunction with a determination on the appeal, the building board of appeals has express authority to assess as costs against the owner of the property on which the grading work has been, is being or will be performed, the amount of the filing fee to reimburse the applicant in the case of a successful appeal. If such a reimbursement is ordered, it may be paid out of any bond proceeds paid by the property owner in conjunction with the subject grading work.
- (d) The fall of the land away from any building shall be a minimum of six inches in the first 25 feet. From this elevation the land shall slope to a drainage water collection swale at a minimum slope of one foot in 100 feet (one percent).
- (e) The maximum slope of the land for the site shall not exceed one foot in four feet as provided in the zoning ordinance, appendix A to this Code. Sodded swale or ditch slopes shall be a maximum slope of one foot vertically and three feet horizontally.
- (f) Adequate soil erosion and sedimentation control measures shall be specified on the plans, and followed during construction, to conform to the requirements of part 91 of the Natural Resources and Environmental Protection Act (MCL 324.9101 et seq.). A soil erosion permit shall be acquired by the developer from the county public works office, a copy of which shall be presented to the administrator prior to issuance of a construction permit.
- (g) All buildings having foundation drains shall direct the flow of drainage water from such foundation drains into a storm sewer or a storm drain by means of an underground enclosed conveyance pipe three inches in diameter (minimum). No building permit shall be issued for any building having a basement without a building service sewer (drainage water) with drainage to a storm sewer or storm drain. Sump and pump shall be required in basements. Pump size shall be adequate to carry intercepted groundwater.

- (h) Drainage water runoff from building roofs shall be piped to a point five feet away from the outside walls of any building. No drainage water runoff shall be allowed on adjacent property. Drainage water, sump pump water and/or groundwater shall not be discharged to the sanitary sewer system.
- (i) The longitudinal grade of any drainage swale shall not be less than 0.5 foot per 100 feet (0.5 percent). The maximum distance drainage water shall travel in a drainage swale without an intercepting yard catch basin shall be 300 feet. Not more than 100 feet of drainage water travel shall be upstream of an angle point (deflection angle 45 degrees or greater) in the drainage swale. Planned final grade elevations shall be indicated on the plans at a maximum spacing of 50 feet.
- (j) Where required by the township engineer, a six-inch diameter geotextile wrapped perforated drainage pipe shall be provided for drainage, with the pipe trench being backfilled entirely with pea gravel up to within four inches of the grade line of the swale.
- (k) Stormwater runoff drainage systems shall be designed for a ten-year storm by means of the rational method formula: $Q=CIA$; where Q is the peak rate of runoff in cubic feet per second, A is the area in acres, C is the coefficient of runoff for the drainage area, and I is the average rainfall intensity in inches per hour for a certain time of concentration. The rainfall intensity shall be determined by the formula: $I=175/(T + 25)$; where T is the time of concentration equal to the time required for a drop of water to run from the most remote point of the watershed to the point for which runoff is being estimated. In most instances, an initial T equal to 20 minutes for residential areas can be used. Use T=15 minutes in other land use areas. The developer's engineer shall use judgment in arriving at proper imperviousness factors; but, in general, the following factors are acceptable minimums:
 - (1) Lawn areas—0.2.
 - (2) Pavement and roof areas—0.9.
 - (3) Overall area of single-family subdivision—0.35.
 - (4) Overall area of multiple-housing development—0.55.
 - (5) Overall area of commercial development—0.80.
 - (6) Overall area of industrial development—0.80.
- (l) Where open county drains are proposed for drainage water disposal, the Manning's formula shall be used for determination of flow depth and capacity. However, if the township engineer and/or the MDEQ and/or the county public works office deem it advisable, the developer's engineer may be required to furnish computations and plans showing the backwater curve for the open drain under 100-year-flood-flow fully developed upstream watershed conditions.
- (m) Where possible, provide a minimum of 3½ feet of cover from the top of finish road or earth grade to the horizontal centerline of any storm sewer. It will be acceptable to allow the hydraulic gradient to be above the top of the sewer pipe but below the elevation of the lowest structure cover. The design elevation of the hydraulic gradient profile shall be indicated on the sewer profile view. Nonsubmerged drain systems shall be designed to operate with the water surface elevation at or below the 0.8 rise level. Starting HGL into pumped outlet shall be the average of pump on and pump off elevations. Gravity outlets below the base flood elevation shall use the adopted township 100 year flood elevation.
- (n) Access manholes (four-foot minimum diameter) shall be provided along the storm sewer at every change of pipe size, change of grade or change of direction. However, the maximum spacing for storm sewer manholes shall be as follows:

Diameter of Sewer (inches)	Absolute Maximum Manhole Spacing (feet)
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12 to 30	400
36 to 42	400
48 to 60	500
66 and Larger	600

NOTE: Height (rise) of arch and elliptical pipe shall be used as the criteria for manhole spacing.

Leads 12 inches or less in diameter may be core tapped directly into sewers 42 inches and larger, except that taps shall not be made into a precast manhole tee pipe section. An access manhole on a catchbasin must be located on the lead within 25 feet of the tap. Manholes and catchbasins shall be constructed utilizing precast concrete segments or class A concrete block and mortar.

- (o) Catchbasins shall not be constructed over a main sewer line to replace manholes in street sewers or trunk sewers outside of streets. If a normal manhole location (outside of streets) coincides with a stormwater inlet structure location, a catchbasin may be used as a stormwater inlet structure in lieu of the manhole.
- (p) An end section with prefabricated bar screen shall be installed on the end of all storm sewers 12 inches in diameter and larger which outlet into an open drain. Openings of the bar screen shall be no more than six inches on centers.
- (q) In general, pavement type catchbasins shall be located as follows:
 - (1) At or near the radius return of street intersections.
 - (2) At all low points in streets.
 - (3) At intermediate points along the street such that there is a maximum pavement drainage area per structure as follows:
 - a. Intercepting catchbasins, square feet per catchbasin 10,000
 - b. Low point catchbasins, square feet per catchbasin 12,000
- (r) Yard type catchbasins shall be provided at all low points in drainage swales. Provide intercepting yard type catchbasins such that not more than 300 feet of swale drainage runs into any one catchbasin other than a low point catchbasin where 600 feet of drainage is allowed.
- (s) Improved open drains may be permitted under special circumstances provided the township engineer has determined that the enclosure of such open drains would require a storm sewer 60 inches or larger in diameter. When open drains are used, the easement width shall be sufficient to accommodate a 20-foot wide maintenance plateau (with a minimum slope of ten percent) on each side of the channel.
- (t) The side slopes of open drains shall have a maximum slope of one foot vertical to six feet horizontal, except that a low flow channel may have side slopes of one foot vertical to three feet horizontal. Open drain side slopes shall have an established sod surfacing, or be seeded, fertilized and mulched, as soon as possible after construction. Sufficient measures shall be taken to conform to the erosion and sedimentation control requirements of applicable state, county or local ordinances.
- (u) An extension of the storm sewer system shall be provided to furnish an outlet for foundation drain service pipe for any buildings not otherwise serviced; such extensions shall have a minimum diameter of six inches.
- (v) When in the opinion of the township engineer and/or the county public works office there is inadequate drainage water outlet capacity, the developer shall make necessary downstream drain improvements or be required to install detention basins or reservoirs. If detention is deemed appropriate by the township engineer, the storage capacity of such detention basin shall be rated in acre-feet and shall contain a capacity equivalent of 0.2 foot of water of the entire watershed area that drains into the detention basin.

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- (1) The design elevation for storage in the detention basin shall be at least one foot below the low point of the watershed area draining into the detention basin.
 - (2) If construction is approved with side slopes less than required, the detention basin shall be completely fenced. The fence shall be six feet high chain link. A suitable access roadway 16 feet in width shall run from a hard-surfaced roadway to an access gate in the detention basin. The access gate shall be a double opening gate at least 14 feet in total width and shall be provided with proper locks. The bottom of the fence shall be six inches below the ground surface.
 - (3) The side slopes of the basin shall be one foot vertical to six feet horizontal, and the top of the slope shall be a minimum of 20 feet distant from any fenced enclosure or building.
 - (4) The bottom of the basin shall have a minimum grade of one percent. The slope of the gutter line to the outlet shall have a minimum grade of one-half percent. Underdrains shall be constructed in the bottom of the basin as required by the township engineer. All inlet and outlet pipes shall have a bar screen, flared end section, and riprap as required. An inlet manhole shall be provided on the inside of the fence.
 - (5) The entire detention basin area must be seeded (MDOT class A seed) or sodded (MDOT class B sod), and the turf shall be fully established before the township approves the detention basin for operation and maintenance.
 - (6) An overflow system shall be provided. The overflow system shall consist of either a pipe having an invert at the design storage level elevation, a control structure, or a concrete spillway with an invert 0.5 foot above the design storage elevation. The concrete spillway shall extend from the inside bank slope to the outlet drain.
 - (7) For basins with pumped outlets, a silt trap and bar screen shall be installed on the inlet pipe to the pump station. The screen clear opening shall be a maximum of two inches.
 - (8) Pumping stations for dewatering of the detention basins shall include duplicate pumps with each pump capable of handling the design flow. The controls shall include a lead pump start and stop, a lag pump start and stop, an alternator for alternating the lead lag pump, a high water alarm system with a light and a horn, and a safety all pumps off control. The control panel, pumps and wet well shall be installed inside of the fenced enclosure and the controls shall be installed in a suitable weatherproof and vandalproof enclosure. Vehicular access to the pumps shall be provided. Construction shall conform to federal, state, county and local codes.
 - (9) Minimum land area of isolated parcels which will be used as detention basins should be no less than six acres so that they will eventually be usable as public parks. Therefore, adjoining developers should make every effort to consolidate their detention acres into a single site where engineeringly feasible. Smaller sites may be acceptable where they abut directly on other township or elementary, middle or high school sites.
 - (10) Basin properties shall have a length-to-width ratio of not more than 2½:1 unless otherwise approved by the township board.
 - (11) Public street access with a paved roadway, water main and sanitary sewer, shall be provided directly to the site.
 - (12) Basins shall be designed to drain completely within 24 hours to 48 hours after a rain.
 - (13) Pumps shall be located in close proximity to the entrance gate for easy access during all seasons. The size, make and type of pumps will be determined by the township to facilitate maintenance.
 - (14) Electrical service shall be extended inside the fence whether gravity flow or pumps are used.

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- (15) Where the basin abuts residential properties (existing or proposed), a dense hedge shall be planted along the inside perimeter of the fence. Trees may be required by the township where the basin parallels a roadway and in other instances where improved aesthetics could be achieved without interfering with maintenance.
- (w) A signed maintenance agreement and approved plans for detention facilities and storm drainage facilities (which will not be owned and operated by the road commission or public works office), shall be in effect prior to township approval of the final plat or site plan. The developer/builder shall be responsible for dewatering the basin until it is accepted by the township. The developer and/or builder shall escrow sufficient funds or otherwise assure adequate funds by creating a special assessment district to cover maintenance, operation and insurance liability costs for the expected life of the basin. The developer and/or builder shall escrow sufficient funds for the abandonment or refilling when the detention basin is no longer required.
- (Ord. No. 308, § 14.052, 8-26-1996; Ord. No. 338, §§ XII—XIV, 7-22-2002)

Sec. 54-153. Street and parking lot paving.

- (a) All sets of plans which include plans for street and/or parking lot paving shall include any current township paving and/or parking lot detail sheets, which shall be considered an inseparable part of the plans when the plans are approved.
- (b) Paving for all streets located within dedicated public road rights-of-way shall be designed and constructed in accordance with the currently adopted specifications of the road commission of the county.
- (c) Paving for all other streets and parking lots shall conform to the specifications of the road commission of the county or the following specifications, whichever is the more stringent requirement:
- (1) Air entrained concrete for pavement, sidewalks and curbs shall conform to current MDOT standards for grade 35P, except that the concrete mixture shall contain no less than six sacks of type 1 or 1A cement per cubic yard. Calcium chloride compounds/admixtures are prohibited.
 - (2) Asphalt pavement shall conform with current MDOT specifications 4:11 bituminous pavement (440 pounds per square yard) surfacing over an approved subbase adequately designed for sufficient thickness (minimum of six inches) and types to be compatible with loading and subsoil conditions.
 - (3) The thickness and widths of the street pavements (back to back of curbs) shall be as indicated in section 54-163.
 - (4) Maximum allowable pavement grade shall be seven percent for concrete pavement and for asphalt pavement.
 - (5) Minimum allowable pavement grades shall be as follows:
 - a. Concrete pavement gutter grades—0.40 percent.
 - b. Asphalt pavement gutter grades—0.60 percent.
 - c. Concrete curb return at intersections—1.00 percent.
 - d. Concrete pavement surface grade to gutter line—0.50 percent.
 - e. Asphalt pavement surface grade to gutter line—1.00 percent.
 - (6) Whenever a change in the grade of two percent or more occurs, provide a vertical curve with a length determined (to the nearest 50 feet) by the following formula: $L = \frac{1}{2} (G1 - G2)$, where L is the length in stations of 100 feet per each station and G1-G2 is the algebraic change of grade in percent.

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- (7) Centerline curve data (radius, deflection angle, degree of curvature and total arc length) for all street pavement curves shall be indicated on the plans unless a final plat is submitted with the plans.
 - (8) The top of curb elevations every 50 feet and at the intersection of each property line extension to the curblines shall be indicated on the profile view for each street.
 - (9) The minimum sight distances for all roads shall be 300 feet for local streets and 420 feet for collector streets.
 - (10) When street centerlines have a deflection of more than ten degrees, but less than 75 degrees, the centerline shall have a curve with a minimum radius of 250 feet for local streets and 350 feet for collector streets. Between reverse curves, there shall be a tangent section of 50 feet for local streets and 100 feet for collector streets. For deflections of 75 degrees or greater, the curvature requirements shall be determined by the township engineer.
- (d) All street pavement in residential areas shall have four-inch mountable curbs. Where the pavement is a boulevard section, island curbs shall be seven-inch-high curbs. Current county road commission specifications shall be adhered to on public roads. All curbing and curb and gutter for streets and parking areas shall be reinforced concrete.
 - (e) A detail shall be drawn for all intersections, eyebrows and culs-de-sac. The detail shall show jointing and detailed pavement surface grades, including gutters and tops of curbs. The minimum scale of the detail shall be one inch equals 30 feet.
 - (f) At the end of a street that will be extended in the future, install a one-foot header and standard road end barricade and sign.
 - (g) Where the township zoning ordinance, appendix A to this Code, requires off-street parking, the design of the parking area shall conform to the requirements as follows:
 - (1) All parking lot layouts shall be designed to meet the requirements of the township engineer and shall receive his written approval.
 - (2) All parking areas shall be paved with either six inches minimum thickness concrete or eight inches minimum thickness of stone aggregate topped with 3.5 inches of bituminous concrete surface course. A six-inch-high concrete curb shall be placed on drive entrances for the paved parking area. Six-inch minimum concrete curbing shall be required in all locations where pavement meets landscaping areas or sidewalk.
 - (3) When the area is to serve three or more automobiles, the individual car spaces shall be marked by painted-on yellow stripes a minimum of three inches wide. The stripe shall extend from the front of the parking stall space to a distance of 18 feet. The distance center to center of stripes, as measured perpendicular to the stripes, shall be a minimum of ten feet, or as specified in the zoning ordinance.
 - (4) The parking bays for residential areas shall have 64-foot-wide bays. However, for a single bay, a car overhang of two feet will be assumed and the width between face of curbs may be reduced to 60 feet. Moreover, on the curb side of a multiple bay parking area, the two-foot overhang may be assumed for the purposes of reducing the pavement width of the outside bay to 62 feet. Where the parking area is adjacent to the project boundary line, the face of the curb shall be located at least two feet from such boundary line.
 - (5) Parking lot layouts for other than residential areas shall be designed in accordance with the general standards indicated in the township zoning ordinance.
 - (6) When sidewalks are provided adjacent to the parking area curbs where car overhangs occur, such walks shall be a minimum width of seven feet as measured from the face of the curb.

(Ord. No. 308, § 14.053, 8-26-1996; Ord. No. 338, §§ XV, XVI, 7-22-2002)

Sec. 54-154. Water supply and distribution system.

- (a) All sets of plans which include plans for water mains shall include the current township water main detail sheets, which shall be considered an inseparable part of the plans when the plans are approved.
- (b) All water mains shall be shown in a plan view. Water mains, at a location of crossings with other utilities or drains, and those water mains 16 inches or larger in diameter shall also be shown on a profile view.
- (c) The plan shall indicate the proposed finished grade elevations of all hydrants, gate wells and/or other structures and, where a public main or hydrant is not located in a public street, an easement for the main and hydrants. The easement shall extend a minimum of six feet each side of the centerline of the main. Additional easement width may be required by the township engineer.
- (d) The type, capacities, location and layout of a building service water supply pipe shall comply with all requirements of the township engineer, the township water and sewer superintendent, the county health department, and the state.
- (e) The type of pipe and joints indicated on the plans shall be in accordance with the currently adopted township standards.
- (f) All water mains shall be installed with a minimum cover of five feet below finished grade. Where water mains must dip to pass under a storm sewer or sanitary sewer, the minimum acceptable clearance shall be 12 inches and 18 inches respectively. At all open drain crossing a five feet minimum clearance between the proposed ultimate bottom of drain and top of water main shall be provided. The sections which are deeper than normal shall be kept to a minimum length by the use of vertical bends (maximum deflection allowed 45 degrees) properly anchored.
- (g) Water mains other than hydrant leads shall be eight inches minimum in diameter in single-family or duplex uses. Commercial, industrial and multifamily developments shall require 12-inch minimum diameter mains. No dead-end water mains shall be created. Where no practicable means exists to loop a main during the current project, the developer and/or builder shall be required by the township engineer to provide stubs for future extensions and connections. All single hydrant leads longer than 50 feet shall be eight inches minimum diameter and shall be valved as a dead-end main.
- (h) All valves, except hydrant valves, shall be installed in a standard gate well. Valves shall be located in the system such that not more than four valves need be turned off to isolate any individual section of water main. Moreover, sufficient valves shall be placed such that not more than 30 dwelling units or service establishments shall be serviced within such section of water main that can be isolated. Where possible, valves shall be located at street intersections five feet from the intersecting street right-of-way line. In no case shall valve spacing exceed one thousand feet.
- (i) Hydrants shall be installed along the water main at least every 500 feet. However, in no case shall any external part of any building be more than 300 feet hose lay length from a hydrant. In commercial or industrial districts, additional hydrants may be required. Hydrants shall be installed at the ends of all dead-end water mains. When near a street intersection, hydrants shall be located a minimum of 15 feet from the intersecting street right-of-way line.
- (j) Gate valves larger than 12 inches shall be installed with a two-inch or larger valved bypass line as specified by the director.

(Ord. No. 308, § 14.054, 8-26-1996; Ord. No. 338, §§ XX—XIII, 7-22-2002)

Sec. 54-155. Wastewater collection and disposal system.

- (a) All sets of plans which include plans for sanitary sewers shall include the current township sanitary sewer detail sheets, which shall be considered an inseparable part of the plans when the plans are approved.
- (b) For every sanitary sewer project, there shall be indicated on the profile view a manhole with a 12-inch-deep manhole sump to be used for testing for infiltration. This manhole generally shall be the first manhole upstream from the point of connection to the existing sanitary sewer system. No sanitary sewer section having an infiltration rate, or an exfiltration rate, of more than 50 gallons per inch of pipe diameter per mile of pipe per 24-hour period shall be approved for connection to the township sanitary sewer system. A low-pressure air test may be required in lieu of an infiltration test.
- (c) The minimum allowable size for public sanitary sewers shall be eight inches in diameter. The minimum size of building service sewer (wastewater) shall be four inches in diameter. A minimum of six-inch building service sewer shall be provided for a building containing from one to 12 dwelling units (or equivalent), all commercial and industrial buildings; a minimum of eight-inch building service sewer shall be provided for a building containing from 13 to 100 dwelling units (or equivalent). An approved cleanout will be installed at the sewer ROW or easement line when the lead is extended to the premises.
- (d) The following table of acceptable slopes for sanitary sewers shall be adhered to:

Sewer Size (inches)	Minimum Slope (percentage)	Maximum Slope (percentage)
4	2.00	6.5
6	1.00	6.5
8	0.40	5.0
10	0.28	4.0
12	0.22	3.0
15	0.15	2.0
18	0.12	1.5
21	0.10	1.3
24	0.08	1.2

Gravity sewers shall be designed for a minimum velocity of two feet per second and a maximum of eight feet per second. Where sufficient depth is available, the extreme upstream run of sewer without the potential for future extension shall have the minimum slope increased to develop a design velocity of three feet per second.

- (e) Sanitary sewer force mains shall be designed for a minimum velocity of two feet per second and a maximum velocity of ten feet per second, unless otherwise approved. Force mains shall be shown in a profile view, with grades and elevations indicated. An air relief and cleanout assembly manhole shall be provided at high points. Access (cleanout assembly) manholes shall be provided along the force main at least every 600 feet.
- (f) A building service sewer shall be indicated on the plans for each building in the project. Where sanitary sewers are planned along roadways, the building service sewers shall be extended across the roadways (to the right-of-way line) prior to paving.
- (g) Manholes shall be provided along all sanitary sewers at:
 - (1) Points of horizontal deflection;
 - (2) Points where the size of sewer is changed;

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- (3) Points where the slope of the sewer is changed;
 - (4) At junctions with other sewer lines;
 - (5) At the upstream terminus of a sewer run;
 - (6) Along the sanitary sewer at other locations such that the maximum spacing between manholes shall not exceed 400 feet.
- (h) At manholes where size of sewer changes, match 0.8 diameter elevation points of inlet and outlet sewer. At horizontal deflections in the sanitary sewer greater than 45 degrees, a minimum of 0.10 foot additional adjustment in grade elevation shall be provided to allow for loss of head. However, additional elevation adjustments may be made when conditions allow; provided that, when the invert of any inlet sewer is more than 18 inches above the outlet sewer, a drop assembly shall be provided. External drop connections will not be permitted unless special permission is granted by the water and sewer superintendent.
 - (i) In general, sanitary sewers shall be located within a public street right-of-way or public easements adjacent to street ROW. Sanitary sewers shall not be located within rear lot easements, except in extremely unusual circumstances as determined by the township engineer. Where public sanitary sewers are located outside of public streets, they shall be placed in a recorded public utility easement that provides for unlimited access to the sanitary sewer for repairs, connections and maintenance. The minimum acceptable width of easements for public sanitary sewers shall be 20 feet; except if adjacent and parallel to the public street, the width may be reduced to 12 feet.
 - (j) The sanitary sewer trunk line shall be designed to have a minimum depth from finish grade elevation to top of sewer of 8.5 feet at local control points or nine feet at locations where the sewer grade is parallel to the road grade. All sewer mains shall be constructed at the maximum practicable depth to facilitate future extensions of the main. In no case shall collector sewers be built with less than five feet of cover.
 - (k) Each wye or terminus of building service sewer shall be plugged with an infiltration proof plug in accordance with current adopted township standards.
 - (l) The type of pipe and joints for sanitary sewers shall be in accordance with currently adopted township standards.
 - (m) When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed in a public sewer or utility easement by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times.

(Ord. No. 308, § 14.055, 8-26-1996; Ord. No. 338, §§ XXIV, XXV, 7-22-2002)

Cross reference(s)—Utilities, ch. 90.

Sec. 54-156. Sidewalks and driveways.

- (a) Sidewalks shall have a minimum thickness of four inches in pedestrian only areas and a minimum of six inches in areas where vehicular traffic will cross the walk. Sidewalks shall extend continuously thru all driveways.
- (b) The width of the walk shall be a minimum of five feet for public walks and a minimum of four feet for other than public walks and are subject to review and approval by the township.

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- (c) Single-family and two-family residential concrete driveways shall be a minimum of four inches thick except that portion within the public right-of-way, which shall be a minimum of six inches thick. All other concrete drives shall be a minimum of six inches thick except that portion within the public right-of-way which shall be a minimum of eight inches thick. Bituminous pavement residential driveways are acceptable provided they have a minimum of six inches of stone or slag base surfaced with three inches of bituminous surface course. The developer's engineer shall design an adequate base and surface thickness to be compatible with existing subbase conditions and anticipated design loads for all nonresidential driveways.
 - (d) Construction joints with a half-inch premolded expansion filler shall be placed at maximum intervals of 50 feet. Contraction joints shall be placed at maximum intervals of five feet or equal to the width of walk, whichever is greater. Expansion joints shall be placed at all curbs, at all intersecting walks and at all changes in direction.
 - (e) Sidewalks shall be constructed along a planned longitudinal grade line. The maximum longitudinal slope shall be five percent. The transverse slope of the sidewalk shall be a minimum of two percent (one-fourth inch per foot) and a maximum of five percent.
 - (f) Concrete for sidewalks and driveways shall have a 28-day compressive strength of at least 3,500 pounds per square inch.

(Ord. No. 308, § 14.056(A), 8-26-1996)

Sec. 54-157. Other utilities.

Unless otherwise approved by the township engineer, the installation of public utilities other than township sanitary sewers, water mains or storm sewers shall not be started until the finished grade has been established. The utility company's contractor shall be required to restore the ground to the finished grade. The drainage water swales shall be restored to a workable condition at least as good as existed prior to construction. Furthermore, all land and/or other physical features affected by the construction of the public utility shall be restored to a condition at least as good as that existing at the time construction was begun.

(Ord. No. 308, § 14.056(B), 8-26-1996)

Sec. 54-158. Building elevations.

- (a) Outside building elevations (either the brick ledge or ground grade) shall be determined by adding between 12 and 18 inches to the highest elevation of the road (centerline or top of curb) which is adjacent to the frontage of the lot. Building elevation variations (from the above requirements) can be made on corner lots or where setbacks substantially exceed the minimums established by the zoning ordinance, appendix A to this Code, when approved by the township engineer. All site and plot plans submitted to the building department shall show all outside building elevations of structures on adjacent lots or lots in close proximity to the proposed structure for the purpose of the township engineer determining if the proposed outside building elevations and drainage are harmonious with the neighborhood's structures. The township engineer shall adjust proposed outside building elevations, if required, to maintain acceptable differentials between adjacent structures. In no case shall the outside building elevation be less than the established floodplain elevations.
- (b) The township engineer shall consider stepped or multiple outside building elevations of individual structures in relationship to the road elevation, adjacent structure elevations, and/or the effect they may have on adjacent vacant lots and approve them, only if they are harmonious with existing house grades and are not detrimental to future construction on adjacent vacant lots. The township engineer, when reviewing and/or approving outside building elevation, shall review and approve the site storm drainage plan. A site or plot

plan shall not be approved unless positive drainage exists or will be provided. No storm drainage shall be directed onto adjacent lots except in easements established to accommodate storm drainage. The township engineer shall review site plans only if they are complete in every respect and contain sufficient information to assure ordinance compliance.

(Ord. No. 308, § 14.056(C), 8-26-1996)

Sec. 54-159. Engineered septic fields.

Engineered septic fields shall be defined as septic tank fields designed to be constructed above existing ground level. Building plans (site or plot plans) reviewed by the township engineer shall show final elevation and location of proposed engineered septic fields. Engineered septic fields shall not be approved by the township engineer unless provisions have been made to maintain existing drainage patterns and storm drainage is not directed onto adjacent lots except through or across easements and/or natural defined watercourses provided specifically for stormwater runoff. Engineered septic fields located in front yards shall be designed to blend with surrounding areas, be landscaped and meet all other ordinance requirements.

(Ord. No. 308, § 14.056(D), 8-26-1996)

Sec. 54-160. Filling vacant lots.

Vacant subdivision lots or parcels shall not be filled unless a fill permit is obtained from the building department following approval of a plot plan by the township engineer. The requirements for obtaining a fill permit shall include but not be limited to providing a detailed grading plan showing existing and proposed grades of the lot or parcel to be filled, and existing grades on adjacent lots and/or structures, roads and related drainage, and a canal if applicable. A fill permit will not be issued unless these requirements are met and all storm drainage is directed to a bona fide storm drainage outlet. In no case shall stormwater be directed onto adjacent property. Final fill elevations shall be based on section 54-158. Fill permits for individual parcels or lots less than two acres in size shall be issued for a 90-day period. Parcels and lots of two acres or more shall be issued for a 180-day period. Fill permits may be renewed one time only. After filling is complete, final grading and the establishing of vegetative cover shall be required within 30 days.

(Ord. No. 308, § 14.056(E), 8-26-1996)

Sec. 54-161. Construction and construction inspections.

- (a) All work covered under a permit for construction of site improvements shall be performed according to the approved plans and specifications and in accordance with the requirements of this article. By making an application for a permit for construction of site improvements, the developer grants the township the right to perform inspection of any work covered under the permit and the developer shall correct, at his expense, any work which is discovered to be done in conflict with the approved plans and specifications or in conflict with the requirements of this article.
- (b) The fee for construction inspection as determined by the administrator shall be deducted from the amount of the construction inspection deposit paid upon application for a permit for construction as set forth in section 54-43. If the fee so determined exceeds the amount of the deposit, the developer shall make up such deficiency in deposit by paying forthwith, upon discovery, an additional deposit to cover the cost of inspection until the job is completed and approved. Upon completion and final approval of the work, any money left in the construction inspection deposits account will be returned to the developer.

- (c) The township reserves the right to inspect all work covered under the permit for construction of site improvements and intends to provide detailed inspection for all of the following:
- (1) All of those types of construction where detailed inspection requirements are covered under the township sewer and water ordinances, chapter 90, articles III and IV.
 - (2) All sanitary sewers (public or private), including connections.
 - (3) All water supply pipe (public or private), including connections.
 - (4) All open and enclosed storm drains (public or private), including connections, except in the case of those storm sewers considered private storm sewers in mobile home parks that do not receive drainage water from premises other than the mobile home park site.
 - (5) All site grading and pavement for any site.

The township will provide inspection sufficient to verify compliance with requirements of township ordinances for all private storm sewers, sidewalks, driveways, street pavements, and/or parking lot pavements. The developer shall provide competent construction surveyors and inspectors for detailed inspection for all construction not inspected in detail by the township.

- (d) Construction permits shall be valid for 18 months from the date of issuance. A permit may be renewed once prior to the expiration for six months. If all work is not completed within the original permit and extension time, the owner and its agents shall forfeit all bonds and permit fees to the township. The township shall use the guarantee bond proceeds to either complete the project or to remove any work previously completed by the owner.

(Ord. No. 308, § 14.057, 8-26-1996; Ord. No. 338, § XXVI, 7-22-2002)

Sec. 54-162. Schedule of standard utility locations.

Subject Utility	Location of Utilities From Centerline (1)					
	60-foot ROW (24-foot Pavement With Curbs) (2)	60-foot ROW (28-foot Pavement With Curbs) (2)	70-foot ROW (36-foot Pavement With Curbs) (2)	86-foot ROW (36-foot Pavement With Curbs) (2)	86-foot ROW (48-foot Pavement With Curbs) (2)	120-foot ROW (65-foot Pavement With Curbs) (2)
Sanitary Sewer (3)	36L	36L	41L	49L	49L	50L
Storm Sewer	21L	21L	26L	27L	27L	40L
Gas	18R	18R	21R	27R	31R	35R
Hydrants	22R	22R	24R	24R	28R	38R
Water Main	25R	25R	27R	26R	30R	42R
Sanitary Sewer (Second) (3)	—	—		49R	49R	66R
Second Water Main (or Storm Drain)	—	—		—	—	52L
DE - MBT (Underground)	—	—		—	—	52R

DE - MBT (Overhead)	31R	31R	36R	44R	44R	61L/R
Curb Radius at Intersections	35	20	40	30	35	40

Notes:

- (1) L means left; R means right. In some existing streets where one or more of the utilities have been installed in a location other than described above, the location of remaining proposed utilities shall be determined by the township engineer with the concurrence of the road commission when appropriate.
Where in the opinion of the township engineer these locations are not desirable or possible, suitable adjustments may be made.
- (2) This is not a categorically approved width of pavement but only an allowance assumed for purposes of this schedule.
- (3) Sanitary sewers shall be installed in 12-foot-wide easements adjacent to street rights-of-way when and where ten-foot separations cannot be maintained between sanitary sewers and storm sewers and/or sanitary sewers and water mains. In no case shall available ROW and easement be less than two times the depth of the utility plus three feet. Based on utility depth, size, soils and related conditions, the township engineer may require wider easements.

(Ord. No. 308, § 14.125, 8-26-1996)

Cross reference(s)—Utilities, ch. 90.

Sec. 54-163. Pavement requirements.

- (a) *Generally.* In all public and private streets, the requirements of the road commission of the county, the current edition of the MDOT "Standard Specifications for Highway Construction" and related documents shall govern except where this article imposes a higher or more demanding requirement. For all other streets, the provisions of this article shall govern.
- (b) *Residential areas.*
 - (1) For proposed subdivisions where the average width of lots is less than 98 feet, provide a concrete pavement (minimum seven inches thick) with concrete curb and gutter having a minimum width of 28 feet for local streets and 36 feet for collector streets; except if a dual roadway with an island is proposed, each roadway shall be a minimum of 21 feet wide.
 - (2) For proposed subdivisions where the average width of lot is 98 feet or more, provide a concrete pavement (minimum seven inches thick) with concrete curb and gutter having a minimum width of 24 feet for local streets and 28 feet for collector streets.
 - (3) For improvements to existing local or collector roads minimum county road commission requirements shall prevail.
 - (4) For apartments, condominiums and mobile home parks, provide a concrete pavement (minimum seven inches thick) with concrete curb and gutter having a minimum width of 24 feet for local streets and 28 feet for collector streets; except for a dual roadway with an island, each roadway shall be a minimum of 21 feet. As an alternate, bituminous aggregate pavements are acceptable provided they meet these width requirements and shall have a minimum of six inches 21AA or 22A limestone or blast furnace slag surfaced with four inches of bituminous aggregate surface course.
- (c) *Industrial areas.* Industrial street pavement designed for class A all-weather use shall be a minimum of nine-inch thick concrete with curbs and gutter having a minimum width of 36 feet. Minimum road right-of-way shall be 70 feet wide.

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- (d) *Commercial and other areas; public or private streets.* Pavement (with curb and gutter where appropriate) shall be provided for the driving and service lanes of these developments. The width of pavement shall be such as to provide at least two 12-foot-wide driving lanes unobstructed by parked vehicles. Appropriate additional allowances shall be made for situations where a high incidence of temporary or permanent parking is anticipated. The concrete pavement shall have a thickness as specified in section 54-156(c). As an alternate, bituminous aggregate pavements are acceptable provided they meet these width requirements and shall have a minimum of six inches of limestone or slag surfaced with four inches of bituminous surface course.
- (e) *All pavements.*
- (1) The developer's engineer shall design an adequate road base thickness to be compatible with the existing subgrade conditions and anticipated design loads.
 - (2) Concrete curb shall be MDOT F-4 on local streets not approved for four-inch mountable curbing. On major streets, curbs shall be MDOT F-4, or as directed by the RCMC.
 - (3) Six-inch perforated edge drain is required along both pavement edges.
 - (4) Unless it is demonstrated as unnecessary, geogrid or geotextile base reinforcement shall be utilized. The type and manufacturer shall be approved by the township engineer.

(Ord. No. 308, § 14.130, 8-26-1996; Ord. No. 338, §§ XVII—XIX, 7-22-2002)

Chapter 58 LAND DIVISIONS⁴²

ARTICLE I. IN GENERAL

Sec. 58-1. Definitions.

The definitions included in the Land Division Act (MCL 560.101 et seq.) and as follows shall apply in the interpretation and enforcement of this chapter unless otherwise specifically stated:

Alley means a public or private right-of-way shown on a plat which provides secondary access to a lot, block or parcel of land and not intended for general traffic circulation.

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

Block means that property abutting one side of a street and lying between the two nearest intersecting streets, or between the nearest such street and railroad right-of-way, unsubdivided acreage, river or live stream; or between any of the foregoing and any other barrier to the continuity of development.

Building line and *setback line* mean a line parallel to a street right-of-way line, shore of a lake, edge of a stream or river bank, established on a parcel of land or on a lot for the purpose of prohibiting construction of a building between such line and a right-of-way, other public area or the shore of a lake, or the edge of a stream or river bank.

⁴²Cross reference(s)—Any ordinance dedicating, accepting or vacating any plat or subdivision saved from repeal, § 1-12(a)(9); buildings and building regulations, ch. 18; environment, ch. 34; historical preservation, ch. 46; utilities, ch. 90; waterways, ch. 94; zoning, app. A.

State law reference(s)—Land Division Act, MCL 560.101 et seq.

Crosswalkway (pedestrian walkway) means a right-of-way, dedicated to public use, which crosses a block to facilitate pedestrian access to adjacent streets and properties.

Dedication means the intentional appropriation of land by the owner to public use.

Easement means a specific area of land over which a liberty, privilege or advantage is granted by the owner to the public, a corporation, or some particular person or part of the public for specific uses and purposes, and which shall be designated a public or private easement, depending on the nature of the user.

Environmental effects means the impact of the physical development of the land with its proposed characteristics on the components of environmental quality (health, density, space and beauty) as they relate to the site, the adjacent land, the neighborhood and the community.

Floodplain means that area of land adjoining the channel of a river, stream, watercourse, lake or other similar body of water which will be inundated by a flood, using 100-year frequency.

Greenbelts and buffer areas mean as defined in the township's zoning ordinance, appendix A to this Code.

Improvements means any structure incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, curb and gutter, driveway approaches, sidewalks, crosswalks, water mains and lines, sanitary sewers, storm sewers, culverts, bridges, utilities, lagoons, slips, waterways, lakes, bays, canals and other appropriate items, with appurtenant construction.

Lot means a measured portion of a parcel or tract of land, which is described and fixed in a recorded plat.

- (1) *Lot depth* means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.
- (2) *Lot width* means the horizontal distance between the side lot lines measured at the setback line and at right angles to the lot depth.

Major streets and thoroughfare plan mean the part of the master plan which sets forth the location, alignment and dimensions of existing and proposed streets and thoroughfares, including the adopted intercounty highway commission right-of-way requirements.

Master plan means the comprehensive land use plan for the township, including graphic and written proposals, indicating the general locations recommended for the streets, parks, schools, public buildings, zoning districts, and all physical developments of the township, including any unit or part of such plan separately adopted, and any amendments to such plan or parts of the plan adopted by the planning commission.

Outlot, when included within the boundary of a recorded plat, means a lot set aside for purposes other than a building site, park or other land dedicated to public use or reserved to private use.

Planned unit development means a land area which has both individual building sites and common property, such as a park, and which is designated and developed under one owner or organized group as a separate neighborhood or community unit.

Plat means a map or chart of a subdivision of land.

- (1) *Sketch plan* means an informal plan or sketch drawn to scale and in pencil, if desired, showing the existing features of a site and its surroundings and the general layout of a proposed subdivision.
- (2) *Preliminary plat* means a map showing the salient features of a proposed subdivision of land submitted to an approving authority for purposes of preliminary consideration.
- (3) *Final plat* means a map of a subdivision of land made up in final form ready for approval and recording.

Proprietor, subdivider and developer mean a natural person, firm, association, partnership, corporation or combination of any of them which may hold any recorded or unrecorded ownership interest in land. The proprietor is also commonly referred to as the owner.

Public open space means land dedicated or reserved for use by the general public. It includes parks, parkways, recreation areas, school sites, community or public building sites, streets and highways and public parking spaces.

Public reservation means a portion of a subdivision which is set aside for public use and made available for public use and acquisition.

Public walkway means a right-of-way dedicated for the purpose of a pedestrian access through residential areas, and located so as to connect to two or more streets, or a street and public land parcel.

Right-of-way means land reserved, used or to be used for a street, alley, walkway or other public purposes.

Sight distance means the unobstructed vision on a horizontal plane along a street centerline from a driver-eye height of 3.50 feet and an object height of six inches.

Street means any street, avenue, boulevard, road, lane, parkway, viaduct, alley or other way which is an existing state, county or municipal roadway; or a street or way shown in a plat approved pursuant to law or approved by official action; or a street or way on a plat duly filed and recorded in the office of the county register of deeds. A street includes the land between the street lines, whether improved or unimproved, and may comprise pavement, shoulders, gutters, sidewalks, parking areas and lawns.

- (1) *Freeway* means a street designed for high-speed, high-volume through traffic, with completely controlled access; no at-grade crossings and no private driveway connections are allowed.
- (2) *Super highway* means a street designed for high-speed, high-volume traffic, with full or partially controlled access, some grade crossings, but where driveway connections are discouraged.
- (3) *Major thoroughfare* means an arterial street of great continuity which is intended to serve as a large-volume trafficway for both the immediate municipality area and region beyond, and may be designated in the township's major thoroughfare plan as a major thoroughfare, parkway, expressway or equivalent term to identify those streets comprising the basic structure of the street plan. Section line roads shall be considered as major thoroughfares unless designated as otherwise on the major thoroughfare plan.
- (4) *Collector street* means a street used primarily to carry traffic from minor streets to major thoroughfares.
- (5) *Local street* means a street of limited continuity used primarily for access to abutting residential properties.
- (6) *Marginal-access street* means a minor street paralleling and adjacent to a major thoroughfare which provides access to abutting properties and protection from through traffic.
- (7) *Boulevard street* means a street developed to two two-lane, one-way pavements, separated by a median.
- (8) *Turnaround* means a short boulevard street permanently terminated by a vehicular turnaround.
- (9) *Cul-de-sac street* means a minor street of short length, having one end open to traffic and being permanently terminated at the other end by a vehicular turnaround.
- (10) *Loop street* means a minor street of short length with two openings to traffic, beginning from the same street, and projecting parallel to each other and connecting at their termination by a loop.

Subdivide and *subdivision* mean the partitioning or splitting of a parcel or tract of land by the proprietor 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 (MCL 560.108, 560.109). The terms "subdivide" and "subdivision" do not include a property transfer between two or more

adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.108, 560.109) or the requirements of an applicable ordinance.

State law reference(s)—Similar provisions, MCL 560.102(f).

Township engineer and *engineer* mean the staff engineer or consulting professional community planner employed by the township.

Township planner and *planner* mean the staff planner or consulting professional community planner employed by the township.

Cross reference(s)—Definitions generally, § 1-2.

State law reference(s)—Definitions generally, MCL 560.102.

Sec. 58-2. Civil infraction fine.

The civil infraction fine for a violation of any provision of this chapter is a fine not exceeding \$500.00.

(Comp. Ords. 1988, § 17.130)

Sec. 58-3. Purpose.

The purpose of this chapter is to:

- (1) Regulate and control the subdivision of land within the township, in order to promote the public health, safety, comfort, convenience and general welfare of the inhabitants of the township;
- (2) Provide means for carrying out the township's responsibilities relative to the platting of land under the laws of the state, and to provide for the orderly growth and harmonious development of the township, consistent with the master plan and zoning ordinance, appendix A to this Code;
- (3) Secure adequate traffic circulation through coordinated street systems so as to lessen congestion on the streets and highways;
- (4) Ensure adequate provisions for water supply, storm drainage and wastewater disposal and other health requirements;
- (5) Secure adequate provisions for recreational areas, and other public facilities;
- (6) Provide for residential, commercial or industrial projects having site improvements including sanitary sewer, storm drainage, water main, sidewalk, site grading and paving; and
- (7) Provide logical procedures for the achievement of these purposes.

These requirements are made with consideration for providing the best possible environment for human habitation, including the ecological balance by the preservation of significant natural environmental attributes such as trees, woods, rivers, streams and lakes, and the consideration of the need for aesthetic balance and its contribution to the general well-being of the township.

(Comp. Ords. 1988, § 17.011)

Sec. 58-4. Scope.

This chapter shall not apply to any lot forming a part of a subdivision created and recorded prior to June 28, 1976, except for the further dividing of lots. Nor is it intended by this chapter to repeal, abrogate, annul or in any

way impair or interfere with existing provisions of other laws, ordinances or regulations, or with private agreements, or with restrictive covenants running with the land to which the township is a party. Where this chapter imposes a greater restriction upon land than is imposed or required by such existing provision of any other ordinance of this township, the provisions of this chapter shall control.

(Comp. Ords. 1988, § 17.012)

Sec. 58-5. Splitting permitted; conditions.

That applications for lot splitting in platted subdivisions dedicated prior to the adoption of the zoning ordinance of the township dated July 3, 1962, appendix A to this Code, which increase the width and area in square feet of the split lot when joined with an adjacent lot or a portion thereof, shall be permitted upon approval of the township supervisor.

(Comp. Ords. 1988, § 17.201)

State law reference(s)—Lot splits, MCL 560.263.

Secs. 58-6—58-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT⁴³

DIVISION 1. GENERALLY

Sec. 58-41. Administration.

The approval provisions of this chapter shall be administered by the township board in accordance with law.

(Comp. Ords. 1988, § 17.013)

Sec. 58-42. Fees.

- (a) *Planning review fees (tentative and final).* Planning review fees for plats shall be as established by resolution.
- (b) *Municipal inspection fees.* Municipal inspection fees shall be charged in accordance with such fee schedule as the township board by resolution may adopt from time to time.
- (c) *Attorney fees.* Any services required by the township attorney will be charged on an hourly basis in accordance with the then existing contract between the township attorney and the township.

(Comp. Ords. 1988, §§ 17.110—17.112)

State law reference(s)—Fees, MCL 560.230 et seq.

Secs. 58-43—58-60. Reserved.

⁴³Cross reference(s)—Administration, ch. 2.

DIVISION 2. VARIANCES

Sec. 58-61. Generally.

- (a) The township planning commission may recommend a variance from the provisions of this chapter to the township board on a finding that undue hardship may result from strict compliance with specific provisions or requirements of this chapter or that application of such provision or requirement is impractical. The planning commission shall only recommend variances that it deems necessary or desirable for the public interest. In making its findings, the planning commission shall consider the nature of the proposed use of land and the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be recommended unless the planning commission finds that:
- (1) There are such special circumstances or conditions affecting the property that the strict application of the provisions of this chapter would clearly be impractical or unreasonable. In such cases, the subdivider shall first state his reasons in writing as to the specific provision or requirement involved and submit them to the planning commission.
 - (2) The granting of the specific variance will not be detrimental to the public welfare or injurious to other property in the immediate area.
 - (3) Such variance will not violate the provisions of the Land Division Act (MCL 560.101 et seq.).
 - (4) Such variance will not have the effect of nullifying the interest and purpose of this chapter and the master plan of the township.
- (b) The planning commission shall include its findings and the specific reasons in its report of recommendations to the township board and shall also record its reasons and actions in its minutes.

(Comp. Ords. 1988, § 17.090)

Sec. 58-62. Topographical-physical limitation variance.

Where in the case of a particular proposed subdivision it can be shown that strict compliance with the requirements of this chapter would result in extraordinary hardship to the subdivider because of unusual topography, other physical conditions, or other such conditions which are not self-inflicted, or that these conditions would result in inhibiting the achievement of the objectives of this chapter, the planning commission may recommend to the township board that variance modification or a waiver of these requirements be granted.

(Comp. Ords. 1988, § 17.091)

Sec. 58-63. Planned unit development variance.

- (a) The developer may request a variance from specific portions of this chapter in the case of a planned unit development if in the judgment of the planning commission such a plan provides adequate public spaces and includes provisions for efficient circulation, light and air and other needs. The planning commission shall consider the nature of the proposed use of land and existing use of land in the vicinity, the number of

persons to reside or work in the proposed subdivision, and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

- (b) The planning commission shall report to the township board whether the proposed project will:
- (1) Constitute a desirable and stable community development.
 - (2) Be in harmony with adjacent areas.

(Comp. Ords. 1988, § 17.092)

Secs. 58-64—58-90. Reserved.

ARTICLE III. PLATS

DIVISION 1. GENERALLY

Sec. 58-91. Preparation.

The preparation of a subdivision for platting shall be carried out through two major phases: preliminary plat and final plat, and submitted in three steps, all in accordance with the procedure in this article.

(Comp. Ords. 1988, § 17.025)

Sec. 58-92. Initial investigation.

It is suggested that the subdivider meet informally with the township to investigate the procedures and standards of the township with reference to this chapter and with the proposals of the master plan and zoning ordinance, appendix A to this Code, as they affect the area in which the proposed subdivision is located. The subdivider should concern himself with the following factors:

- (1) The zoning ordinance, this chapter, engineering specifications, and other similar ordinances or controls relative to the subdivision and improvement of land so as to make himself aware of the requirements of the township.
- (2) That the area of the proposed subdivision is properly zoned for the intended use.
- (3) That the public facilities, including existing schools, and public open spaces, including parks and playgrounds, are adequate to serve the proposed subdivision.
- (4) The relationship of the proposed subdivision with respect to major thoroughfares and plans for widening of thoroughfares shall be provided for in the plat.
- (5) Township standards for sewage disposal, water supply and storm drainage shall be obtained and complied with by the subdivider.

(Comp. Ords. 1988, § 17.030)

Sec. 58-93. Sketch plan.

- (a) *Purpose.* The purpose of the sketch plan is to provide the subdivider with an opportunity to avail himself of the advice and assistance of the planning commission and other township agencies involved in subdividing

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before the preparation of a preliminary plat and its submission for approval in order to save him time and money and to make the most of his opportunities. Nothing in this section, however, shall be so construed as to require any sketch plan or preapplication. Any subdivider may elect to begin subdividing by submitting a preliminary plat for tentative review in accordance with the provisions of this article.

(b) *Submittal.*

- (1) *Sketch plan.* The subdivider may submit a plan that shows the subdivision's entire development scheme in the schematic form, including the area for immediate development, and including the following:
 - a. General layout of streets, blocks and lots in sketch form.
 - b. Existing conditions and characteristics of the land on and adjacent to the site.
 - c. Any general area set aside for schools, parks and other community facilities.
 - d. Drainage patterns, surface drainage over the site, slope gradients, soil types and vegetation on the site, with particular emphasis on existing trees by size and type (large stands or groups of trees can be generalized by location).
- (2) *Engineering letter.* The subdivider may submit a letter from an engineer concerning the general feasibility of the land for subdividing.
- (3) *Ownership.* The township board and planning commission may require such proof of ownership of the land proposed to be subdivided as they deem necessary.

(c) *Procedure.*

- (1) The subdivider may submit ten copies of the sketch and other information to the township clerk ten days before the next meeting of the planning commission.
- (2) The township clerk shall date the copies and promptly transmit seven copies of the sketch plan to the planning commission, one to the township planner and one to the township engineer, and retain one for his file.
- (3) The planning commission or the subdivision committee of the planning commission will review the plan with the subdivider or his agent. The commission may also request that copies of the sketch plan be submitted to other affected public agencies for review if deemed necessary.
- (4) The planning commission will inform the subdivider or his agent of the township's development policies and make appropriate comments and suggestions concerning the proposed development scheme.
- (5) Nothing in this section shall be construed to require approval of the sketch plan. The sketch plan shall serve only as a general guide for the subdivider and the township.

(Comp. Ords. 1988, § 17.031)

Secs. 58-94—58-120. Reserved.

DIVISION 2. PRELIMINARY PLAT

Subdivision I. In General

Secs. 58-121—58-130. Reserved.

Subdivision II. Preliminary Approval⁴⁴

Sec. 58-131. Generally.

For tentative approval under sections 111 and 112 of the Land Division Act (MCL 560.111, 560.112), the requirements of this subdivision shall be met.

(Comp. Ords. 1988, § 17.032)

Sec. 58-132. Requirements.

- (a) *Submittal.* The subdivider shall submit ten copies of the preliminary plat and other required information to the township clerk at least ten days before a meeting of the planning commission. Seven copies shall also be submitted to the county plat coordinating committee and one copy to the school district having jurisdiction in the area.
- (b) *Size and scale.* The preliminary plat may be on paper and shall be not more than 24 inches by 36 inches, at a minimum scale of one inch to 100 feet showing the date and north arrow.
- (c) *Section map.* An overall section map at a scale of one inch equals 200 feet, showing the relationship of the subdivision to its surroundings such as section lines and/or major streets or collector streets, shall be provided.
 - (1) Boundary lines of the proposed subdivision, section or township lines within or adjacent to the tract and overall property dimensions shall be shown.
 - (2) Property lines and zoning of contiguous tracts of subdivided and unsubdivided land up to one-fourth mile are to be shown in relation to the tract being proposed for subdivision, including those located across abutting roads.
 - (3) Location, widths, and names of existing or prior platted streets and private streets, public areas and public easements within or adjacent to the tract being proposed for subdivision, including those located across abutting roads shall be shown.
 - (4) Location of existing sewers, water mains, storm drains and other underground facilities within or adjacent to the tract being proposed for subdivision shall be shown.
- (d) *Information required.* The following shall be shown on the preliminary plat or submitted with it:
 - (1) The name of the proposed subdivision.
 - (2) Names, addresses and telephone numbers of the subdivider and the planner, landscape architect, designer, engineer or surveyor preparing the plat. The subdivider shall also indicate his interest in the land.
 - (3) Location of the subdivision, giving the numbers of section, township and range, and the name of the township and county.

⁴⁴State law reference(s)—Tentative plat approval, MCL 560.111 et seq.

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- (4) The names of abutting subdivisions, if any.
 - (5) Statement of intended use of the proposed plat, such as residential single-family, two-family and multiple housing; commercial; industrial; recreational; or agricultural; also, proposed sites, if any, for multifamily dwellings, shopping centers, churches, industry, and other nonpublic uses, exclusive of single-family dwellings; also, sites proposed for parks, playgrounds, schools or other public uses.
 - (6) If the subdivider has an interest in any adjacent land or excepted parcel shown on the preliminary plat, an indication by the proprietor as to how this property could be developed in accordance with the requirements of the existing zoning district in which it is located.
 - (7) A map of the entire area scheduled for development if the proposed plat is a portion of a larger holding intended for subsequent development.
 - (8) The land use and existing zoning of the proposed subdivision and the adjacent tracts.
 - (9) Accompanying sketch showing the following information:
 - a. Drainage pattern, including river, stream or open (ditch) drainageways and the direction of their flow.
 - b. Surface drainage over the site.
 - c. Ridgelines and watershed boundaries on or within one-half mile of the site.
 - d. Soil drainage characteristics (i.e., well-drained, etc.).
 - e. Soil types and characteristics as made available by the United States Department of Agriculture Soil Conservation Service.
 - f. Vegetation on the site, particularly the location of all trees or groups of trees and their base elevations.
 - (10) Street names, right-of-way and roadway widths.
 - (11) Lot lines and the total number of lots.
 - (12) Contours shown on the preliminary plat at one-foot intervals.
 - (13) A site report as described in the rules of the state department of public health. The site report if the proposed subdivision is to be served by public sewer and water systems shall not be required.
 - (14) Right-of-way easements, showing location, width and purpose.
- (e) *Design concept sketch.* A design concept sketch at a scale of at least one inch equals 100 feet shall be submitted with the plat showing the features proposed for development (lots, streets, drains, open space, parks, schools, etc.) in relation to the site's natural characteristics (drainage, topography, slope, soils, vegetation, trees, etc.) and the reasons this scheme was chosen over all others.
- (f) *Subdivision restrictions.* Two copies of the draft subdivision restrictions, as proposed to be recorded with the plat, shall be submitted for review by the township.
- (Comp. Ords. 1988, § 17.032(1))

Sec. 58-133. Actions.

- (a) *Validation.* The subdivider shall first submit to the township clerk for validation a sufficient number of copies of the preliminary plat and other required information. The subdivider shall also submit a written application requesting approval, together with the fee established by this article for review of plats.

(b) *Planning commission.*

- (1) One copy each of the preliminary plat shall be transmitted to the township engineer and the township planner for their technical review and recommendation.
- (2) The township engineer and planner within 30 days of receipt of the preliminary plat shall notify the planning commission of their recommendations for either approval or rejection of the preliminary plat.
- (3) Upon receipt of the recommendations of the engineer and planner, the planning commission secretary shall place the preliminary plat on the next regular planning commission agenda, at which meeting the proprietor will be scheduled to appear. The planning commission shall act on the preliminary plat within 60 days of its filing unless the proprietor agrees to an extension in writing at this time.
- (4) The commission shall review the preliminary plat for compliance with the following:
 - a. Applicable ordinances and regulations.
 - b. General availability and adequacy of utilities.
 - c. Availability of school and recreation facilities.
 - d. Master plan requirements.
 - e. General design and site layout (street and lot orientation).
 - f. Environmental effects.
- (5) The commission shall recommend conditional approval, disapproval or tentative approval of the preliminary plat.
 - a. Should the approval be a conditional approval, the preliminary plat shall not be forwarded to the township board until those conditions have been satisfied by the proprietor. A plat so approved shall not be considered properly filed until the conditions set forth are complied with.
 - b. Should the commission disapprove the preliminary plat, it shall record the reasons in the minutes of the meeting. The proprietor shall be notified of the action of the commission in writing. He may request copies of the recommendations for the purpose of revision and resubmittal. A copy of this action shall also be submitted to the township board.
 - c. Should the commission find that all conditions have been satisfactorily met, it shall give tentative approval to the preliminary plat. The secretary shall make a notation to that effect on each copy of the preliminary plat and distribute copies as follows:
 1. Retain one copy with comments, which shall become a matter of permanent record in the commission files.
 2. Forward the remaining copies to the township board via the township clerk, with recommendations for approval.

(c) *Township board.*

- (1) The township board shall not review, approve or reject a preliminary plat until the actions specified in subsection (b) of this section have taken place.
- (2) The township board shall consider the preliminary plat at its next meeting, but no later than 90 days after its acceptance for processing by the clerk, subject to the exception noted in subsection (b)(5)a.
- (3) The township board shall by its action either reject the preliminary plat and give its reasons in writing, or grant tentative approval.

(Comp. Ords. 1988, § 17.032(2))

Sec. 58-134. Conditions and duration of tentative approval.

- (a) *Conditions.* Tentative approval of a preliminary plat shall not constitute final approval of the preliminary plat but rather confer on the subdivider the right to proceed with the preparation of the preliminary plat for final preliminary approval.
- (b) *Duration.*
 - (1) Tentative approval of the preliminary plat by the township board shall be for a period of one year from the date of its approval.
 - (2) The township board may extend the one-year period if applied for in writing before the expiration of the original approval.
 - (3) No land balancing or installation or construction of any improvements shall be made or begun at this time.

(Comp. Ords. 1988, § 17.032(3))

Secs. 58-135—58-150. Reserved.

Subdivision III. Final Approval⁴⁵

Sec. 58-151. Generally.

For final approval under sections 113—120 of the Land Division Act (MCL 560.113—560.120), the requirements of this subdivision shall be met.

(Comp. Ords. 1988, § 17.033)

Sec. 58-152. Requirements.

- (a) *Submittal.* The subdivider shall submit to the township clerk ten copies of the preliminary plat and other data concerning the proposed subdivision at the time he files copies with the authorities as required in sections 113—119 of the Land Division Act (MCL 560.113—560.119). At this filing he shall include a certified list of all authorities to which he has submitted preliminary plats for review. The subdivider shall deposit the fee established by ordinance.
- (b) *Size and scale.* Regulations governing the size and scale shall be the same as in section 58-132(b).
- (c) *Information required.* The required information shall be the same as in section 58-132(d).
- (d) *Preliminary engineering plans.* The subdivider shall submit ten sets of preliminary engineering plans for streets, drainage, water, sewers, sidewalks and other required public improvements. The engineering plans shall contain enough information and detail to enable the planning commission to make preliminary determination as to conformance of the proposed improvements to applicable township regulations and standards.

⁴⁵State law reference(s)—Approval of plats by other entities, MCL 560.113 et seq.

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- (e) *Subdivision restrictions.* Two copies of the subdivision restrictions, as will be recorded with the plat, shall be submitted for review by the township.

(Comp. Ords. 1988, § 17.033(1))

Sec. 58-153. Distribution.

The clerk shall forward the preliminary plat and all other data to the planning commission secretary and shall request that the preliminary plat be placed on the next agenda of the planning commission. The planning commission shall act on the preliminary plat within 30 days after the proposed preliminary plat has been deposited with the township clerk.

(Comp. Ords. 1988, § 17.033(2))

Sec. 58-154. Actions.

- (a) *Letters of conditional approval or rejection.* When the subdivider has secured the approvals of the various approving authorities as required by section 120 of the Land Division Act (MCL 560.101 et seq.), he shall deliver all copies to the township clerk, who shall promptly transmit them to the township board.
- (b) *Planning commission.*
- (1) One copy each of the preliminary plat shall be transmitted to the township engineer and the township planner for their technical review and recommendation. The copy of the plat which is sent to the township engineer shall be accompanied by a complete set of engineering plans covering the improvements proposed for the subdivision.
 - (2) The township planner shall check the proposed plat for completeness. Should any of the data required in this chapter be omitted, the township planner shall inform the planning commission of the data required; and the subdivider shall be notified that the application will be delayed until the required data is received.
 - (3) The township engineer shall check all drawings and information for technical competence and compliance with this chapter.
 - (4) The township engineer and planner shall notify the planning commission of their recommendations for either approval or rejection of the preliminary plat in ample time for the planning commission to place it on its agenda before the end of the 30-day review period.
 - (5) The preliminary plat documents shall be reviewed by the planning commission as to compliance with the previous tentatively approved plat.
 - a. Should the planning commission find that the submitted plat documents are in close agreement with the tentatively approved preliminary plat, it shall recommend approval and notify the township board of this action in its official minutes and forward the findings, together with all accompanying data, to the township board for their action.
 - b. Should the planning commission find that the submitted plat documents do not conform substantially to the tentatively approved preliminary plat and that it is not acceptable, they shall record the reasons in their official minutes and forward the reasons to the township board, together with all accompanying data to the township board for their review and action.
- (c) *Township board.*

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- (1) The township board shall not review the preliminary plat until all of the requirements of the Land Division Act (MCL 560.101 et seq.) and this chapter have been complied with. The township board shall consider the preliminary plat and shall take action at its next meeting or within 20 days of the date of submission as outlined in section 120(2) of the Land Division Act (MCL 560.101 et seq.).
 - (2) If all required approvals of other agencies have been received, and if the preliminary plat conforms substantially to the plat tentatively approved by the board and meets all conditions laid down for tentative approval, the board shall give final approval to the preliminary plat.
 - (3) The clerk shall promptly notify the subdivider of approval or rejection in writing; if rejected, reasons shall be given.

(Comp. Ords. 1988, § 17.033(3))

Sec. 58-155. Conditions and duration of approval.

- (a) *Conditions.* Final approval of a preliminary plat shall not constitute approval of the final plat, but rather final plat approval shall be conditioned on all requirements being met.
- (b) *Duration.*
 - (1) Final approval of the preliminary plat by the township board shall be for a period of two years from the date of its approval after final approval by the other required authorities.
 - (2) The township board may extend the two-year period if applied for and granted in writing but only concerning its own requirements.

(Comp. Ords. 1988, § 17.033(4))

State law reference(s)—Final approval, MCL 560.120.

Secs. 58-156—58-180. Reserved.

DIVISION 3. FINAL PLAT⁴⁶

Sec. 58-181. Requirements.

- (a) *General.*
 - (1) Final plats shall be prepared and submitted as provided for in the Land Division Act (MCL 560.101 et seq.).
 - (2) A written application for approval together with the fees required by this article and the recording fee shall accompany all final plats.
- (b) *Time of submittal.* Final plats shall be submitted to the township clerk 20 days before a meeting of the township board.

(Comp. Ords. 1988, § 17.034(1))

⁴⁶State law reference(s)—Final plats, MCL 560.131.

State law reference(s)—Plat requirements, MCL 560.132 et seq.

Sec. 58-182. Procedures; submittal to approving authorities.

- (a) The subdivider shall submit the final plat and detailed engineering plans for those improvements required by the Land Division Act (MCL 560.101 et seq.) or ordinances of the township.
- (b) One mylar and ten paper prints of the final plat shall be filed by the subdivider with the clerk. The other needed mylar copies will be made by the state treasurer's office, with the cost directly charged to the subdivider.
- (c) Copies of the final plat shall be submitted to the township engineer and township planner for review to determine compliance with the approved preliminary plat and policies, codes and ordinances and the master plan and for technical recommendation to the township board.

(Comp. Ords. 1988, § 17.034(2))

Sec. 58-183. Actions.

- (a) *Township board approval.*
 - (1) The township board shall review the final plat and the reports from the township engineer and the township planner at its next regular meeting, or at a meeting to be called within 20 days of receipt of all the information required by the Land Division Act (MCL 560.101 et seq.) and ordinances of the township.
 - (2) The township board shall approve the plat or disapprove it. If disapproved, the township board shall give the subdivider its reasons in writing and rebate the recording fee and whatever portion of the review fee is provided for in this article.
 - (3) The township board shall instruct the clerk to record all proceedings in the minutes of the meeting, which shall be open for inspection, and to sign the municipal certificate on the approved plat in behalf of the township board.
 - (4) Upon approval of the final plat by the township board, the subsequent approvals shall follow the procedure set forth in the Land Division Act (MCL 560.101 et seq.). The prints of the final plat shall be forwarded one to the clerk, one to the engineer, one to the planner, one to the building inspector and one to the utilities department. The one mylar copy shall be forwarded to the clerk of the county plat board.
- (b) *Improvements and facilities required by the township.*
 - (1) The township board may require all improvements and facilities to be completed before it approves the final plat.
 - (2) If improvement and facilities are not required to be completed by the township board before plat approval, the final plat shall be accompanied by a contract between the subdivider and the township board for completion of all required improvements and facilities.
 - (3) Performance of the contract shall be guaranteed by a cash deposit, certified check, surety bond or irrevocable bank letter of credit.
 - (4) The township board shall not require a bond duplicating any bond required by another governmental agency.

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- (5) Such guarantee shall be rebated or credited to the account of the proprietor as the work progresses, as included in a written agreement between the township and the subdivider; however no amount shall be rebated or credited until the township engineer approves the sum, and at least ten percent shall be retained pro rata from the entire project for one year after completion of improvements to ensure against any repairs that may be necessary.
 - (6) One complete set of as-built mylar drawings shall be provided by the subdivider to the township engineer before final acceptance of the public improvements.

(Comp. Ords. 1988, § 17.034(3))

Secs. 58-184—58-220. Reserved.

ARTICLE IV. REQUIRED IMPROVEMENTS

Sec. 58-221. Purpose.

It is the purpose of this article to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction and financing of public facilities, and to further establish procedures for assuring compliance with these requirements.

(Comp. Ords. 1988, § 17.070)

Sec. 58-222. Responsibility for plans.

It shall be the responsibility of the subdivider of every proposed subdivision to have prepared by a registered professional engineer a complete set of construction plans, including profiles, cross section, specifications, and other supporting data, for the required public streets, utilities and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat and shall be prepared in conjunction with the final plat. Construction plans are subject to approval by the responsible public agencies and the township engineer. All construction plans shall be prepared in accordance with their standards or specifications.

(Comp. Ords. 1988, § 17.071)

Sec. 58-223. Submittal.

Whenever construction has been completed at the time of filing the final plat, one complete mylar copy of as-built engineering plans of each required public improvement shall be filed with the township clerk for review by the township engineer, coincident with the filing of the final plat. Other requirements and procedures in the submittal of final plats shall be as provided in article III, division 2 of this chapter.

(Comp. Ords. 1988, § 17.072)

Sec. 58-224. Required public improvements.

Every subdivider shall be required to install the following public and other improvements in accordance with the conditions and specifications as follows:

- (1) *Monuments and lot corner markers.* Monuments and lot corner markers shall be set in accordance with the Land Division Act (MCL 560.101 et seq.) and the rules of the state department of treasury.
- (2) *Streets and alleys.* All streets and alleys shall be constructed in accordance with the standards and specifications adopted by the county road commission.
- (3) *Curbs and gutters.* Curbs and gutters shall be required on all neighborhood access streets and local streets and shall be constructed in accordance with the standards and specifications adopted by the county road commission.
- (4) *Installation of public utilities.* Public utilities and driveways shall be located in accordance with the rules of the county road commission and the township engineer. The underground work for utilities shall be stubbed to the property line.
- (5) *Driveways.* All driveway openings in curbs, culverts or swales shall be as specified by the county road commission or the department of state highways.
- (6) *Storm drainage.*
 - a. An adequate storm drainage system, including necessary storm sewers, drain inlets, catchbasins, manholes, culverts, bridges and other appurtenances, shall be required in all subdivisions. The requirements for each particular subdivision shall be established by the public works commissioner and the township engineer.
 - b. Construction shall follow the specifications and procedures established by the public works commissioner and the township engineer. All proposed storm drainage construction plans for proposed plats shall be approved by the public works commissioner and the township engineer.
- (7) *Water supply system.*
 - a. When a proposed subdivision is to be serviced by a public water supply system, fire hydrants and other required water system appurtenances shall be provided by the subdivider according to standards adopted by the township.
 - b. If there is no existing or accessible public water supply system, the subdivider may be required to install a water supply system for the common use of the lots within the subdivision in accordance with the requirements of law. The system provided shall be turned over to the township for operation and maintenance.
 - c. Individual wells may be permitted in accordance with the requirements of the county health department.
- (8) *Sanitary sewer system.*
 - a. When a proposed subdivision is to be serviced by a public sanitary sewer system, sanitary sewers and other required appurtenances shall be provided by the subdivider according to the standards adopted by the township. Sewer systems shall comply with the requirements of law.
 - b. If there is no existing or accessible public sewer system, a sewer system for the common use of the lot owners may be required to be provided by the subdivider, if feasible in the judgment of the planning commission with the advice of the township engineer and county health department, and shall comply with the requirements of law. The system provided shall be turned over to the township for operation and maintenance.

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- c. Where it is determined in the judgment of the planning commission, with the advice of the township engineer and the county health department, that a subdivision cannot be economically connected with an existing public sewer system or that a public sewer system cannot be provided for the subdivision itself, septic tanks and disposal fields may be approved, which shall comply with the requirements of the county health department.
 - d. However, where studies by the township planning commission or the township engineer indicate that construction or extension of sanitary trunk sewers to serve the property being subdivided appears probable within a reasonably short time (up to three years), sanitary sewer mains and house connections shall be installed and capped.
- (9) *Street name signs.* Street name signs shall be installed in the appropriate locations at each street intersection in accordance with the requirements of the county road commission.
- (10) *Sidewalks and crosswalks.*
- a. Sidewalks shall be required on both sides of the street.
 - b. Crosswalks when required by the township shall have easements at least 12 feet in width and include a paved walk at least five feet in width, located generally along the centerline of the easement, dedicated as a public pedestrian walkway.
 - c. Sidewalks and crosswalks shall be constructed in accordance with the requirements of the county road commission and the township engineer.

(Comp. Ords. 1988, § 17.073)

Sec. 58-225. Public improvements.

- (a) *Recreational.* Where a neighborhood park, recreation area or public access to water frontage, as previously delineated or specified by official action of the planning commission, is located in whole or part in the proposed subdivision, the township board may require the reservation of such open space for park, recreation or public access purposes in accordance with ordinance.
- (b) *Schools.* Areas for proposed schools shall be reserved for the respective school district in the case of elementary school sites. If within two years of the recording of the final plat purchase is not agreed upon, the reservation may be canceled and shall cease to exist. Voluntary dedication of these land areas will provide a density credit as provided by ordinance.
- (c) *Greenbelts.* It is desirable for the protection of residential properties to have greenbelts or landscaped screen plantings located between a residential development and adjacent major roads and railroad rights-of-way. Where a subdivider is required to protect his development in this respect, a proposed subdivision plat shall show the location of such greenbelts.
- (d) *Street trees.* Street trees of a variety and size in accordance with the standards adopted by the township shall be planted between the street curb and sidewalk. The location of street trees shall be approved by the county road commission and be placed at no greater than 70-foot intervals.
- (e) *Street lighting.* Streetlights may be required to be installed at intersections only throughout the subdivision. In these cases, a subdivider shall conform to the requirements of the township and the public utility providing such lighting.

(Comp. Ords. 1988, § 17.074)

Sec. 58-226. Guarantee of completion of improvements required by the township.

- (a) *Financial guarantee arrangements, exceptions.* The township board, on recommendation of the planning commission, may permit a subdivider to furnish a financial guarantee for the installation of sidewalks, streetlights, street trees or other public improvements required by the township in lieu of actual construction and/or installation. Notwithstanding anything contained in this section, however, such improvements shall be constructed and/or installed prior to issuance of occupancy permits. Financial guarantees may be by corporate surety bond, cash, certified check or irrevocable bank letter of credit.
- (1) *Corporate surety bond.*
- a. *Accrual.* The bond shall accrue to the township, covering construction, operation and maintenance of the specific public improvements.
 - b. *Amount.* The bond shall be in an amount equal to the total estimated cost for completing construction of the specific public improvements, including contingencies, as estimated by the township engineer.
 - c. *Term.* The term of the bond shall be specified by the township board.
 - d. *Bonding or surety company.* The corporate surety shall be authorized to do business in the state and acceptable to the township board.
- (2) *Cash deposit, certified check, or irrevocable bank letter of credit.*
- a. *Treasurer; escrow agent.* A cash deposit, certified check or irrevocable bank letter of credit, accruing to the township, shall be deposited with the township treasurer or an escrow agent agreed upon by the township and the subdivider. The escrow agreement shall be prepared and furnished by the township.
 - b. *Amount.* The amount of the cash deposit, certified check or irrevocable bank letter of credit, shall be equal to the total estimated cost of construction of the specific public improvements, including contingencies, as estimated by the township engineer.
 - c. *Escrow period.* The escrow period for the cash deposit, certified check or irrevocable bank letter of credit shall be specified by the township board.
 - d. *Reduction of guarantee.* By agreement between the township and the subdivider, a partial refund of the cash deposit or reduction of the certified check or irrevocable bank letter of credit may be authorized to the extent of the cost of the completed portion of the public improvements.
- (b) *Condition of township approval of final plat; financial guarantees.* With respect to financial guarantees, the approval of all final subdivision plats shall be conditioned on the accomplishment of either of the following:
- (1) The construction of improvements required by this chapter shall have been completed by the subdivider and approved by the township board.
 - (2) A financial guarantee acceptable to the township shall have been filed in the form of a cash deposit, certified check, irrevocable bank letter of credit, or surety bond.
- (c) *Special agreements.* A special agreement shall be entered into between the subdivider and the township board where street trees and streetlights have been required by the township board.
- (d) *Inspection of public improvements under construction.* Before approving a final plat and construction plans and specifications for public improvements, an agreement between the subdivider and the township board shall be made to provide for checking or inspecting the construction and its conformity to the submitted plans, and the owner shall pay all required fees.

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- (e) *Penalty in case of failure to complete the construction of a public improvement.* If the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the township board to proceed to have such work completed. In order to accomplish this, the township board shall reimburse itself for the cost and expense by appropriating the cash deposit, certified check or irrevocable bank letter of credit which the subdivider may have deposited in lieu of a surety bond, or may take such steps as may be necessary to require performance by the bonding or surety company, as provided in a written agreement between the township board and the subdivider.

(Comp. Ords. 1988, § 17.075)

State law reference(s)—Performance guarantees, MCL 560.182.

Chapter 62 OFFENSES AND MISCELLANEOUS PROVISIONS⁴⁷

ARTICLE I. IN GENERAL

Sec. 62-1. Disobedience to officers, resisting arrest; misdemeanor.

No person shall disobey or resist the lawful command of a police officer, park ranger or township officer or resist arrest.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Obstruction of police officer, MCL 750.479; obstructing or resisting firefighters, MCL 750.241.

Sec. 62-2. Loitering where illegal activity or business conducted; misdemeanor.

No person shall knowingly loiter in or about any place where an illegal occupation or business is being conducted.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Frequenting gaming places, MCL 750.309.

Sec. 62-3. Reserved.

Editor's note(s)—Ord. No. 395, § 71, adopted January 14, 2019, repealed § 62-3. Former § 62-3 pertained to harassing telephone calls; misdemeanor and derived from § 20.601 of the Comp. Ords. of 1988.

⁴⁷Cross reference(s)—Firearms, fireworks and weapons in parks, § 66-44; traffic and vehicles, ch. 86.

State law reference(s)—Power to adopt ordinances deemed necessary to provide for public peace and health and for safety of persons and property, MCL 42.15.

Sec. 62-4. Water activities limited; misdemeanor.

On any bridge connecting public roads, waterways of the Clinton River, and waterways of the Black Creek, and all natural and artificial channels and canals in the township, no person shall engage in fishing, swimming, diving or loitering.

(Comp. Ords. 1988, § 20.751)

Sec. 62-5. Parking vehicles or boats for sale or trade.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Boat means a vessel for traveling in or on water or ice, including unpowered, powered by oars, paddles, sail or motor, and a raft, whether rigid or inflatable.

Camper enclosure means any structure or enclosure designed for mounting on a pickup truck or truck chassis in such a manner as will provide temporary sleeping or living quarters for recreational, camping or travel use, including but not limited to a slide-in camper or camper cap.

Recreational vehicle means a vehicular unit originally designed, permanently altered or in process of alteration, in such a manner as will provide temporary living quarters for recreational, camping or travel use. A recreational vehicle may have its own motor power or may be designed to be drawn by a motor vehicle. The term "recreational vehicle" shall include but is not limited to a motor home, a truck camper, a travel trailer, a folding camper trailer, a converted van, a converted bus, or all-terrain vehicles (ATV).

Snowmobile means a motor-driven vehicle designed for travel primarily on snow or ice.

Utility trailer means a vehicle without motor power, designed to be drawn by a motor vehicle, to be used for carrying property, including but not limited to a boat, motorcycle, snowmobile, ATV or other equipment for recreational, camping or travel use.

Vehicle means a car, truck, motorcycle, boat, camper and enclosure, recreational vehicle, utility trailer or snowmobile.

- (b) *Regulation of parking.* No person, owner or operator of any vehicle shall park or leave the vehicle unattended for sale or trade on any private or public property, lot, space, way or alley without the express consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of the property as outlined below:
- (1) In any proceeding for a violation of this section, proof that a sign was in or on the parked vehicle, which drew attention to the motor vehicle and was clearly visible by any person operating a motor vehicle and which sign contained language, such as "For Sale," "For Trade" or information pertaining to the vehicle, along with a telephone number, shall constitute in evidence a presumption the vehicle was parked for the purposes of advertising the vehicle for sale or trade.
 - (2) This section shall not apply if the written consent of the property owner is placed in the vehicle in such a manner as to be clearly visible without having to enter or inspect the interior of the vehicle.
 - (3) This section shall not apply to properly licensed automobile dealerships and used car lots.
- (c) *Responsibility for compliance.* The owners of a vehicle parked "For Sale" or "For Trade" and the owners of such property upon which the vehicle is parked shall be responsible for compliance with the terms of this section. In any proceeding for violation of any provision of this section based upon vehicle ownership, the person to whom the vehicle is registered, as determined from the registration plate displayed on such

vehicle, shall be presumed in evidence to be the owner of the vehicle. In any proceeding for violation of any provision of this section based upon property ownership, the person to whom the property is assessed as determined by the most recent tax assessment roll of the township shall be presumed in evidence to be the owner of the property.

- (d) *Notice of violation.* A notice of violation may be served upon the person in violation of the provisions of this section directing the discontinuance of the illegal action or condition and abatement of the violation. In the event a sign is posted on the private or public property stating "NO PARKING" a citation may be issued immediately to the person in violation of this article. For purposes of the notification upon a vehicle owner, it shall be sufficient to affix in a conspicuous place the notice of violation to the vehicle parked for sale or trade and mail a copy to the registered owner. Notice shall also include the towing of the vehicle at owner's expense if the parameters of this section have not met.
- (e) *Prosecution of violation.* If the notice of violation is not complied with within 24 hours, a citation shall be issued to the person violating the provisions of this section. In the event a sign is posted on the private or public property stating "NO PARKING" a citation may be issued immediately to the person in violation of this article.
- (f) *Enforcement.* It shall be the duty of the county sheriff's department along with any other official designated by the township supervisor to enforce the provisions of this section and to issue notices and citations for violations of the provisions contained in this section.
- (g) *Penalties.* A person who violates any of the provisions of this section is responsible for a municipal civil infraction. Property of persons found in violation of this section may be towed from the area where the violation occurs and the persons responsible for the violation shall pay the cost of the towing.

(Ord. No. 309, §§ 2—8, 11-25-1996; Ord. No. 360, §§ 1, 2, 3-25-2008)

Cross reference(s)—Traffic and vehicles, ch. 86.

Sec. 62-6. Restricted parking; misdemeanor.

- (a) *Private parking areas; regulations.* No owner nor operator of any vehicle shall park or leave the vehicle unattended on any private parking lot, space, way or alley without the express or implied consent, authorization or ratification of the owner, holder, occupant, lessee, agent or trustee of such property.
- (b) *Fire lanes; parking prohibited.* No owner or operator of any motor vehicle shall park or leave the vehicle unattended in any area designated as a fire lane.
- (c) *Determining location of fire lanes.* The township fire department, by its designated representative, shall determine the location of fire lanes as provided for in this section upon an application form to be provided by the township clerk. No signs shall be posted for fire lanes unless designated by the fire department.
- (d) *Penalty.* Except as stated in this subsection, any violation of any of the provisions of this section shall constitute a misdemeanor. The property of persons found in violation of this section may be towed from the area where the blocking occurs, and the persons responsible for the blocking shall pay the costs of the towing. Any provision of this section which describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code (MCL 257.1 et seq.) shall be processed as a civil infraction, and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with such act.
- (e) *Designation required.* Notwithstanding anything contained in this section to the contrary, no vehicle shall be removed or ticketed or impounded as provided in this section, nor shall the penal provisions of this section be applicable unless such private parking lot, space, way, alley or fire lane is legally and plainly designated as such by appropriate sign or placard and registered with the township clerk.

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- (f) *Evidence of ownership of vehicle.* In any proceeding for violation of the provisions of this section, the registration plate displayed on the motor vehicle shall be prima facie evidence that the owner of such motor vehicle is the person who parked or placed such vehicle at the place where such violation occurred.

(Comp. Ords. 1988, §§ 20.451—20.456)

Sec. 62-7. Assault and assault and battery; misdemeanor.

It shall be unlawful for any person to commit an assault or assault and battery upon another within the township.

(Comp. Ords. 1988, § 21.051)

Secs. 62-8—62-40. Reserved.

ARTICLE II. OFFENSES INVOLVING PROPERTY RIGHTS

Sec. 62-41. Larceny; misdemeanor.

Any person who shall commit the offense of larceny, by stealing, taking, carrying away or failing to return the property, goods, chattels or money of another, or failing to pay for goods offered for sale if the property stolen shall be of a value of \$100.00 or less shall be guilty of a misdemeanor.

(Comp. Ords. 1988, § 21.001)

State law reference(s)—Larceny, MCL 750.356.

Sec. 62-42. Trespass; misdemeanor.

- (a) It shall be unlawful for any person to willfully enter upon the lands or premises, or any part of lands or premises, of another (including township property) in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry to the lands or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant or agent or servant of either.
- (b) The posted notice required by this section shall be of reasonably sufficient size and print to adequately notify and must so notify all persons coming upon such lands or premises at the point where the violation occurs that the lands or premises are restricted and that a trespass is criminal. The posted notice shall notify the trespasser that it is a criminal violation to be upon the lands or premises and also that violators will be prosecuted in accordance with this section. The sign shall contain the name of the owner or his agents or servants authorized to prosecute.
- (c) It shall be unlawful for any person to be upon the lands or premises of another, including township property, after being notified to depart, either orally or in writing by any owner or occupant or agent or servant of either.

(Comp. Ords. 1988, §§ 20.632—20.634)

State law reference(s)—Trespass, MCL 750.546 et seq.

Sec. 62-43. Throwing stones or missiles; misdemeanor.

It shall be unlawful to throw any stone, brick or other missile at a car, truck, bus, taxi, train or other motor vehicle.

(Ord. No. 302, § 1, 8-28-1995)

State law reference(s)—Malicious mischief, MCL 750.377a et seq.

Sec. 62-44. Injuring, removing property of another; misdemeanor.

- (a) It shall be unlawful for any person to willfully, maliciously, wantonly, negligently or otherwise injure, deface, destroy or remove real or personal property of another by any means without the consent of the owner.
- (b) It shall be unlawful for any person to paint, inscribe, write or scrape messages, words, numbers, symbols or any type of picture upon a house, building, structure or other property of another without the express consent of the owner, or to willfully and maliciously destroy or injure any appurtenance to such house, building, structure or property, including lawns, shrubs, trees, pools, gardens and mail receptacles.
- (c) It shall be unlawful for any person to use any paint, spray paint, pigment or similar means to injure, deface or destroy the house, building or structure or other property of another, including the making of any drawing, inscription, design, scribbling, motto, picture, pictograph or other markings, commonly referred to as graffiti.
- (d) It shall be the duty of the owner of any house, building, structure or other property marked or defaced as defined in this section to remove or paint over such markings so as to minimize the addition of further markings and other blight upon the property. The presence of such markings upon any house, building, structure or other property within the limits of the township is declared to be a public nuisance. Any owner removing markings pursuant to this section shall be entitled to restitution in an amount determined by the court for the cost of removing those markings, such restitution to be paid by any person convicted under this section of making those markings.

(Ord. No. 302, § 3, 8-28-1995)

State law reference(s)—Malicious mischief, MCL 750.377a et seq.; larceny, MCL 750.356.

Sec. 62-45. Graffiti on private property; misdemeanor.

- (a) It is made the duty of the building official or the township to give a specific notice in writing, by first class mail, to every person shown on the tax assessment rolls of the township as owner of any property that has been marked or defaced as defined in section 62-44 to remove or paint over such markings within 15 days. Upon the failure, neglect or refusal of any owner so notified to properly paint over or remove any graffiti within 15 days after receipt of written notice provided for in this subsection, or within 15 days after the date of such notice if the notice is returned to the township because of the inability of the post office to make delivery, provided the notice was properly addressed to the last known address of such owner, the township and its authorized representatives are empowered to enter upon such property for the purpose of accomplishing abatement of the nuisance by removal or elimination of such graffiti by the township.
- (b) Whenever the township or its authorized representative enters upon any parcel of land in order to accomplish abatement of such an existing nuisance, pursuant to the provisions of this section, the township is authorized and directed to keep an accurate account of all expenses incurred, and based upon such expenses issue a certificate determining and certifying the reasonable cost involved for such work with respect to each parcel of property. The township is authorized to add to such costs a ten percent administrative charge to cover the expense of administering the work performed, overhead and other

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contingent expenses. Within ten days after receipt of the certificate, the township treasurer shall forward a statement of the total charges assessed on each parcel of property to the owner as shown by the last current assessment or tax roll; and such assessment shall be payable to the township treasurer within 30 days from the date when the statement was forwarded. If not paid within the prescribed 30-day period, such statement shall be filed with the township assessor and shall thereupon be assessed against the land in question and become a lien on such property in accordance with the provisions of the township Charter. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with interest at the rate of six percent per year compiled from the time of filing the certificate with the township assessor. Such amount shall be a debt of the person to whom assessed until paid and, in case of delinquency, may be enforced as delinquent township property taxes or by a suit against such person.

(Ord. No. 302, § 4, 8-28-1995)

Secs. 62-46—62-80. Reserved.

ARTICLE III. OFFENSES INVOLVING PUBLIC SAFETY

Sec. 62-81. Hunting limited; misdemeanor.

Hunting with or the discharge of a firearm or bow and arrow is prohibited in that area north and south of and including the Clinton River in Harrison Township, Macomb County, except as allowed under state law. This section shall not apply to lands owned by or under control of the department of natural resources or the United States Government.

(Comp. Ords. 1988, § 20.701; Ord. No. 372, § 1, 2-14-2011)

State law reference(s)—Authority to prohibit discharge of firearms preserved, MCL 123.1102, 123.1104.

Sec. 62-82. Reckless, wanton use or negligent discharge of firearms; misdemeanor.

Any person who shall discharge any firearm without due caution, circumspection and consideration for the rights, safety or property of others shall be guilty of a misdemeanor.

(Comp. Ords. 1988, § 20.721)

State law reference(s)—Authority to prohibit discharge of firearms preserved, MCL 123.1102, 123.1104.

Secs. 62-83—62-110. Reserved.

ARTICLE IV. OFFENSES INVOLVING PUBLIC PEACE AND ORDER

Sec. 62-111. Inappropriate language; misdemeanor.

No person shall use any language that could reasonably be expected to provoke an immediate breach of the peace.

(Comp. Ords. 1988, § 20.601)

Sec. 62-112. Public disturbance prohibited; misdemeanor.

No person shall make or excite any disturbance, contention, noise, trouble or improper diversion in any tavern, store, grocery, manufacturing establishment or other business place, or in any street, lane, alley, highway, public building, ground or park, or at any election or other public meeting where citizens are peaceable and lawfully assembled.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Disturbing public places, MCL 750.170; disturbing religious worship, MCL 750.169, 752.523.

Sec. 62-113. Loitering in public.

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

Loiter means and shall include the following conduct in public places:

- (1) Indulging in pointless, useless wandering from place to place within a public area, without any excuse for such roaming other than impulse;
- (2) Remaining idle in essentially one location while spending time loafing or walking about aimlessly;
- (3) Prowling or remaining idly in a place, at a time, or in a manner not usual for law-abiding individuals under such circumstances that warrant alarm for the safety of persons or property within the township.

Public place means all areas open to the public at large, including but not limited to shopping centers, malls, parks, recreational areas and public buildings, pedestrian or automobile bridges or overpasses.

(b) It shall be unlawful for any person to loiter in a public place in such a manner as to:

- (1) Create or cause to be created a danger of a breach of the peace;
- (2) Obstruct the free passage of pedestrians or vehicles;
- (3) Obstruct, molest or interfere with any person lawfully in any public place; or
- (4) Create or cause to be created alarm for the safety of persons or property in the vicinity.

(c) Whenever the presence of any person in any public place is causing or is likely to cause any of the conditions enumerated in subsection (b) of this section, a police officer or township officer vested with the responsibility of enforcing this section shall order that person to leave that place. Any person who shall refuse to leave after being ordered to do so shall be guilty of a violation of this section.

(d) A person violating this section is responsible for a municipal civil infraction.

(Ord. No. 320, §§ 2, 3, 3-9-1998)

Sec. 62-114. Begging and soliciting alms by accosting or forcing oneself upon the company of another; misdemeanor.

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

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Accosting means approaching or speaking to someone in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his person, or upon property in his immediate possession.

Ask, beg and solicit mean and include, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms.

Forcing oneself upon the company of another means continuing to request, beg or solicit alms from a person after that person has made a negative response, blocking the passage of the individual addressed or otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to demands.

(b) *Location.* It shall be unlawful for any person to solicit money or other things of value:

- (1) On private property if the owner, tenant or lawful occupant has asked the person not to solicit on the property, or has posted a sign clearly indicating that solicitations are not welcome on the property;
- (2) Within 15 feet of the entrance to or exit from any public toilet facility;
- (3) Within 15 feet of an automatic teller machine, provided that when an automated teller machine is located within an automated teller machine facility, such distance shall be measured from the entrance or exit of the automated teller machine facility;
- (4) Within 15 feet of any pay telephone, provided that when a pay telephone is located within a telephone booth or other facility, such distance shall be measured from the entrance or exit of the telephone booth or facility;
- (5) In any public transportation vehicle, or in any bus or subway station, or within 15 feet of any bus stop or taxi stand;
- (6) From any operator of a motor vehicle that is in traffic on a public street; however, this subsection shall not apply to services rendered in connection with emergency repairs requested by the owner or passengers of such vehicle;
- (7) From any person who is waiting in line for entry to any building, public or private, including but not limited to any residence, business or athletic facility; or
- (8) Within 15 feet of the entrance or exit from a building, public or private, including but not limited to any residence, business or athletic facility.

(c) *Manner.* It shall be unlawful for any person to solicit money or other things of value by:

- (1) Accosting another; or
- (2) Forcing oneself upon the company of another.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Person begging deemed disorderly person, MCL 750.167(1)(h).

Sec. 62-115. Voyeurism; misdemeanor.

- (a) In this section "peep" means an act of looking of a clandestine, surreptitious, prying or secretive nature.
- (b) No person shall:
 - (1) Peep into an occupied dwelling of another person; or
 - (2) Go upon the land of another with intent to peep into an occupied dwelling of another person.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Window peepers, MCL 750.167(1)(c).

Sec. 62-116. Public intoxication prohibited; misdemeanor.

No person shall be intoxicated in a public place and either endanger directly the safety of another person or property or act in a manner that causes a public disturbance.

(Comp. Ords. 1988, § 20.601)

Cross reference(s)—Alcoholic liquor, ch. 6.

State law reference(s)—Similar provisions, MCL 750.167(1)(e); local public intoxication ordinances, MCL 333.6523.

Sec. 62-117. Jostling, crowding; misdemeanor.

No person shall jostle or roughly crowd people unnecessarily in a public place.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Similar provisions, MCL 750.167(1)(l).

Secs. 62-118—62-150. Reserved.

ARTICLE V. OFFENSES INVOLVING PUBLIC MORALS

DIVISION 1. GENERALLY

Sec. 62-151. Prostitution; misdemeanor.

No person shall commit an act of prostitution.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Prostitution, MCL 750.448 et seq.

Sec. 62-152. Loitering in house of ill-fame; misdemeanor.

No person shall loiter in a house of ill-fame or prostitution or place where prostitution or lewdness is practiced, encouraged or allowed.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Similar provisions, MCL 750.167(1)(i).

Sec. 62-153. Indecent exposure; misdemeanor.

No person shall intentionally expose the male or female buttocks or genital areas or the female breasts in a public place not ordinarily used or designed for such purpose.

(Comp. Ords. 1988, § 20.601)

State law reference(s)—Indecent exposure, MCL 750.335a.

Sec. 62-154. Obscene conduct; misdemeanor.

No person shall engage in any obscene conduct in any public place.

(Comp. Ords. 1988, § 20.601)

Secs. 62-155—62-170. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES AND RELATED MATTERS

Sec. 62-171. Possession, sale, distribution of controlled substances; misdemeanor.

No person shall, knowingly or intentionally, sell, offer for sale, distribute, administer, dispense, prescribe, give away or use any controlled substances as prohibited in the Public Health Code (MCL 333.7101 et seq.).

(Ord. No. 317, § 3, 11-10-1997)

Sec. 62-172. Frequenting places where violations occur; misdemeanor.

No person shall knowingly frequent or be at a place where narcotics or drugs are being used, dispensed, sold or stored in violation of this division or state law.

(Ord. No. 317, § 4, 11-10-1997)

State law reference(s)—Controlled substances, MCL 333.7101 et seq.

Sec. 62-173. Drug paraphernalia; misdemeanor.

(a) *Drug paraphernalia defined.* Drug paraphernalia is defined to mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of state or local law. It includes but is not limited to:

- (1) Kits, products or materials used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (2) Kits, products or materials used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
- (3) Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
- (4) Testing equipment used, intended for use or designed for use in identifying or analyzing the strength, effectiveness or purity of controlled substances.

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- (5) Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
 - (6) Diluents and adulterants, such as quinine, hydrochloride mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting or adulterating controlled substances.
 - (7) Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
 - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
 - (9) Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
 - (10) Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
 - (11) Hypodermic syringes, needles and other objects used, intended for use or designed for use injecting controlled substances into the human body.
 - (12) Objects used, intended for use or designed for use ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls.
 - b. Water pipes.
 - c. Smoking or carburetion masks.
 - d. Roach clips, meaning objects used to hold burning materials such as marijuana cigarettes.
 - e. Miniature cocaine spoons and cocaine vials.
 - f. Chamber pipes.
 - g. Carburetor pipes.
 - h. Electric pipes.
 - i. Air-driven pipes.
 - j. Chillums.
 - k. Bongs.
 - l. Ice pipes or chillers.
- (b) In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other relevant factors, the following:
- (1) Statements by an owner or by anyone in control of the objects concerning their use.
 - (2) Prior convictions, if any, of the owner or of anyone in control of the object under any state or federal law relating to any controlled substances.
 - (3) The proximity of the object in time and space to a direct violation of state law.
 - (4) The proximity of the object to controlled substances.
 - (5) The existence of any residue of controlled substances on the object.

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- (6) Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to a person whom he knows intends to use the object to facilitate a violation of state or local law. The innocence of the owner or of anyone in control of the objects as to a direct violation of state law shall not prevent a finding that the object is intended for use or designed for use as drug paraphernalia.
 - (7) Instruction, oral or written, provided with the object concerning its use.
 - (8) Descriptive materials accompanying the object which explain or depict its use.
 - (9) National and local advertising concerning its use.
 - (10) The manner in which the object is displayed for sale.
 - (11) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products.
 - (12) Direct or circumstantial evidence of the ratio or sales of the object to the total sales of the business enterprise.
 - (13) The existence and scope of legitimate uses for the object in the community.
 - (14) Expert testimony concerning its use.
- (c) *Possession.* No person shall use or possess with intent to use any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.
- (d) *Manufacture, delivery or sale.* No person shall deliver, sell, possess with intent to deliver or sell or manufacture with intent to deliver or sell any drug paraphernalia knowing that it will be used to plant, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of state or local law.
- (1) Before a person is arrested for a violation of this subsection, the township attorney shall notify the person in writing not less than two business days before the person is to be arrested that the person is in possession of specific, defined material that has been determined by the prosecuting attorney to be drug paraphernalia. The notice shall also request that the person refrain from selling or offering for sale the material and shall state if the person complies with the notice, no arrest will be made for a violation of this subsection.
 - (2) If a person complies with the notice defined in subsection (d)(1) of this section, the compliance is a complete defense for a person against prosecution for the sale or offer to sell drug paraphernalia, as long as the compliance continues.
- (e) *Advertisement.* No person shall place in any newspaper, magazine, handbill, sign, poster or other publication any advertisement knowing that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (f) *Exceptions.* This section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists and embalmers, in the normal legal course of their respective business or profession, nor to persons suffering from diabetes, asthma or any other medical condition requiring self-injection as prescribed by a licensed physician.
- (g) *Civil forfeiture.* Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell in violation of this section shall be seized and forfeited to the township in accordance with the following procedure:

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- (1) Property subject to forfeiture under this section may be seized upon process issued by the circuit or district court having jurisdiction over the property. Seizure without process may be had in any of the following cases:
 - a. The seizure is incident to an arrest, a search warrant or an inspection under an administrative inspection warrant.
 - b. The property subject to seizure has been the subject of a prior judgment in favor of the township in an injunction or forfeiture proceeding based upon this section.
 - c. There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.
 - d. There is probable cause to believe that the property is used or intended to be used in violation of this section.
 - (2) In case of a seizure without process issued by the circuit court or district court, forfeiture proceedings shall be instituted promptly. If seizure is made without process and the total value of the property does not exceed \$100,000.00, the following procedure shall be used:
 - a. The township shall cause notice of the seizure of property and the intention to forfeit and dispose of the property according to this section to be given to the owner of the property by delivering the owner notice or by sending the notice to the owner by certified mail. If the name and address of the owner are not reasonably ascertainable or if delivery of the notice cannot reasonably be accomplished, the notice shall be published in a newspaper of general circulation in the county in which the property was seized for ten successive publishing days.
 - b. Any person claiming an interest in property which is the subject of a notice under subsection (g)(2)a of this section may, within 20 days after receipt of the notice or of the date of first publication of the notice, file a claim with the township expressing his interest in the property. Upon filing of the claim and of a bond in the amount of \$250.00, with surety approved by the township, conditioned that, in the case of property ordered to be forfeited by the court, the obligor shall pay all costs and expenses of the forfeiture proceedings, the township shall transmit the claim and bond to the township attorney, who shall promptly institute forfeiture proceedings after the expiration of the 20-day period.
 - c. If no claim is filed or bond given within the 20-day period, as described, the township shall declare the property forfeited and shall dispose of the property as set forth in this subsection.
 - (3) Property taken or detained under this section shall not be subject to an action to recover personal property but is deemed to be in the custody of the township subject only to this section, or an order and judgment of the court having jurisdiction over the forfeiture proceedings. When property is seized under this section, the sheriff's department may do either of the following:
 - a. Place the property under seal.
 - b. Remove the property to a place designated by the court.
 - (4) When property is forfeited under this section, the township may make any of the following dispositions in its discretion:
 - a. Retain it for official lawful use.
 - b. Sell that which is not required to be destroyed by law and which is not harmful to the public, paying from the proceeds expenses of the proceedings of forfeiture and sale, including maintenance of custody, advertising and cost, with the balance of moneys to be retained by the township general fund.

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- c. Destroy and dispose of, in a safe manner, any property not reasonably capable of resale or otherwise potentially dangerous to the community at large.

(Ord. No. 317, §§ 1, 2, 11-10-1997)

State law reference(s)—Drug paraphernalia, MCL 333.7451 et seq.

Secs. 62-174—62-200. Reserved.

ARTICLE VI. OFFENSES INVOLVING UNDERAGE PERSONS

Sec. 62-201. House parties; misdemeanor.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Alcoholic beverage means any beverage containing more than one-half of one percent of alcohol by volume. The percentage of alcohol by volume shall be determined in accordance with the provisions of section 105 of the Michigan Liquor Control Act of 1998 (MCL 436.1105).

Control means any form of regulation or dominion, including a possessory right.

Drug means a controlled substance as defined now or hereafter by the public acts of the state. Currently, such controlled substances are defined by sections 7101—7544 of the Public Health Code (MCL 333.7101—333.7544).

House party means a social gathering of persons at a residence, other than the owner, tenant, land contract vendee or their immediate family members.

Minor means a person not legally permitted by reason of age to possess alcoholic beverages pursuant to section 703 of the Michigan Liquor Control Act of 1998 (MCL 436.1703).

Residence means a home, apartment, condominium or other dwelling unit and includes the curtilage of such dwelling unit.

- (b) *Minors possessing/consuming alcohol/drugs.* No person having control of any residence shall allow a house party to take place at that residence if any alcoholic beverage or drug is possessed or consumed at the residence by any minor where:
 - (1) The person having control of the residence knew or reasonably should have known that an alcoholic beverage or drug was in the possession of or being consumed by a minor at the residence; and
 - (2) The person having control of the residence failed to take reasonable steps to prevent the possession or consumption of the alcoholic beverage or drug at the residence.
- (c) *Religious observances excluded.* The provisions of this section shall not apply to legally protected religious observances.

(Ord. No. 315, §§ 3, 4, 10-27-1997)

Sec. 62-202. Spray paint; possession by persons under the age of 18; sale or transfer to persons under the age of 18; misdemeanor.

- (a) For the purpose of this section, the term "spray paint" means any cans or similar containers of paint, varnish, lacquer, stain, pigment or other similar solvent or substance commonly used in painting and applied by a spraying method, atomizer or similar method.
- (b) Except as is otherwise provided, no person under 18 years of age shall purchase or possess spray paint, nor shall any person sell or transfer possession of any spray paint to any person under 18 years of age.
- (c) The provisions of this section do not apply to the following:
 - (1) A person under 18 years of age may possess spray paint for use at home or on private property or in the course of work, with written proof from an employer, parent or guardian.
 - (2) A person may sell or transfer possession of spray paint to a person under 18 years of age if the person under 18 years of age exhibits written consent from his employer, parent or guardian.

(Ord. No. 302, § 2, 8-28-1995)

Sec. 62-203. Tobacco.

- (a) No person shall sell, give or furnish any cigarette, cigar, chewing tobacco, snuff, or tobacco in any other form to a person under 18 years of age.
- (b) A person who sells tobacco products at retail shall post, in a place close to the point of sale and conspicuous to both employees and customers, a sign produced by the department of public health that includes the following statement:
 - (1) The purchase of tobacco products by a minor under 18 years of age and the provision of tobacco products to a minor are prohibited by law, and a minor unlawfully purchasing or using tobacco products is subject to criminal penalties.
 - (2) If a sign required by subsection (b)(1) of this section is more than six feet from the point of sale, it shall be 5½ by 8½ and the statement required by subsection (b)(1) of this section shall be printed in 36b point boldface type. If the sign required under subsection (b)(1) of this section is six feet or less from the point of sale, it shall be two inches by four inches; and the statement required by subsection (b)(1) of this section shall be printed in 20 point boldface type.
- (c) A person under 18 years of age shall not possess or smoke cigarettes or cigars or possess or chew, suck or inhale chewing tobacco or tobacco snuff, or possess or use tobacco in any other form, on a public highway, street, alley, park or other lands used for public purposes, or in a public place of business or amusement. A person who violates this section is responsible for a municipal civil infraction.

(Ord. No. 312, § 1, 8-11-1997)

State law reference(s)—Similar provisions, MCL 722.641, 722.642.

Sec. 62-204. Minor in possession.

Section 703 of the Michigan Liquor Control Act, 1998 Public Act 58, as amended including all future amendments, pertaining to minors and alcoholic liquor (MCL 436.1703) is adopted by reference.

(Ord. No. 342, § I, 3-8-2004)

Secs. 62-205—62-299. Reserved.

ARTICLE VII. OPERATION OF BICYCLES AND ELECTRIC BICYCLES

Sec. 62-300. Definitions.

As used in this article, the following words and phrases shall have the following meanings:

Bicycle means every mechanical means of transportation having either two or three wheels in a tandem or tricycle arrangement, all of which are over 14 inches in diameter, fully operable pedals, and propelled solely by human power.

Bicycle lane means a portion of a roadway which has been designated by striping, signing and/or markings for the preferential or exclusive use of persons riding bicycles.

Electric bicycle means a device upon which an individual may ride that satisfies all of the following:

- (a) The device is equipped with all of the following:
 - (i) A seat or saddle for use by the rider.
 - (ii) Fully operable pedals for human propulsion.
 - (iii) An electric motor of not greater than 750 watts; and
- (b) The device falls within one of the following categories:
 - (i) Class 1 electric bicycle means an electric bicycle that is equipped with an electric motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 20 miles per hour.
 - (ii) Class 2 electric bicycle means an electric bicycle that is equipped with a motor that propels the electric bicycle to a speed of no more than 20 miles per hour, whether the rider is pedaling or not, and that disengages or ceases to function when the brakes are applied.
 - (iii) Class 3 electric bicycle means an electric bicycle that is equipped with a motor that provides assistance only when the rider is pedaling and that disengages or ceases to function when the electric bicycle reaches a speed of 28 miles per hour.

Trail means a section of sidewalk or other pathway which is physically separated from motorized vehicular traffic by an open space or barrier, and which is set aside for use by bicycles, electric bicycles and pedestrians and so designated by signs.

(Ord. No. 398, § 1, 3-30-2020)

Sec. 62-301. Bicycles, ordinances applicable.

The provisions of this article shall apply when a bicycle or a Class 1 and Class 2 electric bicycle is operated on any street or on any public path set aside for the exclusive use of bicycles, including but not limited to Lake St. Clair Metropark.

The operation of the Class 3 Electric Bicycle is hereby prohibited within the boundaries of the Charter Township of Harrison and Lake St. Clair Metropark. A person who violates this section is responsible for a civil infraction.

(Ord. No. 398, § 1, 3-30-2020)

Sec. 62-302. Riders to obey traffic law.

Operators of bicycles and electric bicycles shall be granted all of the rights, and shall be subject to all of the duties, applicable to the driver of a vehicle pursuant to the laws of Michigan which declare rules of the road applicable to vehicles or pursuant to the traffic ordinances of the township which are applicable to the driver of a vehicle, except as to those provisions of laws and ordinances which by their nature do not apply.

(Ord. No. 398, § 1, 3-30-2020)

Sec. 62-303. Manners of operation.

- (1) Any person who operates a bicycle or an electric bicycle shall obey the instruction of official traffic-control signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.
- (2) When authorized signs are erected which indicate that right, left, or U-turns are not permitted, a person who operates a bicycle or electric bicycle shall obey the direction of any such sign, except where the person dismounts from the bicycle to make such turn, in which event the person shall then obey the regulations applicable to pedestrians.
- (3) A bicycle shall not be ridden by more persons than the number for which it was originally designed and manufactured. Passengers are allowed when using seats, trailers, or other carrying devices designed for use in conjunction with a bicycle.
- (4) An electric bicycle shall not be used to carry more than one person at a time.
- (5) A person who operates a bicycle or an electric bicycle shall ride as near to the right-hand side of the roadway as practicable and shall exercise due care when passing a standing vehicle or a vehicle proceeding in the same direction.
- (6) A person who operates a bicycle or an electric bicycle shall not ride more than two abreast, except on paths or parts of roadways set aside for the exclusive use of such vehicle.
- (7) When a usable path has been provided adjacent to a roadway, a bicycle or electric bicycle rider shall use such path and shall not use the roadway.
- (8) A person who rides on any bicycle or electric bicycle shall not attach the same or himself or herself to any vehicle on a roadway.
- (9) A person shall not operate a bicycle at a speed greater than is reasonable and prudent under the existing conditions.
- (10) A person who operates any bicycle or electric bicycle shall do so only at a speed as duly posted or not more than 15 miles per hour whichever is less.
- (11) A person shall not operate an electric bicycle on a highway or street with a speed limit of more than 25 miles per hour except to cross that highway or street.
- (12) The operator of a bicycle or an electric bicycle who emerges from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on the sidewalk areas and, upon entering the roadway, shall yield the right-of-way to all vehicles approaching on the roadway.
- (13) A person who operates a bicycle or an electric bicycle shall not carry any package, bundle, or article that prevents the driver from keeping both hands on the handlebars of the vehicle.

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- (14) A person shall not park a bicycle or an electric bicycle on a sidewalk where such vehicle parking is prohibited by an official traffic control device. A person shall not park a bicycle or an electric bicycle in a manner that would unreasonably obstruct pedestrian or other traffic.
- (15) Unless prohibited or restricted by traffic control devices, a bicycle or an electric bicycle may be parked on a roadway as follows:
- a. At an angle to the curb or edge of the roadway in any location where the parking of vehicles are allowed and may park abreast of another bicycle or electric bicycle.
- (16) When a sign is erected on a sidewalk which prohibits the riding of bicycles or electric bicycles thereon by any person, a person shall obey the sign. When a person is lawfully riding a bicycle or an electric bicycle on a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
- (17) Every bicycle or electric bicycle being operated on a roadway between one-half hour after sunset and one-half hour before sunrise shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamp on a motor vehicle. A lamp that emits a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.
- (18) Every bicycle shall be equipped with a brake that enables the operator to make the braked wheels skid on dry, level clean pavement. An electric bicycle shall enable the operator to bring it to a controlled stop.

A person who violates any of the provisions of this section is responsible for a civil infraction.

(Ord. No. 398, § 1, 3-30-2020)

Chapter 66 PARKS AND RECREATION⁴⁸

ARTICLE I. IN GENERAL

Secs. 66-1—66-30. Reserved.

ARTICLE II. LAKE ST. CLAIR METROPARK⁴⁹

DIVISION 1. GENERALLY

⁴⁸Cross reference(s)—Environment, ch. 34; waterways, ch. 94.

State law reference(s)—Public recreation systems authorized, MCL 123.51.

⁴⁹Editor's note(s)—Ord. No. 393, § 2, adopted May 29, 2018, amended the title of Art. II to read as set out herein. Former Art. II was titled, "Metropolitan Beach."

Sec. 66-31. 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:

Authority means the Huron-Clinton Metropolitan Authority, a public body corporate under the laws of the state, and its duly authorized officers, employees, agents and representatives.

Slow no wake speed means a very slow speed whereby the wake or wash created by a motorboat would be minimal.

(Comp. Ords. 1988, §§ 20.012, 20.114)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 66-32. Violation; fine.

- (a) Any provision of this article that describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code (MCL 257.1 et seq.) shall be processed as a civil infraction, and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with section 907 of the Michigan Vehicle Code (MCL 257.907).
- (b) A person less than 21 years of age who violates section 66-47, except as that section applies to the transportation or possession of beer, wine or alcohol in a motor vehicle, is liable for the following civil fines:
 - (1) For the first violation, a fine of not more than \$25.00.
 - (2) For the second violation, a fine of not more than \$50.00.
 - (3) For a third or subsequent violation, a fine of not more than \$100.00.

(Comp. Ords. 1988, §§ 20.013, 20.115)

Sec. 66-33. Closing of park.

No person shall use the facilities of Lake St. Clair Metropark between the posted "park closed" hours except by written permission of the authority. No person shall use or occupy any area or facility in Lake St. Clair Metropark when such area or facility is closed to the use of the public by order of the authority.

(Comp. Ords. 1988, §§ 20.005, 20.105; Ord. No. 393, § 3, 5-29-2018)

Sec. 66-34. Enforcement.

This article shall be enforced by the ordinance enforcement officer designated by the township board in accordance with section 2-62, and that officer shall have all the powers provided for in that section and the statutes of the state under which he is appointed.

(Comp. Ords. 1988, § 20.118)

Sec. 66-35. Denial of facility use.

Any person utilizing or taking advantage of any facility, service, privilege or license offered by the authority or its licensees within the boundaries of Lake St. Clair Metropark, who violates any posted or printed rule or

regulation relating to the use of that facility, service, privilege or license or who is in violation of section 66-37, may be denied use of the particular facility, service, privilege or license involved by the authority and its designated representative. Any person denied use of a particular facility due to a violation as set forth above, shall be requested to vacate the Lake St. Clair Metropark and be prohibited from re-entry for a minimum time period of 24 hours.

(Comp. Ords. 1988, § 20.120; Ord. No. 393, § 4, 5-29-2018)

State law reference(s)—Trespass, MCL 750.546 et seq.

Sec. 66-36. False identification.

Within the boundaries of Lake St. Clair Metropark, no person shall provide or furnish false identification concerning himself to any police officer, public safety attendant, Metropark police officer, township officer or sheriff deputy engaged in the performance of his official duties.

(Comp. Ords. 1988, § 20.113(d); Ord. No. 393, § 5, 5-29-2018)

State law reference(s)—Obstruction of police, MCL 750.479.

Sec. 66-37. Receipt of service, privilege or license without payment of fee.

- (a) Where a fee or charge is requested for any service, privilege or license offered by the authority or its licensees within the boundaries of Lake St. Clair Metropark, no person shall obtain, or attempt to obtain such service, privilege or license without payment of such fee or charge.
- (b) Where a fee or charge is requested for any service, privilege or license offered by the authority or its licensees within the boundaries of Lake St. Clair Metropark, no person shall obtain, or attempt to obtain such service, privilege or license without payment of such fee or charge and compliance with all requirements of any permit pertaining to such service, privilege or license.
- (c) No person shall, without specific permission, or without having first paid for the privilege, park any motorcycle, motor-driven cycle or motor vehicle within the boundaries of Lake St. Clair Metropark after the posted closing hours; failure to comply with all requirements of any permit pertaining to the parking privilege granted under this subsection shall constitute a violation of this section.

(Comp. Ords. 1988, § 20.112; Ord. No. 393, § 6, 5-29-2018)

Sec. 66-38. Purchase and use of daily and annual permits.

- (a) A daily or annual permit is required for entry into Lake St. Clair Metropark for entry each and every day of the year and entry for each and every vehicle and trailered boat, watercraft or vessel with exceptions as designated by the Authority.
- (b) Any motor vehicle annual permit purchased or used at the Lake St. Clair Metropark shall be permanently affixed to the lower left corner of the windshield of the particular motor vehicle.
- (c) Annual permits shall not be laminated or otherwise covered. Annual permits shall not be attached to a motor vehicle, motorcycle, boat, watercraft or vessel by any other means than by removing the back portion of the permit and affixing the permit permanently as the permit is designed.
- (d) All motorcycle annual permits must be permanently affixed to the motorcycle.

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- (e) All boat launch annual permits must be permanently affixed to the boat, watercraft or vessel trailer, with the exception of the combination permit which may be permanently affixed to a motor vehicle.
 - (f) No permits may be transferred to another vehicle, motorcycle, boat, watercraft or vessel. Any person refusing to permanently affix a permit as required under this section may be denied entrance into Lake St. Clair Metropark.

(Comp. Ords. 1988, § 20.121; Ord. No. 393, § 7, 5-29-2018)

Sec. 66-39. Large group events.

No field day, carnival, concert, address, rally, dramatic presentation or the like at which more than 50 persons are in attendance or can reasonably be expected to be in attendance (hereafter called "large group events") shall be held or conducted on lands of the authority unless a permit for such event has first been granted by the authority. Permits for large group events may be granted on the following conditions:

- (1) Application must be made for a large group event permit at least two weeks in advance of the event. The application must specify the nature of the event, its time of duration, and the approximate number of persons expected to be in attendance.
- (2) Permits for large group events may be granted as conditions of park usage and availability of park facilities warrant and will not be denied for reasons of race, national origin, sex, or political or religious preference of the applicant.
- (3) Every large group event permit shall designate the time and park area at which the planned event is to be held and shall state the approximate number of participants in the event, together with other conditions (if any) upon which the permit is granted. Conditions relating to the size of the expected group and the chances of unduly disturbing other park occupants will determine whether sound amplification equipment may be used in connection with the event and the maximum volume levels at which any such equipment may be operated.
- (4) Each applicant for a large group event permit agrees that the applicant and all persons involved in the presentation of the event shall observe the terms and conditions of the permit, when issued, and shall comply with requests of park officials concerning traffic arrangements, crowd control measures and the use of park facilities.

(Comp. Ords. 1988, § 20.010; Ord. No. 393, § 8, 5-29-2018)

Sec. 66-40. Traffic controls within Lake St. Clair Metropark.

- (a) No person shall park a vehicle on metropolitan parkway at any time except when making necessary emergency repairs. the word "park" means standing or stopping a vehicle, whether occupied or not.
- (b) Every driver of a vehicle on Metropolitan Parkway shall obey all authorized signs indicating that no right turn, left turn or U-turn is permitted.
- (c) No person shall drive a vehicle on Metropolitan Parkway across the turf shoulder from any access road except at such entrances and exits as are established by the authority.
- (d) No person shall operate a motor vehicle at a speed in excess of 25 miles per hour.
- (e) No person shall operate a motor vehicle at a speed in excess of 15 miles per hour in any parking area.
- (f) Upon entering Lake St. Clair Metropark, all motor driven vehicles must be parked immediately in the area provided. It is unlawful to tour the park area without written permission from the authority.

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- (g) No motor vehicle shall be operated on any ice surface at the park.
 - (h) No person shall drive a vehicle in restricted areas marked with signage or blocked off by barricades.
 - (i) Every driver of a vehicle is required to comply with a police officers, Metropark police officer or sheriff deputy directing traffic within Lake St. Clair Metropark.

(Ord. No. 393, § 9, 5-29-2018)

Editor's note(s)—Ord. No. 393, § 9, adopted May 29, 2018, amended § 66-40 in its entirety to read as herein set out. Former § 66-40 pertained to traffic controls within Metropolitan Beach and derived from Comp. Ords. 1988, §§ 20.009(9.1)—(9.6), 20.132(a).

Cross reference(s)—Traffic and vehicles, ch. 86.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.

Sec. 66-41. Off-the-road vehicles.

- (a) No person shall operate or have in his possession within the boundaries of Lake St. Clair Metropark or any other authority park any off-the-road motor-driven vehicle, including, by way of example but not by way of limitation, any minibike, motorcycle, dunemobile, snowmobile, converted snowmobile, all-terrain vehicle, amphibious vehicle or similar motorized device.
- (b) No person shall, without specific permission in writing, operate or have in his or her possession or control within the boundaries of Lake St. Clair Metropark a moped, motor-driven cycle, or motor vehicle except on the surfaced area of a roadway (excluding any roadway posted for use of authorized vehicles only) or designated parking area.

(Comp. Ords. 1988, §§ 20.109, 20.009(9.7); Ord. No. 340, § 1, 2-10-2003; Ord. No. 393, § 10, 5-29-2018)

Cross reference(s)—Traffic and vehicles, ch. 86.

State law reference(s)—Off road recreational vehicles, MCL 324.81101 et seq.; snowmobiles, MCL 324.82101 et seq.

Sec. 66-42. Preservation of property and natural resources.

- (a) No person shall injure, deface, disturb, befoul nor in any manner destroy or cause to be destroyed any portion of Lake St. Clair Metropark or any facility building, sign, structure, equipment, utility or other property found in the park.
- (b) No person shall dig for, remove, injure or destroy any tree, flower, shrub, plant or growing thing or any wildlife, except as otherwise provided by law, or any rock, mineral, artifact or other material within the boundaries of Lake St. Clair Metropark without written permission from the authority.

(Comp. Ords. 1988, § 20.110; Ord. No. 393, § 11, 5-29-2018)

State law reference(s)—Malicious mischief, MCL 750.377 et seq.

Sec. 66-43. Tents, canopies, structures.

No person shall erect, use or maintain any tent, canopy, lean-to, another similar type of appliance of any structure larger than ten feet by ten feet in size without the permission of the Lake St. Clair Metropark Manager or

an authorized designee. All tents, canopies, structures, or similar type of appliance of any size may not be staked into the ground without written permission, and only in areas designated by the Authority.

(Comp. Ords. 1988, § 20.119; Ord. No. 340, § 1, 2-10-2003; Ord. No. 374, § 1, 7-11-2011; Ord. No. 393, § 12, 5-29-2018)

Sec. 66-44. Firearms, fireworks, weapons.

Except as otherwise permitted by law, no person shall have in his possession or control any rifle, shotgun, pistol or other firearm, slingshot, pellet gun, air rifle, fireworks, explosive or other dangerous equipment or materials within the boundaries of Lake St. Clair Metropark; however, the prohibition of this section shall not apply to any law enforcement officer who has been duly appointed by the government of the United States, the state, or any county, municipality or other political subdivision of the state while engaged in the exercise of his duties as a law enforcement officer, or while in the possession or control of a weapon required to be carried as a condition of such appointment as a law enforcement officer; further, this section shall not prohibit a person from otherwise legally transporting an unloaded shotgun in a case within the boundaries of Lake St. Clair Metropark for the purpose of using Lake St. Clair Metropark as access to or for departure from a permitted hunting area.

(Comp. Ords. 1988, §§ 20.003(3.3), 20.102; Ord. No. 393, § 13, 5-29-2018)

Cross reference(s)—Offenses and miscellaneous provisions, ch. 62.

State law reference(s)—Local regulation of firearms, MCL 123.1102 et seq.; fireworks, MCL 750.243a et seq.

Sec. 66-45. Games.

Within the boundaries of Lake St. Clair Metropark, no person shall use a skateboard, roller skates, frisbee, football, soccer ball, or other game equipment in any area where use of such equipment is prohibited by posted notices.

(Comp. Ords. 1988, § 20.113(c); Ord. No. 393, § 14, 5-29-2018)

Sec. 66-46. Unlawful fires.

- (a) No person shall start or maintain a ground fire on authority property within the township except in public stoves, fireplaces or spaces provided for such purpose. Portable fire pits are permitted only within the Marina facility.
- (b) No person shall dump any burning material or hot ashes into any trash container on authority property within the township unless the container shall be marked as a receptacle for such materials.

(Comp. Ords. 1988, §§ 20.004, 20.104; Ord. No. 393, § 15, 5-29-2018)

Cross reference(s)—Fire prevention and protection, ch. 38.

Sec. 66-47. Possession of alcohol and other controlled substances; disorderly persons.

- (a) No person shall have in his or her possession within the boundaries of Lake St. Clair Metropark any alcoholic beverage stronger than beer or wine except that alcoholic beverage in addition to beer and wine may be permitted in accordance with M.C.L. 436.1915 only in areas designated by the Authority.
- (b) No person shall have in his possession within the boundaries of Lake St. Clair Metropark any beer, wine or other alcoholic beverage during times when such possession is prohibited by posted notices.

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- (c) No person shall consume any beer, wine or other alcoholic beverage within the boundaries of Lake St. Clair Metropark except in picnic areas or areas as designated by the authority.
 - (d) No person shall, knowingly or intentionally, possess, sell, offer for sale, distribute, administer, dispense, prescribe, give away or use any controlled substances as prohibited in the Public Health Code (MCL 333.7101 et seq.).
 - (e) No person shall be intoxicated within Lake St. Clair Metropark and who is either endangering directly the safety of another person or property or acting in a manner that causes a public disturbance including but not limited to behaving in a manner that causes disturbances, contentions, assaultive acts where other patrons are unable to enjoy use of the park and its facilities.
 - (f) No person shall disobey or resist the lawful command of a sheriff deputy, Metropark police officer or ordinance enforcement officer or resist arrest.

If after receiving a warning from the sheriff deputy, Metropark police officer or ordinance enforcement officer engaged in the performance of his or her official duties a person persists in disrupting, disturbing or otherwise acting in a disorderly manner, the sheriff deputy, Metropark police officer or ordinance enforcement officer shall order him or her to leave the Lake St. Clair Metropark. If such person does not remove him or herself, the Metropark police officer, ordinance enforcement officer or sheriff deputy may remove that person from the Lake St. Clair Metropark.

(Ord. No. 393, § 16, 5-29-2018)

Editor's note(s)—Ord. No. 393, § 16, adopted May 29, 2018, amended § 66-47 in its entirety to read as herein set out. Former § 66-47 pertained to possession of alcohol and derived from Comp. Ords. 1988, § 20.107(7.3)—(7.5); and Ord. No. 340, § 1, adopted Feb. 10, 2003.

Cross reference(s)—Alcoholic liquor, ch. 6.

Sec. 66-48. Dogs, pets, horses and livestock.

- (a) No person shall bring into, have in possession or control, lead or allow the presence of any cat, bird, snake, horse, livestock, pet or other animal, including any exotic animal regulated pursuant to chapter 14, article III within the confines of Lake St. Clair Metropark. Dogs are allowed only in areas designated by the authority. This section shall not apply to guide dogs, hearing dogs, service dogs, dogs off of boats in marinas which are going to or coming from the marina pet relief areas, or other dogs for which written approval has been received from the authority.
- (b) Persons with dogs shall be responsible for control of the animal(s). Dogs must be on a six-foot leash; failure to comply with this regulation will result in a civil infraction.

(Comp. Ords. 1988, § 20.106; Ord. No. 340, § 1, 2-10-2003; Ord. No. 393, § 17, 5-29-2018)

Cross reference(s)—Animals, ch. 14.

Sec. 66-49. Garbage, trash.

No person shall deposit or abandon in the Black Creek or on any authority property or Lake St. Clair Metropark any garbage, sewage, bottles, refuse, trash, waste or other obnoxious materials except in receptacles provided for such purposes.

(Comp. Ords. 1988, §§ 20.003(3.1), 20.102(2.1); Ord. No. 393, § 18, 5-29-2018)

Cross reference(s)—Solid waste, ch. 74.

State law reference(s)—Littering, MCL 324.8901 et seq.

Sec. 66-50. Glass bottles.

Glass bottles and containers are discouraged throughout the park. No person shall have in his possession or control any glass bottle or container in or on any pool area or beach area in Lake St. Clair Metropark, or in any other locality in the park where possession of glass bottles and containers is prohibited by posted notices.

(Comp. Ords. 1988, § 20.102(2.2); Ord. No. 393, § 19, 5-29-2018)

Sec. 66-51. Signs and handbills.

- (a) Handbills, newspapers or other circulars may be offered or distributed within the boundaries of Lake St. Clair Metropark only by passing them hand-to-hand, and such distribution will be allowed only in areas for such distribution that are designated by the authority.
- (b) No person shall post, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree or automobile within the boundaries of Lake St. Clair Metropark, except that temporary directional signs for group picnics or events may be placed on signposts designated for such purposes by the authority and must be removed at the conclusion of the event.

(Comp. Ords. 1988, § 20.103; Ord. No. 393, § 20, 5-29-2018)

Sec. 66-52. Commercial activities.

No person or organization other than the authority, its hires and licensees, shall, while on lands of the authority, 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 or commercial activity; nor shall any person or organization beg or solicit contributions or donations while on lands of the authority.

(Comp. Ords. 1988, §§ 20.008, 20.108)

Sec. 66-53. Control of swimming or wading.

Swimming or wading is prohibited in any water under the control of the authority except within marked areas and in accordance with posted rules and regulations governing such use.

(Comp. Ords. 1988, § 20.002(2.1); Ord. No. 340, § 1, 2-10-2003)

Sec. 66-54. Musical instruments, radios, record or tape players and sound amplifying devices.

No person shall operate or play any musical instrument, radio, mechanical record, disc or tape player, loudspeaker, public address system or sound amplifying equipment of any kind within the boundaries of Lake St. Clair Metropark in such a manner that is plainly audible as to cause the sound emanating to exceed a loudness of 75 decibels when measured on the 70 db scale at a distance of 15 feet from the sound source without a written permit issued by the authority and only in areas designated by the authority. Such a permit shall be issued upon a showing that there will be compliance with all laws and ordinances and that the proposed activity will not unduly disturb the peace.

For purposes of this section, the phrase *plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties. The enforcing officer need not determine the title of a specific sound,

specific words, or the performing artist, and the detection of the rhythmic bass component of music is sufficient to constitute a plainly audible sound.

(Comp. Ords. 1988, § 20.111; Ord. No. 340, § 1, 2-10-2003; Ord. No. 393, § 21, 5-29-2018)

Sec. 66-55. Indecent exposure.

Within the boundaries of Lake St. Clair Metropark, no person shall intentionally expose the male or female buttocks, genital areas or female breasts, either openly or by wearing beach attire calculated to expose such areas.

(Comp. Ords. 1988, § 20.113(a); Ord. No. 393, § 22, 5-29-2018)

Sec. 66-56. Observing areas used for the opposite sex.

Within the boundaries of Lake St. Clair Metropark, no person shall observe or attempt to observe persons of the opposite sex while occupying a bathhouse or restroom facility.

(Comp. Ords. 1988, § 20.113(b); Ord. No. 393, § 23, 5-29-2018)

State law reference(s)—Indecent exposure, MCL 750.335a; public nudity ordinances, MCL 41.181(3).

Sec. 66-57. Ice shanties.

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

Ice shanty means any structure, enclosure or device capable of being used to facilitate the act of ice fishing, either by providing shelter or darkness, regardless of design or materials used in construction.

Park means any lands owned by the Huron-Clinton Metropolitan Authority and Lake St. Clair Metropark.

(b) *Use.* Park officials shall abide by and adhere to the Department of Natural Resources determinations which, if any, periods of the year are suitable and safe for the placement and/or use of ice shanties on other than a daily basis. During these periods, ice shanties may be placed and used only during hours when the park is open.

(c) *Dates.* Notwithstanding any other provision of this section, park officials shall determine the first and last date for the use or placement of ice shanties.

(d) *Hours.* A person may not use or occupy an ice shanty, or fish upon the ice, during hours other than park operation.

(e) *Identification.* Each ice shanty must be conspicuously identified by the name, address, and telephone number of its owner in three-inch block letters, placed upon all vertical walls in a color contrasting with the color of the ice shanty.

(f) *Removal.* Any ice shanty remaining on the ice within the park after the published final use date shall be removed by park officials at the owner's expense.

(g) *Registration.* All ice shanties shall be registered with park officials at the park office.

(Comp. Ords. 1988, § 20.132; Ord. No. 340, § 1, 2-10-2003; Ord. No. 393, § 24, 5-29-2018)

Secs. 66-58—66-80. Reserved.

*DIVISION 2. WATERCRAFT*⁵⁰

Sec. 66-81. Speed.

Any person operating or propelling a watercraft within the confines of Lake St. Clair Metropark shall operate the craft in a careful and prudent manner and in compliance with applicable statutes, rules of the road and posted speed limits. No person shall operate any watercraft at a rate of speed greater than will permit him to stop within the safe assured clear distance ahead, or in a manner so as to interfere with the lawful use of the water by others or at a speed greater than slow no wake speed. The speed limit shall not apply to any craft when operating as an authorized patrol boat or emergency rescue craft.

(Comp. Ords. 1988, § 20.001(1.1); Ord. No. 393, § 25, 5-29-2018)

State law reference(s)—Speed, MCL 324.80145 et seq.

Sec. 66-82. Swimming, wading.

- (a) Swimming and bathing are prohibited within the boundaries of Lake St. Clair Metropark, except in specially constructed swimming pool facilities or any areas marked as swimming areas. No person shall use any swimming pool facility or marked swimming area except in accordance with posted rules and regulations governing such use. Posting of rules, regulations or prohibitions may be accomplished by markings placed upon signs, seawalls, buoys, walls or any other means which is calculated to reasonably inform a person of the existence of such rule, regulation or prohibition.
- (b) Wading is prohibited within the boundaries of Lake St. Clair Metropark, except in swimming pool facilities or marked swimming areas; provided, that the prohibitions of this section shall not apply to fishermen actually engaged in fishing.

(Comp. Ords. 1988, § 20.101(1.1), (1.2); Ord. No. 340, § 1, 2-10-2003; Ord. No. 393, § 26, 5-29-2018)

Sec. 66-83. Launching.

The launching of all watercraft within Lake St. Clair Metropark shall be restricted as follows:

- (1) No motorboat shall be launched and operated unless such motorboat shall be registered and marked in accordance with the laws of the state governing the registration of watercraft.
- (2) No person shall put in the water or launch any watercraft except at designated launching sites.
- (3) No person shall leave a watercraft on the water within Lake St. Clair Metropark or its shoreline between the hours of 10:00 p.m. and sunrise except by the permission of the authority. Watercraft left on the water or shoreline of Lake St. Clair Metropark in violation of this subsection is subject to being towed away and stored at the owner's expense.

⁵⁰State law reference(s)—Marine safety, MCL 324.80101 et seq.; local regulation of water safety, MCL 324.80111 et seq.

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- (4) No person shall operate any watercraft within any marked swimming area except when operating as lifeguard patrol or rescue craft or during a special event approved by the Authority.
 - (5) No person shall launch or use a rubber raft, driving raft or other unsafe floating device except in swimming areas so designated.

(Comp. Ords. 1988, § 20.001(1.2); Ord. No. 393, § 27, 5-29-2018)

Sec. 66-84. Mooring in marina basins.

No boat, vessel or craft shall moor, raft, dock, anchor, or otherwise be located in the north marina basin or south marina basin where such activity is posted as prohibited by the Huron-Clinton Metropolitan Authority and/or Lake St. Clair Metropark. Notice of such prohibition may be given by the placement of any sign, marking, posting or buoy in any conspicuous place, either upon land or water, in a manner reasonably calculated to inform any affected person of such prohibition.

(Comp. Ords. 1988, § 20.101(1.3); Ord. No. 393, § 28, 5-29-2018)

Sec. 66-85. Docking.

- (a) Only one craft shall be tied up in a boatwell within Lake St. Clair Metropark. Failure to remove a craft within two hours after issuance of a citation for this offense shall constitute a separate offense.
- (b) No person shall moor or dock any boat, craft or vessel in any boatwell or docking space without promptly paying the required fees. No person shall moor or dock a boat, craft or vessel in any boatwell or docking space for a period in excess of that indicated on the purchased permit. If any boat, craft or vessel is left unattended, or if the applicable dockage fees have remained unpaid, for a period in excess of 24 hours in any boatwell or docking space, such boat, craft or vessel is subject to being towed away and stored at the owner's expense.
- (c) Any well or space marked for seawall dockage and equipped with cleats for tying up craft shall be a docking zone. No craft shall be tied up or rafted to another craft which is tied up in a docking zone. No craft shall be tied up in a space which is posted as prohibited for docking. Where a docking fee is posted in or near a docking zone, no person shall tie up a craft without payment of such fee as posted. Failure to remove a craft within two hours after issuance of a citation for this offense shall constitute a separate offense.
- (d) No person shall stop a dinghy, lifeboat, plastic or inflatable boat or other secondary craft removed from a larger craft in a boatwell or docking zone. Failure to remove a craft within two hours after issuance of a citation for this offense shall constitute a separate offense.

(Comp. Ords. 1988, § 20.001(1.3); Ord. No. 393, § 29, 5-29-2018)

Sec. 66-86. Operation.

- (a) No boat, vessel or craft shall be operated on any waterway, natural or artificial channel or canal within the confines of Lake St. Clair Metropark in such a manner so as to unreasonably interfere with the lawful use by others of such waterways or to otherwise cause an obstruction to the normal watercraft traffic on the waterways.
- (b) On the waters of the Black Creek and all natural and artificial channels and canals in the township, within the confines of Lake St. Clair Metropark, no operator of any motorboat shall exceed a slow no wake speed.

(Comp. Ords. 1988, § 20.001(1.4); Ord. No. 393, § 30, 5-29-2018)

Chapter 70 PERSONNEL⁵¹

ARTICLE I. IN GENERAL

Secs. 70-1—70-30. Reserved.

ARTICLE II. RETIREMENT SYSTEM⁵²

DIVISION 1. GENERALLY

Sec. 70-31. 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:

Accumulated contributions means the sum of all amounts deducted from the compensation of a member, plus all single sum contributions made by the member and credited to his individual account in the members deposit fund, together with regular interest thereon.

Beneficiary means any person, except a retirant, who is in receipt of or who has entitlement to, a pension or other benefit, payable from funds of the retirement system.

Compensation means the salary or wages paid a member for personal service rendered to the township while a member of the retirement system. Compensation shall include base salary or wages; longevity pay; salary or wages while absent from work on account of vacation, holiday or illness; overtime pay; and cost of living payments. Compensation shall not include the value of any fringe benefit not specifically included; uniform allowances; equipment allowances; the value of work equipment furnished by the city; termination or severance allowances; reimbursement of expenses; redemptions or payments in consideration of unused sick leave and vacation time; and any other item not specifically included.

Credited service means service credited to a member's service account to the extent provided in this article, stated in years and fraction of a year.

Employee means any person in the employ of the township and shall include any person who holds an official elected or appointed position in the government of the township except that administrative assistant, superintendent or township manager.

Final average compensation means the monthly average of the compensation paid a member during any 36 months of credited service which produce the highest average.

Member means any employee who is included in the membership of the retirement system.

⁵¹Cross reference(s)—Any ordinance providing for salaries or other employee benefits not codified in this Code saved from repeal, § 1-12(a)(6); administration, ch. 2; human relations, ch. 50.

⁵²State law reference(s)—Retirement system authorized, MCL 41.110b, 42.1.

Nonunion employees means those employees who are not included in the membership of a bargaining unit and shall include the following township positions:

- (1) Engineer/Utility Director
- (2) Financial Officer

Officials shall mean the following elected or appointed township positions:

- (1) Clerk
- (2) Treasurer
- (3) Supervisor
- (4) Deputy clerk
- (5) Deputy treasurer
- (6) Deputy supervisor

The term "officials" shall not include the township trustee position.

Pension means a monthly amount payable by the retirement system throughout the future life of a person or for a temporary period as provided in this article.

Pension committee and *committee* mean the pension committee provided for in this article.

Pension reserve means the present value of all future payments to be made on account of any pension. Such pension reserve shall be computed on the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt.

Regular interest means such rate of interest per annum, compounded annually, as the pension committee shall from time to time adopt.

Retirant means any member who retires with a pension payable from funds of the retirement system.

Retirement means a member's withdrawal from the employ of the township with a pension payable by the retirement system.

Retirement system and *system* mean the township employees retirement system created and established by this article.

Service means personal service rendered to the township by an employee of the township.

Township means the Charter Township of Harrison, Macomb County, Michigan, and shall include its several departments, commissions, boards and agencies.

(Comp. Ords. 1988, § 12.270; Ord. No. 329, § 12.270, 1-10-2000)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 70-32. System established.

There is created and established the Harrison Township Employees Retirement System.

(Comp. Ords. 1988, § 12.261; Ord. No. 329, § 12.261, 1-10-2000)

Sec. 70-33. Subrogation.

If a person becomes entitled to a pension or other benefit payable by the retirement system as a result of an accident or injury caused by the act of a third party, the township shall be subrogated to the rights of the person against such third party to the extent of the benefits to which the township pays or becomes liable to pay.

(Comp. Ords. 1988, § 12.261; Ord. No. 329, § 12.382, 1-10-2000)

Sec. 70-34. Assignments prohibited.

The right of a person to a pension, to the return of accumulated contributions, the pension itself, any pension option, and any other right accrued or accruing to any member, retirant or beneficiary, under the provisions of this article, and all moneys belonging to the retirement system, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency law, or any other process of law, except as specifically required by state or federal law or as provided in this article and shall be unassignable, except as is specifically provided in this article or as required by state or federal law; provided, that if a member is covered by a group insurance or prepayment plan participated in by the township, and should be permitted to, and elect to, continue such coverage as a retirant, he may authorize the pension committee to have deducted from his pension the payments required of him to continue coverage under such group insurance or prepayment plan; provided further, that the township shall have the right to set off for any claim arising from embezzlement by or fraud of a member, retirant, or beneficiary.

(Comp. Ords. 1988, § 12.383; Ord. No. 329, § 12.383, 1-10-2000)

Sec. 70-35. Reemployment of retirant.

Except as otherwise provided in this article, if a retirant or beneficiary is employed or reemployed by the township, payment of his pension shall not be suspended during the period of his employment or reemployment. During the period of his reemployment by the township, he shall not again become a member of the retirement system.

(Comp. Ords. 1988, § 12.384; Ord. No. 329, § 12.384, 1-10-2000)

Sec. 70-36. Denial of benefit claim; appeal.

A benefit claimant shall be notified in writing, within 30 days of the pension committee's denial of a claim for benefits. The notification shall contain the basis for the denial. The benefit claimant may appeal the denial and request a hearing before the committee. The appeal shall be in writing and filed with the retirement system within 90 days of the date of the notification of denial. The request for appeal shall contain a statement of the claimant's reasons for believing the denial to be improper. The committee shall schedule a hearing of the appeal within 60 days of receipt of the request to appeal.

(Ord. No. 329, § 12.386, 1-10-2000)

Sec. 70-37. Mandatory bargaining subjects.

Notwithstanding any other provisions of this article, any matter relating to the retirement system provided by this article applicable to current employees represented by a collective bargaining agent is a mandatory subject of bargaining under Public Act No. 336 of 1947 (MCL 423.201 et seq.).

(Ord. No. 329, § 12.387, 1-10-2000)

Secs. 70-38—70-60. Reserved.

DIVISION 2. PENSION COMMITTEE⁵³

Sec. 70-61. Created; members.

There is hereby created a pension committee in whom is vested the power and authority to administer, manage and operate the retirement system, and to construe and make effective the provisions of this article. The committee shall be a quasi-judicial body consisting of five committee members as follows:

- (1) Two members of the township board to be appointed by the township board.
- (2) One citizen, who is an elector of the township, and who is neither a member, retirant, nor beneficiary of the retirement system, to be appointed by the township board.
- (3) Two members of the retirement system or one member of the retirement system and one retirant of the retirement system to be elected by the members of the system in accordance with such rules and regulations as the committee shall from time to time adopt to govern such elections.

(Comp. Ords. 1988, § 12.281; Ord. No. 329, § 12.281, 1-10-2000)

Sec. 70-62. Terms of office.

The regular term of office for the appointed citizen committee member shall be two years. The employee committee member shall be three years. Each committee member shall continue to serve as a committee member until a successor has qualified for the office of a committee member. For the first pension committee the term of office shall be two years for the appointed citizen committee member and one year for the appointed employee committee member.

(Comp. Ords. 1988, § 12.282; Ord. No. 329, § 12.282, 1-10-2000)

Sec. 70-63. Oath of office.

Each committee member shall within ten days from and after appointment or election as trustee take an oath of office before the township clerk.

(Comp. Ords. 1988, § 12.283; Ord. No. 329, § 12.283, 1-10-2000)

Sec. 70-64. Vacancy; how filled.

If a committee member leaves the employ of the township or ceases to be an elector of the township, such individual shall be considered to have resigned from the committee and the committee shall, by resolution, declare the office of the committee member vacated as of the date of such resolution. If a vacancy occurs in the

⁵³Cross reference(s)—Administration, ch. 2.

office of a committee member the vacancy shall be filled, for the unexpired portion of the term, in the same manner as the office was previously filled.

(Comp. Ords. 1988, § 12.284; Ord. No. 329, § 12.284, 1-10-2000)

Sec. 70-65. Committee quorum; vote; meetings; proceedings.

- (a) Three committee members shall constitute a quorum at any meeting of the pension committee.
- (b) Each committee member shall be entitled to one vote on each question before the committee and at least three concurring votes shall be required for a decision by the committee at any of its meetings.
- (c) The committee shall hold meetings regularly, at least once in each quarter year and shall designate the time and place thereof.
- (d) The committee shall adopt its own rules of procedure and shall keep a record of its proceedings. All meetings of the committee shall be public.

(Comp. Ords. 1988, § 12.285; Ord. No. 329, § 12.285, 1-10-2000)

Sec. 70-66. Chair; officers; employees.

- (a) The pension committee shall elect from its own number a chair and a vice-chair.
- (b) The township supervisor shall serve as secretary to the pension committee and shall be at the administrative officer of the retirement system.
- (c) The township treasurer shall be the treasurer of the retirement system and the custodian of its assets except as to such assets as the board may from time to time otherwise hold or direct to be held by a third party custodian as authorized by state law. This shall not prevent the pension committee from appointing a bank or other agent as custodian of any securities.
- (d) The pension committee shall appoint as the legal advisor an attorney who is not eligible to participate in the retirement system as a member, retired member or beneficiary.
- (e) The pension committee shall designate an actuary who shall be the technical advisor to the committee and who shall perform such other duties as are required under this article.
- (f) The pension committee may employ such other services as it requires for the proper discharge of its responsibilities.

(Comp. Ords. 1988, § 12.286; Ord. No. 329, § 12.286, 1-10-2000)

Sec. 70-67. Records; annual reports.

The secretary shall keep, or cause to be kept, such data as shall be necessary for an annual actuarial valuation of the assets and liabilities of the retirement system. The committee shall annually render a report to the township board showing the fiscal transactions of the system for the preceding fiscal year, and shall furnish the board such additional information regarding the operation of the system as the board shall from time to time request.

(Comp. Ords. 1988, § 12.287; Ord. No. 329, § 12.287, 1-10-2000)

Sec. 70-68. Experience tables; regular interest.

The pension committee shall from time to time adopt such mortality and other tables of experience, and a rate or rates of regular interest, as are required in the proper operation of the retirement system as needed.

(Comp. Ords. 1988, § 12.288; Ord. No. 329, § 12.288, 1-10-2000)

Sec. 70-69. Correction of errors.

Should any change or error in the records of the township or the retirement system result in any person receiving from the system more or less than he would have been entitled to receive had the records been correct, the pension committee shall correct such error and as far as is practicable shall adjust the payment of the benefit in such manner that the actuarial equivalent of the benefits to which such person was correctly entitled shall be paid.

(Comp. Ords. 1988, § 12.381; Ord. No. 329, § 12.381, 1-10-2000)

Sec. 70-70. Funds.

The pension committee may create such funds other than those in divisions 8 and 9 of this article as it deems necessary for the proper operation of the retirement system.

(Ord. No. 329, § 12.367, 1-10-2000)

Secs. 70-71—70-90. Reserved.

DIVISION 3. MEMBERSHIP AND SERVICE CREDITS

Sec. 70-91. Eligibility.

- (a) The membership of the retirement system shall include, subject to subsection (c) of this section, all employees of the township on the day preceding the effective date of the retirement system who continue in the employ of the township on and after the effective date of the retirement system.
- (b) The membership of the retirement system shall include, subject to subsection (c) of this section, all persons who become employed or become reemployed by the township on and after the effective date of the retirement system.
- (c) The membership of the retirement system shall not include:
 - (1) Any person who receives less than ½ his total public employee compensation from the township;
 - (2) Any employee who is employed by the township on a part-time, seasonal, or other temporary basis;
 - (3) Any person whose services are compensated on a contractual or fee basis;
 - (4) Voluntary firemen, as such; and
 - (5) Any person who is included by law in any other pension or retirement system by reason of his compensation paid by the township, except the federal social security old-age, survivor's and disability insurance program.

Township trustees shall not be eligible by virtue of their position for membership in the retirement system.

- (d) Officials and nonunion employees shall be classified in the same benefit group as the supervisory association bargaining unit for the purpose of determining benefit eligibility conditions, benefit amounts, and member contribution rates, as well as other nonuniform provisions.
- (e) In any case of doubt as to the membership status of any employee or person, the pension committee shall decide the question.

(Comp. Ords. 1988, § 12.301; Ord. No. 329, § 12.301, 1-10-2000)

Sec. 70-92. Termination of membership.

Should any member cease to be employed in a position covered by the retirement system, for any reason except his retirement, or death, he shall thereupon cease to be a member and his credited service at that time shall be forfeited by him, unless otherwise provided in this article. If he is reemployed by the township in a position covered by the system he shall again become a member. Should his reemployment occur within a period of five years from and after the date he last ceased to be a member, his credited service last forfeited by him shall be restored to his credit; provided that the retirement system is paid the total amount of accumulated member contributions previously withdrawn by the member, if any, plus compound interest at the rate determined by the pension committee from the date of withdrawal to the date of repayment and that the repayment is completed in accordance with rules set by the pension committee. Upon a member's retirement or death, he shall thereupon cease to be a member of the system.

(Comp. Ords. 1988, § 12.302; Ord. No. 329, § 12.303, 1-10-2000)

Sec. 70-93. Service credit.

The pension committee shall fix and determine by appropriate rules and regulations the amount of service to be credited any member: Provided, that in no case shall less than ten days of service rendered by him in any calendar month be credited as a month of service, nor shall less than ten months of service rendered by him in any calendar year be credited as a year of service, nor shall more than one year of service be credited any member for all service rendered by him in any calendar year. An employee shall receive credit for all service prior to July 1, 1966. Based upon such rules and regulations, and the provisions of this article, the committee shall credit each member with the years and months of service to which he is entitled.

(Comp. Ords. 1988, § 12.303; Ord. No. 329, § 12.303, 1-10-2000)

Sec. 70-94. Military service credit.

If an employee who, while employed by the township, was called to or entered any armed service of the United States, and has been or shall be on active duty in such armed service during time of war or period of compulsory military service, shall have such armed service actually required of him credited to him as township service in the same manner as if he had served the township uninterruptedly; provided, that he reenters the employ of the township, in a position covered by the retirement system, within 90 days from and after termination of such armed service actually required of him; and in no case shall any member be credited with more than five years of service for all such armed service rendered by him. In any case of doubt as to the period to be so credited any member, the pension committee shall have the final power to determine such period.

(Comp. Ords. 1988, § 12.304; Ord. No. 329, § 12.304, 1-10-2000)

Secs. 70-95—70-120. Reserved.

DIVISION 4. RETIREMENT OPTIONS

Sec. 70-121. Voluntary retirement.

A member who has attained age 55 years and eight or more years of credited service; or 25 or more years of credited service may retire upon his written application filed with the pension committee setting forth at what time, not less than 30 days nor more than 90 days subsequent to the execution and filing thereof, he desire to be retired. Upon his retirement he shall be entitled to a pension provided for in section 70-141.

Due to the elimination of the engineering and utilities director (director) position, the director on April 26, 2004 will be allowed voluntary retirement after only seven years and eight months and will be given a 3.5 multiplier for eight credited years of service. Lump sum payment of the director's leave banks will be included in the director's final average compensation. This amendment is not intended to be used in any way by any employee other than the employee serving as engineering and utilities director on Monday, April 26, 2004.

(Comp. Ords. 1988, § 12.311; Ord. No. 329, § 12.311, 1-10-2000; Ord. No. 343, § 1, 4-12-2004)

Sec. 70-122. Deferred retirement.

Should any member who has in force eight or more years of credited service cease to be employed in a position covered by the retirement system, for any reason except the member's death or retirement, the individual shall be entitled to a pension computed according to the provisions of section 70-141 as the section was in force at the time of the member's separation from covered employment; provided that the member does not withdraw his accumulated contributions. Such pension shall begin the first day of the calendar month next following the month in which the individual files an application for the pension with the pension committee on or after attainment of age 60 years or age 55 years for members covered by the AFSCME or supervisory association collective bargaining agreement.

(Comp. Ords. 1988, § 12.313; Ord. No. 329, § 12.313, 1-10-2000)

Secs. 70-123—70-140. Reserved.

DIVISION 5. PENSION AND BENEFIT OPTIONS

Sec. 70-141. Straight life pension.

Effective July 1, 1984, upon a member's retirement as provided in this article, the member shall receive a straight life pension equal to a percentage of that member's final average compensation multiplied by the member's credited service. The percentage to be utilized is the applicable percentage as set forth in the collective bargaining agreements between the township and Local 1103, Metropolitan Council No. 25. (American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO; and the Supervisory Association Bargaining Unit. The percentage for nonunion members and for elected or appointed officials, or their deputies, shall be the applicable percentages as set forth in the collective bargaining agreements between the township and the Supervisory Association Bargaining Unit. The applicable percentage is subject to amendment in subsequent collective bargaining agreements.

(Comp. Ords. 1988, § 12.321; Ord. No. 329, § 12.321, 1-10-2000)

Sec. 70-142. Pension options.

At any time prior to the effective date of his retirement, but not thereafter, a member may elect to receive his pension as a straight life pension payable throughout his life; or, he may elect to receive the actuarial equivalent, computed as of the effective date of his retirement, or his straight life pension in a reduced pension payable throughout his life, and nominate a beneficiary, in accordance with the provisions of option A, or B set forth below:

- (1) *Option A, 100 percent contingent survivor pension.* Upon the death of a retirant, who elected option A, his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, on the effective date of his retirement as he shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his retirement; or
- (2) *Option B, 50 percent contingent survivor pension.* Upon the death of a retirant, who elected option B, 50 percent of his reduced pension shall be continued throughout the life of and paid to such person, having an insurable interest in his life, on the effective date of his retirement as he shall have nominated by written designation duly executed and filed with the pension committee prior to the effective date of his retirement.

(Comp. Ords. 1988, § 12.326; Ord. No. 329, § 12.323, 1-10-2000)

Secs. 70-143—70-160. Reserved.

DIVISION 6. DISABILITY BENEFITS

Sec. 70-161. Conditions.

- (a) Upon the application of a member, or his department head, a member who is in the employ of the township in a position covered by the retirement system, has ten or more years of credited service, and becomes totally and permanently incapacitated for duty in the employ of the township, may be retired by the pension committee; provided that after a medical examination of the member made by or under the direction of a physician designated by the committee the physician certified to the committee, in writing, that the member is mentally or physically incapacitated for duty in the employ of the township, and that such incapacity will probably be permanent. Upon his retirement the member shall receive a disability retirement pension provided in section 70-162.
- (b) A member with less than ten years of credited service shall have the ten years credited service requirement provided in subsection (a) of this section waived if the committee finds he is totally and permanently incapacitated for duty in the employ of the township as the natural and proximate result of a personal injury or disease arising solely and exclusively out of and in the course of his actual performance of duty in the employ of the township, and he is entitled to workmen's compensation on account of his physical or mental incapacity incurred as a result of his township employment.

(Comp. Ords. 1988, § 12.331; Ord. No. 329, § 12.331, 1-10-2000)

Sec. 70-162. Disability pension.

Upon the retirement of a member on account of disability as provided in section 70-161, he shall receive a disability retirement pension computed according to section 70-141 and he shall have the right to elect an option provided in section 70-142. In no case shall his straight life disability pension be less than ten percent of his final average compensation.

(Comp. Ords. 1988, § 12.332; Ord. No. 329, § 12.332, 1-10-2000)

Sec. 70-163. Reexamination of disability retirant.

At least once each year during the first five years following a member's retirement on account of disability, and at least once in every three-year period thereafter, the pension committee may, and upon the retirant's application shall, require any disability retirant, who has not attained what would otherwise have been the individual's voluntary retirement date had the individual continued in employment, to undergo a medical examination to be made by or under the direction of a physician designated by the committee. Should any such disability retirant refuse to submit to such medical examination in any such period his disability pension may be suspended by the committee until his withdrawal of such refusal. Should such refusal continue for one year all his rights in and to a disability pension may be revoked by the committee. If upon such medical examination of a disability retirant, the physician reports to the committee that the retirant is physically able and capable of resuming employment with the township, the retirant shall be returned to township employment and his disability pension shall terminate; provided that the report of the physician is concurred in by the committee. In returning the retirant to township employment, reasonable latitude shall be allowed the township in placing him in a position commensurate with his type of work and compensation at the time of his retirement.

(Comp. Ords. 1988, § 12.333; Ord. No. 329, § 12.333, 1-10-2000)

Sec. 70-164. Return to township employment.

A disability retirant who is returned to township employment, as provided in section 70-163, shall again become a member of the retirement system. His credited service at the time of his retirement shall be restored to full force and effect and he shall be given service credit of the period he was in receipt of a disability pension.

(Comp. Ords. 1988, § 12.334; Ord. No. 329, § 12.334, 1-10-2000)

Sec. 70-165. Other employment; reduction in pension.

If a disability retirant who has not attained what would otherwise have been the individual's voluntary retirement date had the individual continued in employment, becomes engaged in gainful occupation, business, or employment paying him more than the difference between his annual rate of compensation at the time of his retirement and his disability pension converted to an annual amount, his pension shall be reduced to an amount which together with the amount so earned by him shall equal but not exceed his annual rate of compensation. Should the retirant's earnings change, the reduction of his pension shall be adjusted accordingly.

(Comp. Ords. 1988, § 12.335; Ord. No. 329, § 12.335, 1-10-2000)

Secs. 70-166—70-190. Reserved.

DIVISION 7. DEATH BENEFIT

Sec. 70-191. Pension to spouse.

The spouse of any member who dies while in the employ of the township after acquiring at least eight years of credited service shall receive a pension for life, computed in the same manner in all respects as if the member had retired the day preceding the date of his death, elected option A and named his widow his beneficiary. The benefits payable under this section shall be made consistent with the applicable provisions contained in the appropriate collective bargaining agreement.

(Comp. Ords. 1988, § 12.341; Ord. No. 329, § 12.341, 1-10-2000)

Secs. 70-192—70-210. Reserved.

DIVISION 8. MEMBERS DEPOSIT FUND

Sec. 70-211. Created; purpose.

The members deposit fund is hereby created. It shall be the fund in which shall be accumulated, at regular interest, the contributions deducted from the compensations of members, and from which shall be paid refunds, and made transfers, of accumulated contributions, as provided in this article.

(Comp. Ords. 1988, § 12.351; Ord. No. 329, § 12.351, 1-10-2000)

Sec. 70-212. Contributions.

- (a) Effective July 1, 1984, a member shall contribute a percentage of his annual compensation to the retirement system. The percentage contributed shall be as set forth in the collective bargaining agreements between the township and Local 1103, Metropolitan Council No. 25, American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO; and the Supervisory Association Bargaining Unit. The percentage contributed by members who are nonunion members, or elected or appointed officials, or their deputies, shall be the applicable percentage as set forth in the collective bargaining agreements between the township and the Supervisory Association Bargaining Unit. That percentage is subject to amendment in subsequent collective bargaining agreements.
- (b) The individual or individuals responsible for preparing the township payroll shall cause the contributions provided for in subsection (a) of this section to be deducted from the compensation of each member on each and every payroll. The deducted contributions shall be paid to the retirement system and shall be credited to the members deposit fund. Members' contributions shall be made notwithstanding that the minimum wage provided by law for any member shall be changed thereby. Every member shall be deemed to consent and agree to the deductions made and provided in this section. Payment of the member's compensation less the deduction, shall be a full and complete discharge and acquittance of all claims and demands whatsoever for services rendered by the member during the period covered by such payment, except as to benefits provided by the retirement system. The individual responsible for preparing the township payroll shall certify to the township treasurer and the pension committee the amount of contribution deducted from the compensation of each member on each and every payroll.
- (c) In addition to the contributions deducted from the compensation of a member, as provided in this subsection and subsection (b) of this section, a member may deposit in the members deposit fund the amount of accumulated contributions previously withdrawn plus regular interest from the date of

withdrawal to the date of repayment. The deposit may be made in a single sum or installments as approved by the pension committee.

- (d) Upon retirement the accumulated contributions of a member shall be transferred from the members deposit fund to the retirement reserve fund. Five years from the date an individual ceases to be a member without entitlement to a deferred retirement pension as provided in section 70-122, any balance in the members deposit fund unclaimed by the individual or the individual's legal representative shall be transferred to the income fund.

(Comp. Ords. 1988, § 12.352; Ord. No. 329, § 12.352, 1-10-2000)

Sec. 70-213. Refund of members contributions.

- (a) Except as otherwise provided in this article, should any member cease to be a member for any reason other than death or retirement, before the member or any beneficiary of the member becomes entitled to a pension, the member's accumulated contributions shall be paid to the member upon filing a written request with the pension committee on forms furnished by the pension committee.
- (b) Except as otherwise provided in this article, upon the death of a member, the member's accumulated contributions shall be paid to the person nominated by the member by written designation duly executed and filed with the pension committee. If there is no designated person surviving the member, the accumulated contribution shall be paid to the member's estate.
- (c) If any member dies intestate, without a designated beneficiary surviving the member, the member's accumulated contributions may be used to pay the member's burial expenses, not to exceed a reasonable sum as determined by the pension committee; provided the member leaves no other estate sufficient for such purpose.
- (d) Except as otherwise provided in this article, upon the death of the last survivor of a retirant and the retirant's beneficiaries, if the total amount of pension payments made to the retirant and the retirant's beneficiaries and their estates is less than the retirant's accumulated contributions upon retirement, the difference between the accumulated contributions and the pension payments shall be paid to the last survivor's estate.
- (e) Refunds of accumulated contributions shall be paid in full within 90 days of the event which causes the refund to be payable.

(Comp. Ords. 1988, § 12.353; Ord. No. 329, § 12.353, 1-10-2000)

Secs. 70-214—70-230. Reserved.

DIVISION 9. RESERVE AND INCOME FUNDS

Subdivision I. In General

Secs. 70-231—70-250. Reserved.

Subdivision II. Pension Reserve Fund

Sec. 70-251. Created; purpose.

The pension reserve fund is hereby created. It shall be the fund in which shall be accumulated the contributions made by the township to the retirement system and from which shall be made transfers of pension reserves, as provided in this section.

(Comp. Ords. 1988, § 12.361; Ord. No. 329, § 12.361, 1-10-2000)

Sec. 70-252. Contributions.

Upon the basis of such mortality and other tables of experience, and regular interest, as the pension committee shall from time to time adopt, the actuary shall annually compute the pension reserve for service rendered and to be rendered by members, and the pension reserves for pensions being paid retirants and beneficiaries. The pension reserve liabilities so determined shall be financed by annual township contributions appropriated by the township board; such contributions to be determined in accordance with the provisions of subsections (1), (2) and (3) of this section.

- (1) The appropriations for members' current service shall be a percent of their annual compensations which will produce an amount which is paid annually by the township during their future service will be sufficient, at the time of their retirements, to provide the pension reserves, not financed by members' future contributions, of the portions of the pensions to be paid them based upon their future service; and
- (2) The appropriation for members' accrued service shall be a percent of their annual compensations which will produce an amount which if paid annually by the township over a period of years, to be determined by the township board, will amortize, at regular interest, the unfunded pension reserves for the accrued service portions of the pensions to which they may be entitled upon retirement; and
- (3) The appropriation for pensions being paid retirants and beneficiaries shall be a percent of the annual compensations of members which will produce an amount which if paid annually by the township over a period of years, to be determined by the township board, will amortize, at regular interest, the unfunded pension reserves for pensions being paid retirants and beneficiaries.

(Comp. Ords. 1988, § 12.362; Ord. No. 329, § 12.362, 1-10-2000)

Sec. 70-253. Insufficiency in appropriations.

If the amount appropriated in the budget in any fiscal year is insufficient to pay in full the amounts due in such year to all retirants and beneficiaries of the retirement system, the amount of such insufficiency shall thereupon be provided by the township.

(Comp. Ords. 1988, § 12.363; Ord. No. 329, § 12.363, 1-10-2000)

Sec. 70-254. Retirement of member; transfer of pension reserve.

Upon the retirement of a member the pension reserve for the pension payable on his account shall be transferred from the pension reserve fund to the retirement reserve fund.

(Comp. Ords. 1988, § 12.364; Ord. No. 329, § 12.364, 1-10-2000)

Secs. 70-255—70-270. Reserved.

Subdivision III. Retirement Reserve Fund

Sec. 70-271. Created; purpose.

The retirement reserve fund is hereby created. It shall be the fund from which shall be paid all pensions as provided in this article. If a disability retiree returns to township employment his pension reserve at that time shall be transferred from the retirement reserve fund to the pension reserve fund.

(Comp. Ords. 1988, § 12.365; Ord. No. 329, § 12.365, 1-10-2000)

Secs. 70-272—70-290. Reserved.

Subdivision IV. Income Fund

Sec. 70-291. Created; purpose.

The income fund is hereby created. It shall be the fund to which shall be credited all interests, dividends, and other income from investments of the retirement system; all transfers from the members deposit fund by reason of lack of claimant; and all other moneys received by the retirement system, the disposition of which is not specifically otherwise provided for in this article. The pension committee may accept gifts and bequests which shall be credited to the income fund. There shall be transferred from the income fund all amounts required to credit regular interest to the members deposit fund, retirement reserve fund, and pension reserve fund, as provided in this article. Whenever the committee determines that the balance in the income fund is more than sufficient to cover the current charges to the fund, the committee may, by ordinance, provide for contingency reserves, or for the transfer of such excess or portion thereof to cover the needs of the other funds of the retirement system.

(Comp. Ords. 1988, § 12.366; Ord. No. 329, § 12.366, 1-10-2000)

Secs. 70-292—70-310. Reserved.

DIVISION 10. USE OF FUNDS

Sec. 70-311. Investments.

Subject to the provisions of Public Act No. 314 of 1965 (MCL 38.1132 et seq.), as it may be from time to time amended, the committee shall have full power to hold, purchase, sell, assign, transfer, and dispose of any of the securities and investments of the system, as well as the proceeds of said investments and any moneys belonging to the system.

(Comp. Ords. 1988, § 12.371; Ord. No. 329, § 12.371, 1-10-2000)

Sec. 70-312. Restricted use of funds.

All moneys and investments of the retirement system shall be held for the exclusive purpose of meeting the disbursements for pensions and other payments authorized by this article and shall be used for no other purpose whatsoever. Available cash in a noninterest earning form shall not exceed five percent of the total assets of the retirement system.

(Comp. Ords. 1988, § 12.372; Ord. No. 329, § 12.372, 1-10-2000)

Sec. 70-313. Assets not segregated.

The members deposit fund, pension reserve fund, retirement reserve fund, income fund, and any other funds created by the pension committee shall be interpreted to refer to the accounting records of the retirement system and not to the actual segregation of the assets of the system in the funds.

(Comp. Ords. 1988, § 12.373; Ord. No. 329, § 12.373, 1-10-2000)

Sec. 70-314. Allowance of regular interest.

The pension committee shall, at the end of each fiscal year, allow and credit regular interest to the mean balances for the year in the pension reserve fund and the retirement reserve fund. The amounts of interest so credited shall be charged to the income fund. In the event the balance in the income fund is not sufficient to cover the amounts of interest charged to it, the amount of such insufficiency shall be transferred from the pension reserve fund to the income fund.

(Comp. Ords. 1988, § 12.374; Ord. No. 329, § 12.374, 1-10-2000)

Sec. 70-315. No committee member shall gain from investments of the system.

Except as otherwise provided in this article, no member of the pension committee and no employee of the township shall have any interest, direct or indirect, in the gains or profit arising from any investment made by the pension committee. No person, directly or indirectly, for himself or as an agent or partner of others, shall borrow any moneys or investments of the retirement system, or in any manner use the moneys or investments except to make current and necessary payments as are authorized by the committee. No such person shall become an endorser or surety or become in any manner an obligor for moneys loaned by or borrowed from the committee. Nothing contained in this section shall be construed to impair the rights of any member, retirant, or beneficiary of the retirement system to benefits provided by the system.

(Comp. Ords. 1988, § 12.375; Ord. No. 329, § 12.375, 1-10-2000)

Sec. 70-316. Method of making payments.

All payments from moneys of the retirement system shall be made in accordance with the retirement system provisions and applicable law; provided, that such payments shall be made only upon the written authority signed by two persons designated by the pension committee. A duly attested copy of a resolution designating such persons and bearing upon its face specimen signatures of such persons shall be filed with the township treasurer and/or the custodial service provider designated by the board. No such written authority to make payments from moneys of the system shall be executed unless the payments shall have been previously authorized by a specific or continuing resolution of by the committee.

(Comp. Ords. 1988, § 12.376; Ord. No. 329, § 12.376, 1-10-2000)

Secs. 70-317—70-330. Reserved.

DIVISION 11. INTERNAL REVENUE SERVICE QUALIFICATION

Sec. 70-331. Purpose.

The retirement system is intended and has been administered to be a qualified pension plan under section 401 of the Internal Revenue Code, as amended, and that the trust be an exempted organization under section 501 of the Internal Revenue Code. The pension committee shall recommend for adoption by the township board such additional provisions to the retirement system as are necessary to maintain the qualified status of the retirement system.

(Ord. No. 329, § 12.377(11.7), 1-10-2000)

Sec. 70-332. Limitations on benefits and contributions.

- (a) *Limits for defined benefit plans.* The maximum permissible annual pension benefit with respect to any participant shall be in accordance with Internal Revenue Code section 415(b) which provides that such annual pension benefit shall not exceed \$90,000.00 as adjusted for inflation, which for 1999 is \$130,000.00 (the dollar limit). If the benefit is payable on or after age 55 but prior to age 62, the dollar limitation shall be reduced, but not below \$75,000.00 annually, to the actuarial equivalent of a benefit commencing at age 62. If the benefit is payable prior to age 55, the dollar limitation shall be further reduced but shall not be reduced below the actuarial equivalent of a \$75,000.00 annual benefit commencing at age 55.
- (b) *Excess benefit payment.* The retirement system shall not pay any benefit that would exceed the benefit limitations for governmental plans as set forth in section 415 of the Internal Revenue Code and regulations, as amended. For this purpose, compensation shall be determined in accordance with code section 415(e)(3). In the event it should become necessary to reduce or restrict a benefit in order to comply with section 415(e), the employer-provided portion of the benefit payable under this retirement system shall be reduced or restricted to the extent necessary.
- (c) *Excess annual additions.*
 - (1) If, as a result of the allocations of forfeitures, there occurs a reasonable error in estimating a participant's annual compensation, or under other limited facts and circumstances which the commissioner finds justify the availability of rules set forth in this subsection, the annual additions under the terms of a plan for a particular participant would cause the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year if they are treated in accordance with the following: The excess amounts in the participant's account must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for that participant if that participant is covered by the plan of the employer as of the end of the limitation year. However, if that participant is not covered by the plan of the employer as of the end of the limitation year, then the excess amounts must be held unallocated in a suspense account for the limitation year to all of the remaining participants in the plan. Furthermore, the excess amounts must be used to reduce employer contributions for the next limitation year (and succeeding limitation years, as necessary) for all of the remaining participants in the plan.

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- (2) Definitions. The following words and terms when used in this subsection (c) shall have the following meanings ascribed to them:
- a. *Annual additions.* As defined by Treasury Regulations section 1.415-6(b)(1), the term "annual addition" shall mean the following:
 - 1. For limitation years beginning after December 31, 1986, the term "annual addition" means, for purposes of this section, the sum, credited to a participant's account for any limitation year, of:
 - i. Employer contributions;
 - ii. Employee contributions;
 - iii. Forfeitures.
 - 2. For limitation years beginning before January 1, 1987, the term "annual addition" means, for purposes of this section, the sum, credited to a participant's account for any limitation year, of:
 - i. Employer contributions;
 - ii. The lesser of the amount of employee contributions in excess of six percent of compensation for the limitation year, or one-half of the employee contributions for that year; and
 - iii. Forfeitures.
 - b. *Compensation.* As defined by Internal Revenue Code section 415(c)(3)(D) and Treasury Regulations section 1.415-2(d)(2)i, compensation means amounts actually paid to the employee during the limitation year, including: wages, salary, professional fees, percentage of profits, commissions, tips and bonuses paid or made available to the participant during the limitation year for personal services actually rendered in the course of employment, any elective deferral, and any amount which is contributed or deferred by the employer at the election of the employee and which is not includable in the gross income of the employee by reason of Internal Revenue Code section 125 or 457.
- (d) *Combined limits.* Pursuant to Internal Revenue Code section 415(e), participants with both defined benefit and defined contribution components must be tested under the combined limits analysis until plan years beginning after December 31, 1998. Under the mathematical formula limitation, the sum of the defined contribution fraction and the defined benefit fraction may not exceed 1.0.
- (1) *Defined benefit fraction.* As described in Internal Revenue Code section 415(e)(2), the defined benefit fraction is obtained by dividing the projected annual benefit payable to the participant as of the close of the plan year by the maximum dollar limitation for the year multiplied by 1.25.
 - (2) *Defined contribution fraction.* As described in Internal Revenue Code section 415(e)(3), the defined contribution fraction is obtained by dividing the total annual additions to the participant's account through the end of the plan year by the lesser of:
 - a. The maximum defined contribution dollar limit (\$30,000.00 as adjusted for inflation) multiplied by 1.25; or
 - b. Twenty-five percent of compensation for each year multiplied by 1.4.

(Ord. No. 329, § 12.377(11.7a), 1-10-2000)

Sec. 70-333. Distributions.

Notwithstanding any provision in the plan to the contrary, distributions to a participant shall be made in accordance with the following requirements and shall otherwise comply with Internal Revenue Code section 401(a)(9) and the regulations thereunder:

- (1) *Distributions to members.* Pursuant to Internal Revenue Code section 401(a)(9)(A)(ii), a participant's interest in the trust must begin to be distributed by the later of April 1 of the calendar year following the calendar year that the employee attains the age of 70½, or April 1 of the calendar year the participant retires.
- (2) *Distributions prior to required beginning date.* When a participant dies prior to the commencement of benefit payments under the minimum distribution rules, the participant's remaining benefit must be fully distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death in accordance with Internal Revenue Code section 401(a)(9)(B)(ii).
- (3) *Distributions after the required beginning date.* Where distributions have already commenced and the participant dies prior to full distribution of his or her benefits, the participant's remaining interest must be distributed at least as rapidly as it would have been distributed had the employee lived long enough to have the entire interest distributed in accordance with Internal Revenue Code section 401(a)(9)(B)(i).
- (4) *Exception to the five-year rule.* Where there is a designated beneficiary that is not the participant's spouse, the distribution of the participant's interest may be made over the life of a nonspouse beneficiary pursuant to Internal Revenue Code section 401(a)(9)(B)(iii). Such payments must begin no later than December 31 of the calendar year subsequent to the calendar year in which the participant died. Where the surviving spouse is the designated beneficiary, the exception to the five-year rule requires payments to be made beginning the later of December 31 of the calendar year after the calendar year of the participant's death, or December 31 of the year the participant would have attained the age of 70½.

(Ord. No. 329, § 12.377(11.7b), 1-10-2000)

Sec. 70-334. Rollover distributions.

- (a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the retirement committee, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee as a direct rollover.
- (b) The following definitions shall apply with regard to this section:
 - (1) *Eligible retirement plan.* An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(a) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
 - (2) *Eligible rollover distribution.* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not

include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint life (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more, any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includable in gross income.

- (3) *Direct rollover.* A direct rollover is a payment by the retirement system to the eligible retirement plan specified by the distributee.
- (4) *Distributee.* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the surviving spouse.

(Ord. No. 329, § 12.377(11.7c), 1-10-2000)

Sec. 70-335. Maximum annual earnings.

The annual compensation taken into account in determining benefits for any participant under the plan with respect to any plan year beginning on or after January 1, 1989, shall be made in accordance with Internal Revenue Code section 401(a)(17) and shall not exceed \$200,000.00, as adjusted by the Secretary of Treasury at the same time and in the same manner as under section 415(d) of the Internal Revenue Code. For plan years beginning on or after January 1, 1994, the annual compensation of each employee taken into account shall not exceed the annual compensation limit as amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA '93') (\$160,000.00). This limit may be adjusted for inflation, based in part on the adjustment made under code section 415(c). Participants who first become members of the plan prior to the earlier of December 31, 1995, or the last day of the plan year during which amendments made by the OBRA '93' were adopted and made effective by the employer, are considered eligible participants and are not subject to the revised limit of \$160,000.00 so long as the compensation taken into account does not exceed the limit in effect on July 1, 1993 (\$235,840.00). In the case of governmental plans described in section 414(d), section 401(a)(17) is considered satisfied for plan years beginning before the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1, 1996, of the governing body with authority to amend the plan, if that body does not meet continuously.

(Ord. No. 329, § 12.377(11.7d), 1-10-2000)

Sec. 70-336. Conditions.

The actuarial early retirement reduction and reduction of the dollar limit if the employee has less than ten years of participation do not apply to income received as a pension of annuity as a result of personal injury or sickness in accordance with Internal Revenue Code section 415(b)(2)(I), as amended by the Small Business Job Protection Act 1444(c).

(Ord. No. 329, § 12.377(11.7e), 1-10-2000)

Sec. 70-337. Forfeitures.

Upon a participant's termination date, the value of any forfeitable accrued benefit shall be forfeited by the participant as of the termination date. The value of such forfeitures shall be used to reduce the employer's future contributions under the plan in accordance with Internal Revenue Code section 401(a)(8). No forfeitures under the plan shall be applied to increase the benefits that any participant or beneficiary would otherwise receive at any time prior to the time when the plan may be terminated. If a participant whose employment has terminated does

not retain a vested benefit under the plan, he shall no longer be a participant or retain or earn credited service under the plan unless and until he again becomes an employee.

(Ord. No. 329, § 12.377(11.7f), 1-10-2000)

Sec. 70-338. Forfeitability of accrued benefits.

An employee's right to his/her normal retirement benefit (defined benefit plan) is nonforfeitable on the attainment of his/her normal retirement age as defined in Internal Revenue Code section 411(d)(3) and as defined and protected by Article 9 Section 24 of the State of Michigan Constitution. In the event of termination or partial termination of the defined benefit plan, a participant's interest is nonforfeitable to the extent funded in conformity with applicable sections of the Internal Revenue Code and regulations.

(Ord. No. 329, § 12.377(11.7g), 1-10-2000)

Sec. 70-339. Prohibition against reversion.

The retirement system and trust have been created for the exclusive benefit of the members and beneficiaries as set forth in this article. The funds thereof have been established for the benefit of the members and for the operation of the retirement system. No part of the principal and income of any of the funds of the system and trust shall revert to or be returned to the township prior to the satisfaction of all liabilities hereunder to all members, beneficiaries and anyone claiming by or through them.

(Ord. No. 329, § 12.377(11.7h), 1-10-2000)

Sec. 70-340. Vesting.

Pursuant to Internal Revenue Code 411(e) as in effect in 1974, a participant shall be 100 percent vested in his accrued benefit when he or she attains normal retirement age.

(Ord. No. 329, § 12.377(11.7i), 1-10-2000)

Sec. 70-341. Pre-tax contributions.

Employer pick-up contributions. There is hereby created an employer "pick-up" program whereby a percentage of employee contributions to the retirement system shall be paid by the township in lieu of contributions by the employees. The terms and conditions of such contributions shall be in accordance with the provisions of the Internal Revenue Code Section 414(h)(2) and related treasury regulations and applicable law.

Member contributions. Upon implementation, the township shall, solely for the purpose of compliance with Section 414(h) of the Internal Revenue Code, pick up, for the purposes specified in that section, a percentage of member contributions required by the retirement system for all salary earned by the member after implementation. The provisions of this section are mandatory, and the member shall have no option concerning the pick up or to receive the contributed amount directly instead of having them paid by the township to the retirement system. In no event may implementation occur other than at the beginning of a pay period.

Tax treatment. Member contributions picked up under the provisions of this section shall be treated as township contributions for purposes of determining income tax obligations under the Internal Revenue Code; however, such picked up member contributions shall be included in the determination of the member's gross annual salary for all other purposes under federal and state laws. Members' contributions picked up under this

section shall continue to be designated member contributions for all purposes of the retirement system and shall be considered part of the member's salary for purposes of determining the amount of the member's contribution.

(Ord. No. 345, § II, 1-10-2005)

Chapter 72 SIGNS⁵⁴

Sec. 72-1. Intent.

The intent of this chapter is to create a comprehensive, balanced system of regulating signs and, thereby, to facilitate an easy and pleasant communication between people and their environment, to enhance the physical appearance of the township, to make the township a more enjoyable and pleasing community, and to create a more attractive economic and business climate. It is intended by the provisions of this chapter to reduce signage and advertising distractions, to eliminate hazards caused by signs being too close to the public rights-of-way, to avoid the confusion of conflicting adjacent signs, to protect property values, and to eliminate obsolete, irrelevant, nonconforming and deteriorated signs. With these purposes in mind, it is the intention of this chapter to authorize the use of signs which are:

- (1) Compatible with their surroundings.
- (2) Appropriate to the type of activity to which they pertain.
- (3) Expressive of the identity of individual proprietors or of the development as a whole.
- (4) Legible in the circumstances in which they are seen.
- (5) That all signs within the township are consistent in size and aesthetic character.

(Ord. No. 365, § 1.00, 6-14-2010)

Sec. 72-2. Short title.

This chapter shall be known and may be cited as the Charter Township of Harrison Sign Ordinance.

(Ord. No. 365, § 2.00, 6-14-2010)

Sec. 72-3. Definitions.

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

A-frame. A temporary sign with two panels attached at the top with hinges.

Alter. A change to the physical component of the sign, including but not limited to the structural size, height or width of the sign. Such definition shall not include resurfacing the face of an existing sign with a new sign face of equal size and shape.

Awning. A metal, wooden, fiberglass, canvas, or other fabric cover fastened to a building, which extends over a porch, patio, deck, balcony, window, door or open space.

⁵⁴Cross reference(s)—Zoning, App. A.

Awning sign. An accessory sign that is printed on, or otherwise affixed to, an awning.

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

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

Billboard sign. An off-site or non-accessory outdoor sign which advertises a business use or service not conducted on the premises upon which the sign is placed. Billboard structures are generally leased or rented and designed with changeable copy.

Building official. The building and zoning enforcement administrator of Charter Township of Harrison, or other deputies authorized by the township to enforce this chapter.

Canopy. A roof-like structure providing shelter to a public access area, which is either freestanding or is projecting from a building and is supported by structural members. A canopy may be constructed of metal, wood, or any approved fire-retardant material, such as cloth, canvas, fabric, plastic, or any light flexible material which is attached to or constructed on a frame or building.

Canopy sign. An accessory sign that is printed on or otherwise affixed to a canopy.

Changeable copy sign. A portion of a pylon or monument sign that allows for manually interchangeable letters and messages or uses light emitting diodes (LED) to electronically change the image or message displayed on the message board.

Directional sign. A sign not utilized for advertising purposes, but used to direct vehicular or pedestrian traffic to parking areas, loading areas, or to portions of a building.

Flag. A rectangular piece of fabric fastened to a pole on one end and free on the other. A series of flags on a single pole or pole string, or similar type of mount, shall be considered a pennant.

Flashing, animated or moving sign. A sign that intermittently reflects lights from either an artificial source or from the sun; a sign which has movement of any illumination such as intermittent, flashing or varying intensity or a sign that has any visible portions in motion, either constantly or at intervals, which motion may be caused either by artificial or natural sources. An electronic changeable copy sign meeting the requirements of this chapter shall not be considered a flashing, animated or moving sign.

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

Identification sign or nameplate. An accessory wall-mounted sign which displays only the name of a person or firm.

Monument or ground sign. A freestanding accessory sign which is permanently fastened to the ground by upright(s), brace(s) or similar object(s), and which is not attached to a building or structure. Any on-site, accessory, permanent and freestanding sign with two feet or less of clearance between the bottom of the sign and the established grade shall be a monument sign.

Off-site signs. A sign which is not accessory to the principal use of the premises. Any card, cloth, paper, metal, painted glass, wood, plastic, stone, or other object of any kind or character whatsoever, placed for non-accessory advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building, structure or thing whatsoever. The term "placed" as used in this definition shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving or other fastening, affixing, or making visible in any manner whatsoever to the public.

Pennant sign. A sign or display consisting of long, narrow, usually triangular flags.

Permanent sign. Any sign which is not temporary or portable based on the requirements and definitions cited in this chapter.

Political sign. A sign relating to the election of a person or persons to public office, or relating to a political party or a political issue, or relating to a matter to be voted upon at an election.

Portable sign. A sign which is not permanently fastened to a building, structure, or to the ground.

Projecting sign. A sign which is permanently fastened to the surface of a wall in such a way that the sign face is perpendicular to the surface of the wall. The sign face shall consist of two sides, mounted flush back-to-back.

Pylon sign. A freestanding accessory sign which is permanently fastened to the ground by upright(s), brace(s) or similar object(s), and which is not attached to a building or structure. Any on-site, accessory, permanent and freestanding sign with more than two feet of clearance between the bottom of the sign and the established grade shall be a pylon sign.

Real estate development sign. A freestanding accessory sign informing when a subdivision or other real estate development will commence construction or when it will be available for sale, use or occupancy.

Real estate sign. An accessory sign which advertises the particular property upon which it is placed for sale, rent or lease.

Resurface. The replacement or restoration of a previously approved sign which does not include alteration to the existing structure or brackets.

Sign. Any use of words, numbers, figures, devices, designs, logos, trademarks, letters, characters, marks, points, planes, posters, pictorials, pictures, strokes, stripes, lines, reading matter, illuminating devices or paint visible to the general public and designed to inform or attract the attention of persons, including the structure upon which such words, numbers, figures, devices, designs, logos, trademarks, letters, characters, marks, points, planes, posters, pictorials, pictures, strokes, stripes, lines, reading matter, illuminating devices or paint are or may be printed or affixed.

Sign height. The vertical distance from the uppermost portion of a sign or sign structure to the grade at the base of the sign.

Site. All land in a development which is necessary or indicated as part of the development proposal to meet parking requirements, setback requirements, landscape requirements, drainage requirements (i.e., retention or detention basin), and lot coverage requirements.

Subdivision entrance sign. A sign depicting the name of a residential, office/service, commercial, or industrial subdivision, and which sign is located at the entrance to said subdivision.

Temporary sign. An accessory sign that is intended to be displayed for a short amount of time as regulated herein, including A-frame, banners, pennants, or any other sign that is not permanently affixed to a building face or to a pole, pylon, or other support that is permanently anchored to the ground.

Trailer sign. A sign mounted on, or a part of, a trailer or wheeled vehicle.

Vehicle business sign. A vehicle upon which a sign is painted or attached and is parked upon a premises for the intent of advertising. Vehicle business signs shall not include licensed commercial vehicles regularly used to transport persons or property for the operation of the business, but shall include trucks with signs painted or attached that are parked in areas not designed or approved for truck parking, loading or unloading.

Wall sign. An accessory sign permanently fastened to a building or structure, or a sign attached to, or placed flat against the exterior wall surface of any building, no portion of which projects more than 12 inches from the wall.

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

Sec. 72-4. Submission and permit requirements.

- (a) *Permit required.* No person shall alter, relocate, erect, re-erect or construct any sign, except those which are exempted in section 72-7(1), unless a permit for the same has been issued by the township pursuant to this chapter. This does not include building permit reviews, requirements and fees. A building permit shall be required for all signs, unless otherwise exempted by the applicable township building codes.
- (b) *Application for permit.*
- (1) Written application shall be made on forms provided by the township.
 - (2) Such application shall be accompanied by a site plan, sign drawing and sign data presented in accordance with the following requirements and showing the information hereinafter required:
 - a. The site plan shall be drawn to a legible and usable scale. Wall sign applications shall be exempt from submitting a site plan, however, all other submittal requirements shall be met.
 - b. The site plan shall show the location of all existing and proposed sign(s) on the site. The plan shall denote all signs which shall remain and all signs to be removed from the site.
 - c. The site plan shall show the location of existing and proposed streets, roadways, parking areas, entrances and exits within 50 feet of the proposed sign(s). Clearly indicate the setback and clear vision triangle (refer to section 72-7(4)b.).
 - d. The application package shall include photographs of the site, all structures, and all existing signs.
 - e. Drawings of the proposed sign(s) to be installed on the site shall be submitted with the site plan and shall include all of the following information:
 1. Height of the sign above the ground.
 2. Surface of the sign (material, color and dimensions).
 3. Area of sign surface. Clearly outline the areas computed as sign area on an illustration.
 4. Lettering of sign drawn as it will appear on the erected sign. It need not be in the style of the finished sign, but must be neatly printed in the size and weight approximating that of the final constructed sign.
 5. Method and color of illumination, if any.
 6. Logos, emblems or additional sign features.
 7. A drawing or similar representation of the total building wall upon whose face the sign is to be displayed at a reasonable scale.
 - (3) The building official may require additional information deemed necessary and/or pertinent to the understanding and/or review of the application.
 - (4) Copies of the application and all plans and supplemental statements of information required therewith shall be filed with the building department, together with the processing and review fee established by resolution of the township board.
- (c) *Granting and issuance of permit.*
- (1) All new signs, which are not otherwise exempt, shall be reviewed by the building official. The building official, at his/her discretion, may require any sign to be reviewed by the planning commission.

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- (2) The building official may waive, at his/her discretion, any submission requirements unnecessary to the review of the sign for determining compliance with this chapter.
 - (3) Upon receipt of all necessary submissions required by this chapter, the building official shall either approve or disapprove the application within a reasonable time based upon the standards set forth in this chapter. If the application is approved by the building official and conforms to building code requirements, the building official shall issue a permit.
 - (4) Any party having a sign application denied by the building official may seek a variance of the provision(s) of this chapter by filing an appeal application to the township building board of appeals. All appeals shall be processed and acted on as set forth in section 72-9.

(Ord. No. 365, § 3.00, 6-14-2010)

Sec. 72-5. Zoning district regulations.

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

- (1) *Residential zoning districts (all residential zoning districts).*
 - a. One identification sign or nameplate is permitted for each dwelling unit with a permitted home occupation.
 - b. One monument sign is permitted for each approved nonresidential use.
 - c. One double-faced subdivision or apartment entrance sign placed parallel to the entrance road or two single-faced subdivision or apartment entrance signs placed perpendicular or within 45 degrees of the entrance road shall be permitted for each major entrance to a residential subdivision, mobile home park and multiple-family development. A major entrance shall include entrances from major, secondary or collector roads and shall specifically exclude access from local roads, as classified in the township master plan.
- (2) *Local commercial zoning districts (LC, V-1, V-1A, RW, and WF zoning districts).*
 - a. One identification sign or nameplate is permitted for each office unit within a multi-tenant professional office development.
 - b. For professional office uses in LC, V-1, V-1A, RW, and WF districts, one wall sign and one monument sign shall be permitted for each site.
 - c. For general office uses and retail uses in the LC, V-1, V-1A, RW, and WF districts, one wall sign shall be permitted for each tenant with both a separate unit within a building and an individual exterior public entrance to a building. In those cases where multiple tenants share an entrance, one wall sign shall be permitted to include all tenants. In addition, one monument sign shall be permitted for each site.
 - d. In shopping centers with multiple tenants, all signage shall be coordinated as to size, location, color and character. A coordinated sign package shall be submitted for the entire complex or center prior to individual permits being granted.
- (3) *Commercial zoning district (GC zoning districts).*
 - a. One monument or pylon sign shall be permitted for each office or commercial site.

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- b. One wall sign shall be permitted for each building or for each tenant having an individual public entrance to a building. In those cases where multiple tenants share an entrance, only one wall sign shall be permitted.
 - c. On sites which front on two or more major, secondary or collector streets, one additional wall sign shall be permitted on each facade facing such street. Only one wall sign shall be placed on each street facade.
 - d. In shopping centers with multiple tenants, all signage shall be coordinated as to size, location, color and character. A coordinated sign package shall be submitted for the entire complex or center prior to individual permits being granted.
- (4) *Industrial zoning districts (IND zoning districts).*
- a. One monument sign shall be permitted for each industrial site.
 - b. One wall sign shall be permitted for each tenant having an individual public entrance to a building.
 - c. One subdivision entrance sign shall be permitted for each major road entrance (as defined in subsection (1)c.) to identify an industrial or technical park.

(Ord. No. 365, § 4.00, 6-14-2010; Ord. No. 401, § 1, 4-26-2021)

Sec. 72-6. Specific regulations.

(a) *Awning or canopy signs.*

- (1) An awning or canopy sign may be used to display the name of the firm, the address or a symbol, or type of business, and shall be placed only on the principal front of the building.
- (2) An awning or canopy sign shall be permitted in lieu of a permitted wall sign.
- (3) An awning or canopy sign shall not exceed one square foot for each linear foot of store frontage on which the sign is to be placed, or 20 square feet, whichever is greater. In no case shall an awning or canopy sign exceed 60 square feet.
- (4) A minimum vertical clearance of 14 feet shall be provided beneath any awning or canopy sign which projects over a parking area or driveway. In all other areas, a minimum vertical clearance of eight feet shall be provided beneath an awning or canopy.

(b) *Directional signs.*

- (1) Directional signs shall not exceed two square feet in area, and shall not exceed three feet in height. No more than one such sign shall be located at each drive location.
- (2) At-grade directional signs painted on or adhered to the surface of paved areas are exempt from these standards.
- (3) All directional signs required for the purpose of orientation, when established by the township, county, state or federal government, shall be permitted.

(c) *Identification signs.* Identification signs shall be limited to:

- (1) One unlit wall-mounted sign for a permitted home occupation.
- (2) One unlit wall-mounted identification sign shall be permitted for each approved professional office or each exterior entrance for a multiple tenant office. Such sign shall be located at the entrance of the office to which it refers.

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- (3) An identification sign shall not exceed one square feet in sign area. Such wall-mounted signs shall not extend outward more than two inches from the surface of a wall on the subject structure.
- (d) *Monument or ground signs.*
- (1) Monument or ground signs shall not exceed 64 square feet in sign area in the GC zoning districts; 40 square feet in the LC, V-1, and V-1A, RW and WF zoning districts; and 24 square feet in all residential zoning districts and in the IND zoning districts. Retail establishments with over 60,000 square feet of gross floor area and over 300 feet of road frontage on a single thoroughfare shall be permitted two ground signs with 64 square feet of sign area each. The signs shall be evenly spaced along the frontage of the site and shall not in any case abut each other. If the building official determines that architectural features of the sign, such as wood, rock or brick framing, are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area.
- (2) Monument signs, including the architectural features, shall not exceed six feet in height. Monument signs shall not have more than two feet of clearance between the bottom of the sign and the established grade.
- (e) *Off-site signs, including billboards.*
- (1) Off-site signs, including billboard signs, may be permitted as a special land use in the IND zoning district as regulated herein and in the zoning ordinance.
- (2) All billboards shall be confined to "adjacent areas", as defined in the Highway Advertising Act of 1972, along the I-94 freeway.
- (3) No billboard shall be located within 3,000 feet of another billboard. The spacing requirements apply separately to each side of the freeway and shall be measured along the nearest edge of the pavement of the freeway between points directly opposite each sign. Official and on-premises signs, as defined in Section 131(c) of Title 23 of the United States Code, shall not be counted, nor shall measurements be made from them for purposes of determining compliance with the spacing requirements provided in this section.
- (4) Billboards shall not be adjacent or within 500 feet of an interchange, an intersecting street, road or highway crossing on the same side of the highway; nor shall such sign be located within 500 feet of a residential zoning district boundary.
- (5) No sign or part thereof shall be located within 100 feet of the freeway right-of-way line.
- (6) The surface area of any billboard shall not exceed 300 square feet. Billboards with stacked or tandem faces shall be prohibited.
- (7) The height of any billboard shall not exceed 25 feet above the grade of the ground on which the billboard is affixed.
- (8) No billboard shall be located on top of, cantilevered, or otherwise suspended above the roof of any building.
- (9) Billboard illumination shall be employed in such a manner so as to prevent intense or brilliant beams or rays of light from being directed at any portion of the main traveled way of the highway or adjacent properties.
- (10) All billboards shall be constructed to withstand all wind and vibration forces that can normally be expected to occur in the vicinity. A billboard must be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message.

- (11) No billboard shall have any movement in any of its parts and shall not contain changing illumination or changing message.
- (f) *Political signs.* No such signs shall be located within the public right-of-way or on other publicly owned properties. Those posting signs shall have permission of property owners and all such signs shall be removed within ten days following the election.
- (g) *Portable signs.* Portable signs, as defined in section 72-3, are hereby prohibited, regardless of form, size, character or placement, unless otherwise specifically permitted within this chapter.
- (h) *Projecting signs.* Projecting signs, as defined in section 72-3, are hereby prohibited, regardless of form, size, character or placement, unless otherwise specifically permitted within this chapter.
- (i) *Pylon signs.*
 - (1) Pylon signs shall not exceed the sign area and height allowances herein:

Pylon Sign Area and Height Allowances

Speed Limit (MPH)	Moving Traffic Lanes			
	Two		Four	
	Area (sq. ft.)	Height (feet)	Area (sq. ft.)	Height (feet)
25—30	20	12	30	14
35—40	30	14	54	16
45 and over	45	16	80	18

- (2) For retail shopping centers with over 30,000 square feet of floor area, the maximum area for a pylon sign shall be equal to:

$$\text{Sign area allowance} = \frac{\text{schedule}}{2} + (\text{number of tenants} \times 5.33) = \text{allowable sign area or equal to the allowance of the schedule herein, whichever is greater.}$$
- (3) Pylon signs shall not have less than four feet of clearance between the bottom of the sign and the established grade. Such signs shall be located in a manner which in no way impedes or obstructs clear vision of motor vehicles, bicycles or pedestrian traffic.
- (j) *Real estate signs.*
 - (1) One unlit real estate sign shall be permitted which advertises the sale, rental, or lease of the premises or property upon which said sign is located.
 - (2) One unlit sign indicating a building is "open" for inspection shall be permitted for the duration of the open hours. Such sign shall not exceed six square feet in display area and shall be located on the premises or property which is open to the public.
 - (3) In residential districts, no such sign shall exceed 12 square feet in sign area.
 - (4) Apartment complexes shall be permitted one real estate sign for the complex, as a whole, when units are available. Such sign shall not exceed 20 square feet in sign area.
 - (5) In nonresidential zoning districts, such signs shall not exceed 20 square feet in sign area. In no case shall a site contain both a real estate sign and a real estate development sign.
 - (6) No real estate sign shall exceed six feet in height measured from grade directly beneath such sign.

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- (7) All such signs shall be removed within seven days after the property has been rented, leased or sold, or the title is otherwise transferred. Approval shall be for a one-year period. One-year extensions may be granted by the building official.

(k) *Real estate development signs.*

- (1) One real estate development sign shall be permitted for each approved development under construction or planned for construction in which lots/units/space are still available. Such sign shall only be located on the site of the development. No such sign shall exceed 32 square feet in sign area and six feet in height. Such sign shall also include the date and permit number of the permit being issued, written in indelible ink.

Where a real estate development sign advertises a subdivision or site condominium development, each lot/unit within the development shall not be permitted a real estate development sign. Each lot/unit may include a four-square-foot sign indicating the lot number and model. Such sign shall not be mounted higher than four feet from grade.

- (2) Real estate development signs shall be removed within seven days after all of the units or lots on that site have been sold or leased. In the case of office, commercial and industrial units, the signs shall be removed upon the granting of final occupancy permits.
- (3) A real estate development sign shall not be allowed to occupy the property for more than two years, except when an extension is granted. The building official may grant one extension of such approval for a period not exceeding one year.

(l) *Subdivision or apartment entrance signs.*

- (1) A subdivision or apartment entrance sign shall not exceed 32 square feet in sign display area. If the building official determines that architectural features of the sign are in harmony with the surrounding area and the principal structure, the architectural features of the sign shall not count as part of the display area.
- (2) A subdivision or apartment entrance sign, including its architectural features, shall not exceed six feet in height.
- (3) A subdivision or apartment entrance sign may be located in a traffic island at the entrance of a subdivision, if the building official determines that the sign will not obstruct motorist vision.

(m) *Temporary signs.*

- (1) A business or organization shall be permitted one temporary banner or A-frame sign, not exceeding 32 square feet in display area and not exceeding six feet in height. A permit shall be required. A maximum of four temporary sign permits shall be permitted for any one lot during a calendar year. Each permit allows a permitted display time not exceeding 30 days. Each permit may be extended, as authorized by the building official. Only one such sign shall be permitted at the same time on a site and or lot. Political signs shall not be subject to the requirements of this paragraph.
- (2) Temporary signs are subject to the general regulations (section 72-7).

(n) *Wall signs.*

- (1) A wall sign shall not project more than 12 inches horizontally beyond the wall of a building.
- (2) A wall sign shall be used to display the name of the firm, the address or a symbol, or type of business.
- (3) Wall signs shall not project above the roof line (eave) of a building or structure.
- (4) Wall signs shall not exceed one square foot for each linear foot of store front on which the sign is to be placed, or 20 square feet, whichever is greater. In no case shall a wall sign exceed 80 square feet

(except as permitted in subsection (5)). Excepting the uses qualifying under subsection (5), sign area for storefronts which are setback more than 200 feet from the centerline of a road shall be permitted to double the permitted wall sign area; however, not to exceed 80 square feet.

- (5) Large retail uses with over 40,000 square feet of floor area shall be permitted a wall sign area equal to one square foot for each linear foot of store frontage up to a maximum of 250 square feet. Retail uses with over 10,000, but less than 40,000 square feet of floor area shall be permitted a wall sign area equal to one square foot for each linear foot of store frontage up to a maximum of 100 square feet.
 - (6) Buildings located in industrial zoning districts shall be permitted one wall sign which shall not exceed one square foot of sign area for each linear foot of building wall upon which the sign is to be placed. In no case shall a wall sign on an industrial building exceed 100 square feet.
 - (o) *Window signs.* Temporary window signs shall be permitted to occupy no more than 25 percent of window surface area along each road façade in the business zoning districts (LC, V-1, V-1A and GC). Wall signs and behind-the-window signs with lettering or symbols of three inches or less may be permitted, in addition to the temporary permitted window signs per establishment. Such signs shall provide information such as hours of operation, telephone numbers, addresses, vehicular clearance heights and similar types of information.
- (Ord. No. 365, § 5.00, 6-14-2010; Ord. No. 388, §§ 3, 4, 1-14-2016; Ord. No. 389, § 1, 8-22-2016; Ord. No. 401, §§ 2—4, 4-26-2021)

Sec. 72-7. General regulations.

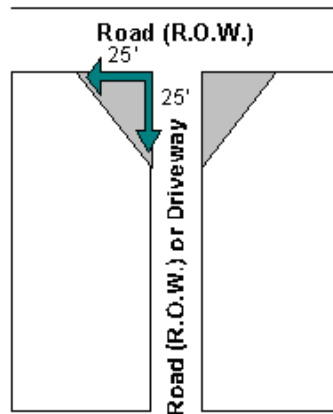
No sign may be erected, displayed or substantially altered or reconstructed, except in conformance with the regulations specified in this chapter. The following conditions shall apply to all signs regardless of use district, unless otherwise specified in this chapter:

- (1) *Exemptions.* The following signs, as defined herein, shall be exempt from procedural, review and approval requirements as specified in the following sections. The signs shall, however, conform to all applicable regulations specified within this chapter.
 - a. The following signs shall not require building official approval, however, may require building permits:
 - 1. Address numbers consistent with this ordinance (subsection (6) of this section).
 - 2. Handicap signs.
 - 3. Historical marker signs (official).
 - 4. Identification signs or nameplates.
 - 5. "Open" and "Closed" signs (not exceeding two square feet in area).
 - 6. Political signs.
 - 7. Real estate signs for a single-family home or a single-family unit.
 - 8. Other real estate signs (specifically excluding real estate development signs) are exempt from building official approval, but a building permit must be obtained.
 - 9. Resurfacing an existing sign frame (shall not include any changes to the frame or structure). Such a change shall require a building permit when applicable.
 - 10. Wall signs of three inches in height or less. No more than three per building.
 - 11. Warning signs and other non-advertising signs, not exceeding six square feet.

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- b. Township, county, state or federal road or traffic control signs shall be exempt from the provisions of this chapter.
 - c. Signs not visible beyond the boundaries of the lot or parcel upon which they are situated, or from any public thoroughfare or right-of-way, shall not be counted toward the maximum number of signs permitted on the subject lot or parcel. These signs shall remain subject to building official approval, permit requirements, inspections, and height and setback requirements.
 - d. In all zoning districts, flags of the United States, the State of Michigan, any political subdivision of the State of Michigan, or other flags or banners specifically approved by the township board for general display, are permitted as long as the size or number of such flag or flags are not of such nature that it would be commonly understood that their display was primarily intended to be a commercial advertisement to attract the attention of the general public. All other flags intended for advertising shall be prohibited.
- (2) *Prohibited signs.* Unless otherwise specifically permitted under this chapter the following signs and/or sign parts shall not be permitted or erected in the township:
- a. Cloth signs, balloon signs or displays, streamers, flags, windblown devices, spinners, portable signs, trailer signs and pennants.
 - b. No flashing, animated, moving or bare bulb-type signs or displays.
 - c. Signs affixed to or painted on street furniture.
 - d. Signs affixed to or worn by people as a means to advertise including costumes.
 - e. Banner signs, window signs, A-frame signs, temporary signs stuck into the ground and any other sign not specifically authorized herein.
 - f. Signs painted directly onto wall surfaces.
 - g. Vehicle business signs and trailer signs.
 - h. Signs mounted on roofs.
- (3) *Changeable copy signs.* Changeable copy signs may only be permitted as part of a wall, ground or pylon sign provided the following requirements are met:
- a. The area of the changeable copy sign does not exceed one-half of the entire size of the wall, ground or pylon sign.
 - b. The information or advertising communicated by the changeable copy sign shall be limited to events, goods and/or services provided or sold on the site.
 - c. The image or message on the changeable copy sign does not change more frequently than once every one hour.
 - d. The sign does not contain moving images (i.e. television type screens).
 - e. The image or message of the sign does not continuously flash or scroll (vertically or horizontally).
 - f. The lighting of the changeable copy sign is not illuminated beyond the default settings of the sign manufacturer's brightness/dimming controls.
 - g. The owner of a changeable copy sign shall allow the township to use the electronic message board to communicate emergency public service information approved by the township supervisor relating to a national disaster or emergency that has been declared by the President of the United States. The operational restrictions on changeable copy signs set forth above shall

not apply during any time that the changeable copy sign is used to communicate authorized emergency public service information for the township.

- h. The owner agrees to update an approved emergency public service information communication, or discontinue the emergency public service message as soon as possible after receiving a request from the township supervisor. The owner shall file and keep current at all times with the township supervisor's office the name, email address, phone number, cell phone number, pager and other available emergency contact information of the employee(s) or representative(s) of the owner who has been authorized and designated by the owner to communicate the approved emergency public service message using the changeable copy sign.
- (4) *Locational requirements.*
- a. No sign, except as otherwise permitted herein, shall be located in, project into, or overhang a public right-of-way or dedicated public easement, or be attached to a utility pole.
 - b. No sign, except those established and maintained by the township, county, state or federal governments, shall be located within the triangle formed by the intersection of any road right-of-ways and/or access drive at points 25 feet distant from the point of their intersection.



- c. No signs shall be located so as to impede pedestrian or automobile traffic.
- d. In no case shall a sign be closer than ten feet to any property line. All signs shall meet the following minimum setbacks as measured in feet from the centerline of each road right-of-way (ROW) in accordance with the township's master plan. An additional ten-foot setback from road centerlines and property lines shall be required for all signs constructed in residential zoning districts.

Road Type (See Master Plan)	Distance in Feet
Regional (204 foot R.O.W.)	112
Regional (150 foot R.O.W.)	85
Major (120 foot R.O.W.)	70
Secondary (120 foot R.O.W.)	70
Collector (86 foot R.O.W.)	53
Local (70 foot R.O.W.)	45
Local (60 foot R.O.W.)	40
Cul-de-sac	70

Freeway*	50
Private Roads**	20

* Freeways shall be measured from the established right-of-way lines.

** Measured from the road easement or common usage line.

(5) *Illumination.*

- a. Illumination of signs shall be positioned and shielded so that the light shines away from adjoining properties and the eyes of motorists or pedestrians. The light source of such illumination shall be shielded from public view.
- b. Specialty lighting, such as neon accent lighting, may be permitted by the building official on a finding that the proposal is in character with the use and not detrimental to other uses in the vicinity. This regulation does not apply to lighted window signs.
- c. A lighted display of time, temperature, or similar non-advertising public information shall be permitted as part of a sign subject to building official review and approval. The sign information must be accessory to the use on site and shall not include any off-site advertising.
- d. All illumination shall meet the lighting standards of the township zoning ordinance.

(6) *Addresses.* Addresses shall meet the following requirements and shall not be included in sign area computations:

- a. Numbers shall be six inches and shall be of a contrasting reflective color and in numerical block format on any nonresidential building.
- b. Address numbers shall be located on all access doors at the front and rear of any nonresidential building.
- c. Addresses shall be integrated with the structure on all monument signs and shall be clearly distinguishable from the sign face. For signs advertising more than one address, the range of addresses shall be on the sign.
- d. All sites, including residential home sites, shall display an address on the building which is clearly visible from the road and from the water for waterfront uses.

(7) *Width-to-length ratio.* No sign shall have a width-to-length or length-to-width ratio exceeding 4:1, except that wall signs shall be permitted to have a maximum width-to-length or length-to-width ratio of 8:1 (see example in section 72-8).

(8) *Landscape requirements.* A monument sign shall be located within a landscaped area. Such landscaping shall include evergreen shrubs and other landscape amenities.

(9) *Maintenance of signs.* If, upon inspection by the building official, a sign is found to be unsafe, insecure, corroded, subject to corrosion, or otherwise poorly maintained, then the owner of such sign and/or sign erector shall make the sign safe and secure by completing any necessary reconstruction, repairs, painting or other improvements in accordance with the following timetable, unless the sign is required to be removed by the nonconforming sign regulations herein:

- a. If the building official determines that the sign is an immediate threat to the safety of persons or property nearby, all required action to correct the defect shall be taken within 48 hours (two working days) from the time of notification in writing from the township, provided that the sign can be cordoned off or adequately secured during the intervening time so as to remove any immediate threat to safety. If such sign cannot be cordoned off or secured so as to eliminate any

immediate threat to the safety of persons or property, then all required action to correct the defect shall be made forthwith.

- b. If the building official determines that the sign is not an immediate threat to the safety of persons or property, all required action to correct the defect shall be made within 30 days after notification in writing from the township. Such maintenance defects shall include rust, paint chipping, sign face fading, and similar defects which do not pose an immediate safety risk. The building official may extend the 30-day timetable (until the building Official deems conditions are suitable for repair) if temperatures below 25 degrees Fahrenheit prevent painting, or if the defects involved are minor, not generally noticeable to the public, and not a hazard to public safety (such as replacement of burned out light bulbs).
- (10) *Nonconforming signs.* Any sign already established by the effective date of the ordinance from which this chapter is derived which is rendered nonconforming by the provisions of this chapter, and any sign which is rendered nonconforming as a result of subsequent amendments hereto, shall be subject to the regulations concerning nonconforming signs as follows:
- a. Any sign which advertises a use no longer being conducted, or a product no longer being manufactured or sold on the property, shall be considered nonconforming. Such signs shall be taken down and removed by the owner, agent or person having the beneficial use of the building, structure or land within one month from the date of written notice from the township.

However, where such a sign structure and frame are typically reused by the current occupant or business in leased or rented buildings, the building owner shall not be required to remove the sign structure and frame in the interim periods when the building is not occupied, provided that the sign structure and frame are maintained in accordance with this chapter and other relevant township ordinances and codes.
 - b. Any sign which is a conforming sign as to use and advertises a bona-fide business or industry being conducted or a product being manufactured or sold on the property, but is nonconforming as to size, projection, location, number of signs, position, material or construction, shall be deemed a legal nonconforming sign and shall be permitted to remain until such time that the sign is removed, destroyed, replaced, or requires rebuilding. All replacement or rebuilt signs shall be designed and constructed in such a manner as to bring the sign into compliance.
- (11) *Removal of signs.* Whenever a sign is removed, or is required to be removed, by this chapter or by order of the building official, the entire sign structure, including fastenings and anchorages, shall be removed.

(Ord. No. 365, § 6.00, 6-14-2010)

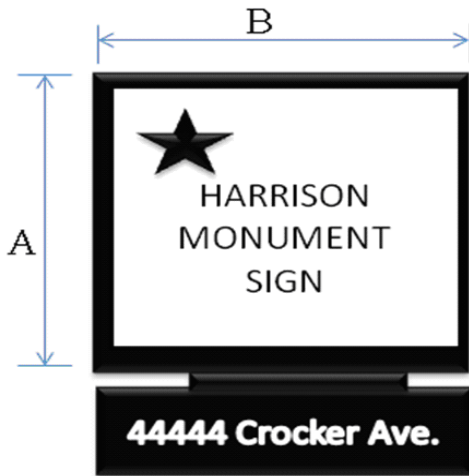
Sec. 72-8. Measurement of sign area.

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

- (1) In the case of a wall sign in which there is no frame or other material forming an integral part of the display or used to differentiate such sign from the background against which it is placed, the envelope shall be around the full perimeter of any grouping of letters, logos, emblems, figures, pictures, etc.
- (2) In the case of an awning or canopy sign, where there is no design or envelope forming an integral part of the display which differentiates the sign from the background of the awning material or color, the

envelope shall be around the full perimeter of any grouping of letters, logos, emblems, figures, stripes, etc. Transparent or translucent awnings or canopies which have internal lighting, the entire surface of the awning or canopy shall be considered as the sign.

- (3) For a single-faced sign, the area shall be computed as the total exposed exterior surface in square feet.
- (4) The area of a double-faced freestanding sign shall be computed using only one face of the sign, provided that the outline and dimensions of both faces are identical and that the faces are back-to-back so that only one face is visible at any given location. In all other cases, the sum of both faces shall be computed for the sign area.



Area=A x B, if Building Official determines framing is not a decorative architectural feature.



Area=A x B, if Building Official determines framing is a decorative architectural feature.

Sign Area Measurements for Monuments and Similar Signs



Area= Outline for Channel Letters if Building Official determines framing is a decorative architectural feature.

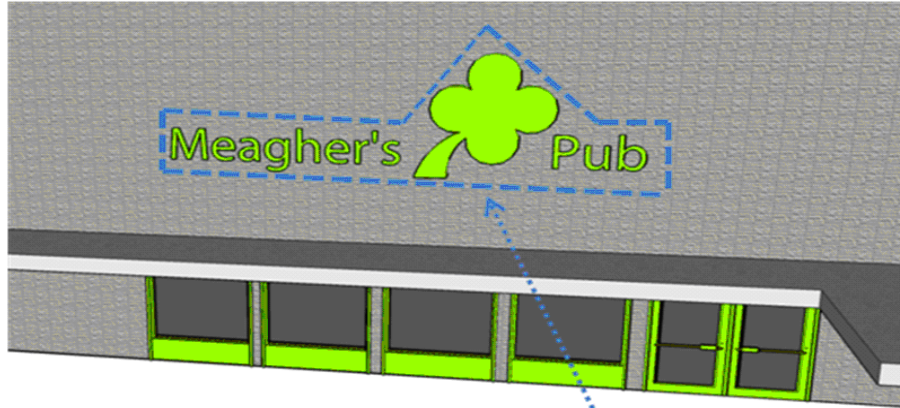
Wall Signs

Width to Length and Length to Width Ratio



X:Y Shall Not Exceed 1:8
 Y:X Shall Not Exceed 1:8
 (Example, If X=2, Then Y cannot exceed 16)



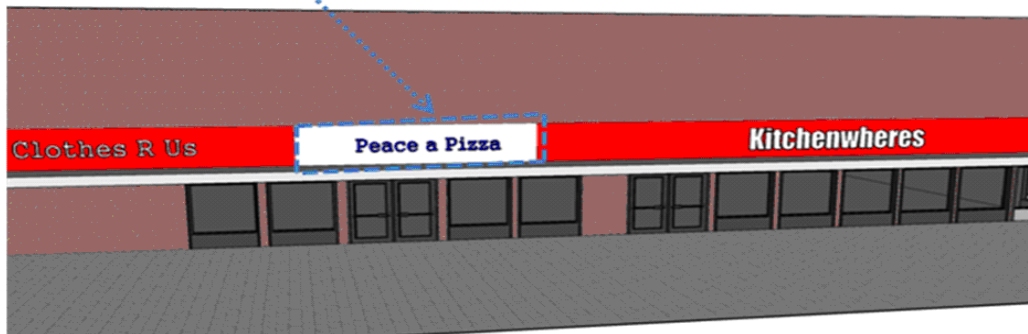


Wall Sign Area Measurement Examples





Wall Sign Area Measurement Examples



Architectural Pattern is Modified to Attract Attention to Sign

(Ord. No. 365, § 7.00, 6-14-2010)

Sec. 72-9. Appeals procedure.

Any party who had a sign denied by the building official or a sign permit denied by the building department may seek a variance of the provision(s) of this chapter by filing an appeal application to the township building board of appeals. Such an appeal request must be applied for within 30 days of such denial.

- (1) At the hearing for an appeal, the building board of appeals may grant a variance from the provisions of this chapter upon a finding of all of the following:
 - a. The particular physical surroundings, lot shape or topographical conditions of the property would render compliance with the provisions of this chapter difficult and would likely result in a particular practical difficulty on the owner, as distinguished from inconvenience of meeting the

chapter requirements or a desire to increase financial gain or avoid the financial expense of compliance.

- b. Strict enforcement of the provisions of this chapter would serve no useful purpose.
 - c. The type of sign structure and the location proposed would not pose a significant risk to the public health, safety and welfare.
 - d. The benefit of the sign to the general public and/or applicant under the circumstances outweighs any risk to traffic safety and the township's desire to eliminate the accumulation of visual clutter in accordance with the stated purpose of this chapter.
 - e. A variance would be in the interest of the township and not against the spirit and intent of this chapter.
- (2) In issuing a variance from the strict letter of the provisions of this chapter, the building board of appeals may grant a variance of any sign requirement or place reasonable conditions or restrictions upon issuance of a permit.

(Ord. No. 365, § 9.00, 6-14-2010)

Sec. 72-10. Violations; fines and sanctions.

It is unlawful and constitutes a municipal civil infraction for any person to violate or fail to comply with the provisions of this chapter and, upon conviction, be punished as prescribed by Chapter 2, Article IV, Division 3 of this Code.

(Ord. No. 365, § 10.00, 6-14-2010)

Chapter 74 SOLID WASTE⁵⁵

ARTICLE I. IN GENERAL

Sec. 74-1. 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:

Brush shall mean tree trimmings and shrubbery trimmings not exceeding one inch in diameter.

Combustible means any refuse acceptable for incineration, a partial list of which is:

- (1) *Garbage waste* resulting from the handling, preparation, cooking or spoiling of food. This shall not include such wastes from food processing plants, large quantities of condemned food products, or large quantities of wind fallen fruit subject to rapid decomposition.

⁵⁵Cross reference(s)—Buildings and building regulations, ch. 18; environment, ch. 34; garbage and trash in parks, § 66-49; utilities, ch. 90; storage, accumulation, dumping and/or collection of waste, junk, refuse and other similar materials, app. A, § 3.27.

State law reference(s)—Solid waste management, MCL 324.11501 et seq.

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- (2) *Rubbish*, including wastepaper, house-hold plastic, empty tin cans, and glass containers if cleaned of contents, wood or wood products if under three inches in diameter and three feet in length, and paper products except magazines and books.
 - (3) *Carcasses of small animals, fish and fowl*. This shall not include carcasses from large animals or from veterinary hospitals or clinics.

Commercial refuse shall mean the rejected, unwanted or discard or abandoned material generated by commercial establishments and uses, such as office buildings, personal service establishments, technical and scientific research facilities, professional service offices, clinics, churches and the waste from industrial and institutional establishment.

Construction refuse shall mean the unwanted, rejected, discarded or abandoned materials resulting from the alteration, repair or construction of buildings.

Garbage shall mean rejected food wastes including waste accumulation of animal, fruit or vegetable matter used or intended for food or that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetable.

Hazardous and flammable materials shall mean those materials which are explosive or which would be hazardous to the health, safety and welfare of any haulers or workers or to those employees in the operation of an incinerator plant for the disposal of refuse. These materials would, by way of illustration, but not by limitation, include and be similar to the following: gasoline, fuel oil, kerosene and other petroleum products as well as chemical products, including a large volume of pressurized containers, that would be dangerous to the operation of an incineration process and industrial products that would be hazardous or dangerous to the operation of an incineration process.

Hazardous refuse means anything dangerous to the public health, safety or welfare and shall include drugs, volatile or radioactive materials, poisons, explosives, and diseased or contaminated materials. Any substance defined as a "hazardous substance" or "hazardous waste" under federal or state law or regulation.

Hazardous waste shall mean, waste or a combination of waste and other discarded material including solid, liquid, semi-solid or contained gaseous material which because of its quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or increase in serious or irreversible illness or serious incapacitating, but reversible illness, or pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Waste from an institution such as hospital or an institution of a like nature, and waste from pharmaceutical establishments and doctors offices that do not fall into the classification of garbage, food products, paper and trash, shall be considered hazardous waste.

Industrial refuse means the rejected, unwanted, discarded or abandoned materials resulting from industrial operations such as is generally identified with manufacturing, assembling, processing and distributing plants, large office buildings, hospitals and clinics, and other producers of quantities of refuse in excess amounts.

Noncombustible means any refuse not acceptable for incineration, a partial list of which is:

- (1) *Metal*, including all metal or metal products except tin can containers.
- (2) *Rubbish and bulk items*, including books, magazines, glass (except small food containers), crockery, stones, concrete, refrigerators, stoves, televisions and other such appliances not conforming to weight and dimension limitation and all other such materials not defined in this section.
- (3) *Ashes*, including residue from fires used for house-hold heating or cooking or domestic incinerators. The term shall not include ashes produced by factories or plants, hotels, or apartment houses.

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- (4) *Yard waste*, including large tree or shrub branches, clippings, weeds, leaves, sod, dirt, manure and other wastes resulting from yard care of the premises, excluding lawn debris.
 - (5) *Toxic waste*. Any waste pollutant or combination of pollutants designated as toxic in regulations promulgated by the administrator of the U.S. Environmental Protection Agency under the provisions of section 307(a) of the Clean Water Act, (33 USC 1317) or included in the critical materials register promulgated by the state department of natural resources, or other federal or state laws, rules or regulations.
 - (6) *Lawn debris*. Residential grass clippings, leaves, weeds, twigs, pruning, shrub clippings, garden waste, old potting soil and dirt incidental to minor yard work. Twigs, prunings and shrub clippings shall not exceed pencil-thin.

Nuisance means an offensive, annoying, unpleasant, or obnoxious thing or practice or a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, such as but not limited to dust, smoke, odor, fumes, flashes or objectionable effluent.

Owner/occupant shall mean, unless the township is notified in writing to the contrary, the person whose name appears on the most recent tax assessment roll of the township.

Person shall mean any individual, firm, owner, occupant, tenant, corporation, partnership, limited liability company, association or joint venture responsible for the premises.

Recyclables shall mean a specific garbage, rubbish or solid waste that is required to be picked up separately for the purpose of recycling. These items shall include, but not be limited to, newspapers, glass containers, metal cans, type 1 and type 2 plastics, and household batteries.

Refuse shall mean garbage, rubbish, recyclables, solid waste, yard waste, and brush. Refuse shall not include construction debris, hazardous waste or hazardous and flammable materials.

Residential dwelling unit shall mean all structures, buildings, premises and/or realty utilized for residential purposes including, but not limited to, single family homes, site condominiums, condominiums, town houses, apartments, duplexes and group homes.

Rubbish shall mean waste paper, household plastic, empty tin cans and glass containers, if cleaned of contents, wood or wood products of under three-inch diameter and three feet in length, paper products, books, magazines, glass, crockery, stone, concrete and similar materials.

Solid waste shall mean putrescible and non-putrescible solid wastes, except body wastes and includes garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, and municipal sludges, but does not include ferrous or non-ferrous scrap directed to a scrap metal processor or to a reuser of ferrous or non-ferrous products.

Special collection shall mean any collection of refuse at a time other than the regularly scheduled once per week collection, or of a volume or quantity of refuse exceeding the limitations of this article whether requested by an owner or occupant or done by the township to eliminate a violation of township ordinances.

Supervisor shall mean the supervisor of the township or his duly appointed agent or representative.

Township shall mean the Township of Harrison.

Township board shall mean the Harrison Township Board of Trustees.

Yard waste shall mean materials resulting from landscaping for collection for composting. Residential grass clippings, leaves, weeds, twigs, pruning, shrub clippings, garden waste, old potting soil and dirt incidental to minor yard work.

(Comp. Ords. 1988, § 35.052; Ord. No. 356, § 1, 7-9-2007; Ord. No. 368, § 1, 5-10-2010)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 74-2. Purpose and intent.

- (a) It is the intent of the township board that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of preparation, collection and disposition of municipal waste. The building official is authorized to make such rules and regulations as from time to time appear to him to be necessary to carry out this intent provided such rules are not in conflict with this chapter or any other ordinance of the township.
- (b) The Township of Harrison finds that the reduction of the amount of solid waste and conservation of recyclable materials is an important purpose. The separation and collection of paper, cardboard, glass, cans and vegetative yard waste for recycling from the residential establishments in this municipality will minimize the adverse environmental effects of landfilling by reducing the need for landfills and conserving existing landfill capacity, facilitate the implementation and operation of other forms of resource recovery, conserve natural resources and reduce the cost of solid waste disposal in general. The promotion and use of recyclable materials, goods produced from recyclable materials and goods which facilitate recycling will further serve the same purposes by encouraging and facilitating recycling.
- (c) The collection and removal of waste shall be under the supervision of the building official or his authorized representative, and it shall be the duty of the building official or his authorized representative and the fire department to enforce the provisions of this chapter.

(Comp. Ords. 1988, § 35.053; Ord. No. 356, § 2, 7-9-2007)

Sec. 74-3. Civil infraction fine.

A person found to be in violation of the regulations or prohibitions of this chapter shall be held responsible for a municipal civil infraction. The municipal civil infraction fine for a violation of this chapter is \$500.00. Furthermore, all violations of this chapter are declared to be a public nuisance per se and may be abated by order of a court of competent jurisdiction.

(Comp. Ords. 1988, § 35.069; Ord. No. 356, § 3, 7-9-2007)

Sec. 74-4. Necessity.

The township declares that it is necessary to provide regulations governing the storage, collection, transportation and disposal of refuse, garbage, rubbish and other rejected, unwanted or discarded waste materials within the limits of the township in order that the public health and safety may be protected.

(Comp. Ords. 1988, § 35.051)

Sec. 74-5. Deposits on streets.

It shall be unlawful to deposit or permit to deposit or permit to fall from any vehicle any garbage, refuse building materials, rubbish or ashes on any public street or alley in the township; however, this section shall not be construed to prohibit placing garbage, refuse or ashes in a container or receptacle complying with the conditions of this chapter preparatory to having such material collected and disposed of in the manner provided in this chapter.

(Comp. Ords. 1988, § 35.055)

State law reference(s)—Littering, MCL 324.8901 et seq.

Sec. 74-6. Windblown refuse.

It shall be unlawful to cause or permit to accumulate any dust, ashes or trash of such a material that it can be blown away by the wind anywhere in the township excepting in a covered container.

(Comp. Ords. 1988, § 35.054)

Sec. 74-7. Consent of owner.

It shall be unlawful to dump or place any garbage, refuse or ashes on any premises in the township without the consent of the owner of such premises.

(Comp. Ords. 1988, § 35.056)

Sec. 74-8. Disturbance of refuse.

No person other than the owner of refuse receptacles or his agents or employees or licensees of the township shall disturb, remove or attempt to remove refuse receptacles or their covers, or disturb or remove or attempt to remove any refuse not in containers, whether on public or private property.

(Comp. Ords. 1988, § 35.057)

Sec. 74-9. Refuse; scattering, dumping.

No person shall deposit or cause to be deposited, sort, scatter or leave any rubbish, refuse building materials, garbage, ashes, cinders, grass, leaves, twigs or shrubs, manure or filth, or other offensive materials, or build or maintain any structure or thing whatsoever containing such materials in any public street, alley or public property in the township.

(Comp. Ords. 1988, § 35.058)

State law reference(s)—Littering, MCL 324.8901 et seq.

Sec. 74-10. Duties of owners, occupants.

- (a) It shall be the duty of every owner, tenant or occupant of any building, amusement or picnic park or gathering place for people for any purpose to provide receptacles of sufficient size to hold the accumulated refuse between scheduled refuse collections.
- (b) No person shall burn refuse within the corporate limits of the township in any manner that may create a nuisance.
- (c) No person shall bury refuse within the corporate limits of the township if it would create a nuisance, or tend to endanger the general health and welfare of the public.
- (d) No person may bury any dead animal except in accordance with federal and state law.

(Comp. Ords. 1988, § 35.059; Ord. No. 356, § 4, 7-9-2007)

Sec. 74-11. Responsibility for compliance.

The owner or occupant of property abutting a right-of-way shall be presumed to have generated any waste placed for collection in the right-of-way. For purposes of determining ownership of property, it shall be presumed that the person whose name appears on the most recent tax assessment roll of the township is the owner of the property.

(Ord. No. 356, § 5, 7-9-2007)

Sec. 74-12. Construction and enforcement of chapter.

- (a) The building official is authorized to make such rules and regulations as from time to time appear to be necessary to carry out the intent of this chapter, provided that such rules are not in conflict with this chapter or any other provision of the Code.
- (b) It is the intent of the township board that this chapter be liberally construed for the purpose of providing a sanitary and satisfactory method of preparation, collection and disposition of township waste.
- (c) The collection of waste shall be under the supervision of the building official and it shall be the duty of the building official to enforce the provisions of this chapter. The building official may call upon the Macomb County Sheriff's Office to assist with the enforcement of this chapter.

(Ord. No. 356, § 6, 7-9-2007)

Sec. 74-13. Appeals.

The township board shall hear and decide appeals from and review any order, decision or determination made by any administrative official charged with enforcing or administering the terms of this chapter. The township board shall have the power upon appeal in specific cases to modify the provisions of this chapter, imposing such conditions and safeguards as it may reasonably determine may be in harmony with the spirit of this chapter and so that public safety and welfare are secured and substantial justice done.

(Ord. No. 356, § 7, 7-9-2007)

Secs. 74-14—74-40. Reserved.

***ARTICLE II. GARBAGE COLLECTION AND DISPOSAL FOR NONRESIDENTIAL AREAS
OF THE TOWNSHIP⁵⁶***

⁵⁶Editor's note(s)—Ord. No. 368, § 3, adopted May 10, 2010, changed the title of art. II from "collection and disposal" to "garbage collection and disposal for nonresidential areas of the township."

State law reference(s)—Authority to provide for solid waste collection and disposal, MCL 324.4301 et seq., 324.11901 et seq.

Sec. 74-41. Self-disposal.

No person shall contract any person to collect, transport or dispose of refuse from nonresidential areas within the corporate limits of the township unless such person is duly licensed by the township to collect, transport and dispose of refuse.

(Comp. Ords. 1988, § 35.063; Ord. No. 368, § 4, 5-10-2010)

Sec. 74-42. License.

- (a) No person shall engage in the business of collecting, transporting or disposing of refuse from nonresidential areas within the township without first obtaining a license.
- (b) Applications for such licenses shall be obtained from the building official and be made only on forms provided by him. No license shall be issued except upon payment of the fee required by resolution of the township and upon posting of a \$3,000.00 surety bond or cash, guaranteeing the faithful and prompt discharge of all obligations of the licensee to the township.
- (c) A township license shall be issued for a period of one year to each licensed waste hauler upon the submission of a completed application and the qualification of vehicles and equipment following inspection, the execution of an indemnification agreement and the provision and verification of insurance. Such license shall be subject to renewal each year upon provision of the same information and re-inspection of each vehicle and equipment as required for an original application.
- (d) No such license shall be issued except upon certification by the building official or his authorized representative that the equipment and the ability of the licensee is such that the licensee is able to conduct a refuse collection business in accordance with the terms of this chapter and rules and regulations adopted by the building official or his authorized representative.
- (e) The building official or his authorized representative shall make rules and regulations governing the operation of the business of rubbish collection, transportation and disposition as he may deem necessary.
- (f) The building official or his authorized representative may deny, suspend or revoke any license for violation of any provisions of this chapter or for such other cause as he deems reasonable. Prior revocation of a license shall be sufficient grounds for the refusal by the building official or his authorized representative to certify any future application by such licensee.
- (g) The licensee shall have the right to a hearing before the township board on any such action provided a written request is filed with the township clerk within five days after issuance of notice of suspension. The township board may confirm such denial, suspension or revocation or may authorize and reinstate such license. The action of the township board shall be final.
- (h) Such license shall be carried on the person at all times during the operation for which it was issued and produced for examination when requested.
- (i) Upon issuance of the license, the township shall issue an identification sticker for each waste collection vehicle to be used in collection to show compliance with this chapter. The sticker shall be affixed to the waste refuse collection vehicle in the place designated by the township for easy identification.
- (j) Such license shall not be transferable.
- (k) Any license issued under the provisions of this chapter may be revoked by the building official for any violation of any law or ordinance pertaining to the operation or maintenance of such establishment.

(Comp. Ords. 1988, §§ 35.064, 35.070; Ord. No. 356, § 8, 7-9-2007; Ord. No. 368, § 5, 5-10-2010)

Sec. 74-43. Receptacles.

- (a) The owner, occupant, lessee, or their agents, of every nonresidential building where wastes accumulate shall cause to be provided for such building proper receptacles as required in this chapter. Receptacles that are broken or otherwise fail to meet the requirements of this chapter may be deemed to be rubbish and ordered to be collected as such by the building official.
- (b) For garbage, receptacles shall be portable, so maintained as to be watertight and vermin proof, and all approved containers shall be securely tied, and weigh no more than 50 pounds each and be free of cuts and tears. Receptacles shall be of substantial construction provided with handles or bails and a tight fitting cover.
- (c) Receptacles shall be portable, of substantial construction, and of a size not to exceed 50 pounds when full.
- (d) Plastic bags, or portable weather tight containers, may be collected as rubbish without notice, but must be of a size not to exceed 40 pounds in weight when full.
- (e) Rubbish that cannot be contained in receptacles may be securely tied in compact bundles, not to exceed 50 pounds in weight, or exceed four feet in length or three feet in girth to be acceptable for scheduled pick up and disposal.
- (f) No person shall disturb the contents of any portable waste receptacle or bundle, nor leave the receptacles or contents in a condition other than this chapter provides. All receptacles shall be maintained in a sanitary condition.
- (g) In every case where the owner, occupant or user of any premises shall accumulate more than one cubic yard of refuse in any one-week period, it shall be mandatory to provide a container of the type designed to be handled mechanically by refuse collection trucks in place of the normal receptacles provided in this section. Such container shall be of substantial construction having a capacity not exceeding two cubic yards, having castor wheels, tight fitting covers and handles so that such container may be unloaded into the refuse collection truck by mechanical means provided by the truck. Such container shall be kept clean and in good condition at all times. Such container shall be kept only on a concrete pad on the premises of the owner, occupant or user of the premises.
- (h) All commercial, industrial, and institutional shall arrange for the delivery and use of an approved trash receptacle.
- (i) No person, other than the owner of refuse receptacles or his or her agents or employees or licensees of the township shall disturb or remove or attempt to remove any refuse not in containers whether the same is on public or private property.

(Comp. Ords. 1988, § 35.060; Ord. No. 356, § 9, 7-9-2007; Ord. No. 368, §§ 6, 7, 5-10-2010)

Sec. 74-44. Preparation of refuse.

- (a) Garbage must be thoroughly drained of liquids and be wrapped in several thicknesses of paper before being placed in receptacles for collection. Refuse classified and described in this chapter as combustible may be placed in the same containers as garbage if all the other requirements of this section are adhered to. Other combustible refuse must be tied in bundles with nonmetallic materials or placed in proper receptacles.
- (b) Noncombustible refuse shall be placed in proper containers or tied in bundles to facilitate handling wherever possible. In the case of articles not conforming to weight or dimension limitations, the licensee will arrange for pickup and disposal if notified of the necessity for doing so; but such pickups shall be done for a fee to be established by the licensee.

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- (c) It shall be the duty of the owner, contractor, occupant or other person responsible for construction work to remove from the premises within a reasonable time after the completion of such construction work all surplus construction material and all refuse building material and all construction refuse. Such materials shall be removed outside the township limits or disposed of within the township in accordance with the directions of the building official. Such construction refuse may be handled through the township as an unscheduled refuse collection and a fee to be established by the building official.
 - (d) Hazardous refuse shall be the responsibility of the producer or owner and shall not be disposed of within the township, or allowed to be stored or transported within the township without the written approval of the building official or his authorized agent, and then only under the supervision of someone appointed by him who has knowledge of the safety measures necessary to protect the public health and safety during such storing, transporting or disposing of hazardous refuse.
 - (e) No person may place for collection any materials which could ignite waste in a receptacle or waste collection vehicle.

(Comp. Ords. 1988, § 35.061; Ord. No. 356, § 10, 7-9-2007)

Sec. 74-45. Placing at curb.

- (a) No refuse shall be placed at the curb or street for collection more than 18 hours prior to the morning of the time schedule for collection or after 3:00 p.m. on Fridays unless arrangements have been made for pickup within 18 hours after being placed for collection.
- (b) After the collection of container contents have been made, the empty containers shall be removed from the curb or street and replaced on the owner's storage area as soon as possible, but in no case later than ten hours after collection of refuse has been made.
- (c) No solid waste, recycling or composting shall be picked up prior to 7:00 a.m. nor later than 7:00 p.m.

(Comp. Ords. 1988, § 35.062; Ord. No. 356, § 11, 7-9-2007)

Sec. 74-46. Disposal of refuse.

All refuse collected for disposal from within the corporate limits of the township shall be disposed of at approved licensed landfill or refuse disposal authority.

(Comp. Ords. 1988, § 35.066)

Sec. 74-47. Routes to be designated.

Upon license issuance and prior to commencement of service, the township shall designate the route to be taken by trucks of haulers of refuse through the township, which shall be organized by the nature of pick-up locations, including multi-family, commercial and industrial, and by the nature of the pick-up, including dumpsters or bag pick-up, setting forth the number and size of dumpsters, and providing the name and address for each pick-up location.

(Comp. Ords. 1988, § 35.067; Ord. No. 356, § 12, 7-9-2007)

Sec. 74-48. Rates, charges and penalties.

All rates for refuse collection under this chapter shall be established by the licensee; however, all haulers shall have an agreement in writing with the customers for the pickup of refuse under this chapter.

(Comp. Ords. 1988, § 35.068)

Sec. 74-49. Collection vehicles.

Vehicles used for collection or transportation of refuse within or through the township shall be watertight, covered, and conform to all laws regulating axle and road limitations.

(Comp. Ords. 1988, § 35.065)

Sec. 74-50. Vehicle and equipment inspection.

Each vehicle may be inspected by the township or its designee at a location designated by the township. No vehicle, including chassis and major components, shall be older than five years. All vehicles shall be painted, and no vehicle shall have primer or undercoating visible. Each vehicle shall bear the name, address and telephone number of the hauler and a truck number of not less than six inches in size in three locations, on both sides of the fender and on the back of the dumpbody. All vehicles shall be demonstrated, at the time of inspection, to be in good working order and shall be maintained in good working order pursuant to regulations issued by the building official. All dumpsters shall have operable covers and be in good condition without dents or loose parts and shall be fully painted, covering all bare metal, primer and rust. Any other equipment that is provided by licensee shall be in good condition and good working order and shall be maintained in such condition. Dumpsters and receptacles shall be placed in properly designated and authorized areas for receptacles as determined by the approved site plan for the location or, in the event no site plan is required to be file, at locations as determined by the building official.

(Ord. No. 356, § 13, 7-9-2007)

Sec. 74-51. Insurance.

Each licensee shall have the following minimum levels of insurance:

- (1) *General liability limits:* Not less than \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. Insurance coverage shall include products liability and contractual liability.
- (2) *Automobile liability limits:* Not less than \$1,000,000.00 combined single limit.
- (3) *Umbrella:* \$1,000,000.00 per occurrence.
- (4) *Worker's Compensation limits:* Not less than \$500,000.00. Coverage shall include statutory coverages and employer's liability. The township shall be named as an additional insured. Certificates of insurance and insurance policies shall be delivered to the building official with the application for license or renewal. Such coverage shall provide that coverage shall not be subject to cancellation prior to 30 days' written notice to the township.

(Ord. No. 356, § 14, 7-9-2007)

Sec. 74-52. Indemnification.

Each licensee shall execute an indemnification agreement on a form provided by the township in favor of the township and its residents against claims arising from the manner in which waste is hauled and/or disposed of.

(Ord. No. 356, § 15, 7-9-2007)

Sec. 74-53. Storage of lawn debris.

(a) *Storage.* Lawn debris may be stored in accordance with the following:

- (1) Lawn debris may be stored on the premises which generated the lawn debris in approved bags or containers for less than one week prior to a scheduled collection.
- (2) Lawn debris may be stored in a compost pile or compost bin in compliance with any township or state regulations regulating composting.

(b) *Disposal.* Lawn debris may be disposed of in accordance with the following:

- (1) Lawn debris may be placed in approved bags or containers for collection on a regularly scheduled collection day. Lawn debris may not be mixed with other refuse.
- (2) Lawn debris may not be disposed of in a receptacle which is not owned, leased or authorized for use by the person generating and disposing of the lawn debris.
- (3) Lawn debris may not be disposed of in any public right-of-way or private place except as provided in this section.
- (4) Lawn debris placed for collection which does not conform to the requirements of this section shall be tagged as rejected waste in accordance with [the provisions] of this chapter.
- (5) No person shall deposit lawn debris for curbside collection that was not generated from his or her premises.

(Ord. No. 356, § 16, 7-9-2007)

Secs. 74-54—74-63. Reserved.

ARTICLE III. ANTI-LITTER ORDINANCE

Sec. 74-64. Title.

This article shall be known and may be cited as the "Anti-Litter Ordinance."

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-65. Definitions.

For purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Authorized private receptacle means a litter storage and collection receptacle as set forth in article 2 of this chapter.

Litter means all rubbish, refuse, waste material, garbage, offal, paper, glass, cans, bottles, trash, debris or other foreign substances.

Park means a park, reservation, playground, beach recreation center or any other public area in the township owned or used by the township and devoted to active or passive recreation.

Private premises means any dwelling, house, building or other structure designed or used, either wholly or in part, for private residential purposes, whether inhabited or temporarily or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure.

Public place means any and all streets, sidewalks, boulevards, alleys or other public ways and any all public parks, squares spaces, grounds and buildings.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-66. Deposit of litter in public places.

- (a) No person shall throw or deposit litter in or upon any street, sidewalk or other public place within the township, except in public receptacles or in authorized private receptacles for collection or in official township dumps.
- (b) No person shall sweep into or deposit in any gutter, drains and ditches, street or other public place within the township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk in front of their premises free of litter.
- (c) No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place within the township the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the township shall keep the sidewalk in front of their business premises free of litter.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-67. Littering by persons in vehicles.

No person, while a driver or passenger in any vehicle, shall throw or deposit litter upon any street or other public place within the township.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-68. Truck loads causing litter.

No person shall drive or move any truck or other vehicle within the township unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place, nor shall any person drive or move any vehicle or truck within the township, the wheels or tires of which carry onto or deposit in any street, alley or other public place, mud, dirt, sticky substances or foreign matter of any kind.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-69. Deposit of litter in parks.

No person shall throw or deposit litter in any park within the township, except in public receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any street or other public place. Where public receptacles are not provided, all such litter shall be carried away from the park by the person responsible for its presence and properly disposed of elsewhere.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-70. Littering on private property.

No person shall throw or deposit litter on any private property (vacant or occupied) within the township, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street sidewalk or other public place or upon any private property.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-71. Owner responsibility.

The owner or person in control of private property shall, at all times, maintain the premises free of litter, provided, however, that this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-72. Removal of litter from vacant private property.

- (a) The building official is authorized and empowered to notify the owner of any open or vacant private property within the township, or the agent of the owner, to properly dispose of litter located on the owner's property which is dangerous to public health, safety or welfare. Such notice shall be by registered mail, addressed to the owner at his or her last known address as determined from the tax assessment roll.
- (b) If the owner or his or her agent so notified fails to properly dispose of litter dangerous to the public health, safety or welfare within ten days after receipt of written notice provided for in subsection (a), or within 30 days after date of such notice in the event the same is returned to the township post office because of its inability to make delivery of the notice, provided the same was properly addressed to the last known address of such owner or agent, the building official may make a special collection of the litter. When the township makes a special collection of litter the owner or occupant shall be charged a fee equal to the special collection charge incurred by the township plus an administrative fee established by the township board.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-73. Removal of debris from highway.

A person who removes a vehicle that is wrecked or damaged in an accident on a highway, road or street shall remove all glass and other injurious substances dropped on the highway, road or street as a result of the accident. A person who violates this section is responsible for a civil infraction and is subject to a civil fine of not more than \$500.00.

(Ord. No. 356, § 17, 7-9-2007)

Sec. 74-74. Additional fines.

A person found to be in violation of the regulations or prohibitions of this article shall be held responsible for a municipal civil infraction. The municipal civil infraction fine for a violation of this article is \$500.00. In addition to any other penalty or sanction provided for in this article for a civil action brought under this article, the court may require the defendant to pay the cost of removing all litter which is the subject of the violation and the cost of damages to any land, water, wildlife, vegetation or other natural resource or to any facility damaged by the violation of this article. Money collected under this subdivision shall be distributed to the township.

(Ord. No. 356, § 17, 7-9-2007)

ARTICLE IV. RESIDENTIAL GARBAGE COLLECTION AND DISPOSAL

Sec. 74-75. Prohibited conduct.

- (a) It shall be unlawful for any person, or the owner, occupant, tenant or lessee of, any residential dwelling unit within the township to dispose of, store, collect, haul or transport refuse or other materials in contravention to this article.
- (b) It shall be unlawful for any person, or the owner, occupant, tenant or lessee of any residential dwelling unit within the township, to dispose of or attempt to dispose of refuse in a receptacle in contravention to this article.
- (c) It shall be unlawful to mix refuse in any container with construction debris, commercial refuse, hazardous waste, non-burnable materials or with hazardous and flammable materials.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-76. Containment of refuse.

Every owner/occupant of a residential dwelling unit within the township shall prepare refuse for collection either by the township or by the authorized waste hauler of the township as follows:

- (1) *Approved containers.* Containers for refuse shall be a galvanized metal or hard plastic type of garbage container not exceeding 96 gallons in capacity, or shall be plastic bags not less than two mils in thickness. All such containers shall be tightly secured by a watertight top and plastic bag containers shall be securely tied, in such manner as to prevent the contents from being spilled, blown, strewn, or molested by the forces of nature, animals, insects or persons. Waste haulers shall not remove from the premises any refuse not properly located and secured as provided in this article. The township assumes no responsibility for damage to any containers.

The maximum weight of any container when filled with rubbish and located for pick-up shall be 150 pounds, including the weight of the container. Containers shall be maintained in good condition without holes or cracks and shall be of a durable quality for the purpose intended.

All refuse containing sharp objects such as broken glass, can lids and similar materials which are to be enclosed in plastics bags permitted under this article shall be first placed within another container or otherwise sufficiently wrapped in a manner to prevent injury to the waste hauler which would otherwise result from such objects protruding or cutting through plastic rubbish bags.

- (2) *Recyclables.* All recyclables shall be placed for collection in a township approved 18- or six-gallon plastic container clearly marked for recyclables only.

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- (3) *Bulk rubbish.* All bulk rubbish accumulated on any premises, such as cardboard containers, wooden crates and similar rubbish, shall be flatted and tied in bundles or packed in a suitable container and in no case shall any such bundle be larger than two feet by three feet, nor weigh more than 60 pounds. Large non-combustible and bulk rubbish shall be separated and shall be in no case intermingled with refuse or placed in refuse receptacles.
 - (4) *Brush.* All brush shall be cut into three-foot lengths and tied into bundles weighing not more than 60 pounds.
 - (5) *Proper containment required.* Improperly contained garbage, rubbish, solid waste, yard waste, and/or recyclables or other refuse will be left and not removed by the waste hauler.
 - (6) *Placement of containers.* It shall be the duty of the owner/occupant of a residential dwelling unit to have the refuse which has accumulated normal to the incidental use of such premises, placed in an approved container once each week according to the day of the week scheduled for their garbage collection at a location which is near the public or private road right-of-way abutting the realty. The container shall be placed as close as possible within the road right-of-way and no such container shall be placed upon any sidewalk. If the refuse containers are not accessible, the owner/occupant will be responsible for proper disposal of the refuse. Any owner/occupant who has a larger quantity of refuse than the normal or average amount for the same type of premises, may make special arrangements with the authorized waste hauler. It shall be unlawful for any person to place or authorize the placement of containers along the road right-of-way for collection prior to 5:00 p.m. of the day preceding the day established for collection, or fail to remove the containers prior to midnight on the day of collection.
 - (7) *Storage of containers.* Refuse may be stored outside of the building or structure while refuse is being accumulated for pick-up. The refuse shall be kept in a container(s) and shall not be stored in the required rear-yard setback or the principal front yard (the area between the front of the housing unit and the street to which the house is addressed).
 - (8) *Multi-family dwelling units.* Multiple dwellings, apartment buildings, town houses and/or condominium developments may utilize a dumpster for collection purposes. The dumpster must be a metal container which is both waterproof and rodent proof. Such container shall be a "front load container" with a capacity of two, three, four, six or eight cubic yards. Such containers shall be wind proof and equipped with a lid that a front-loading waste hauling vehicle will automatically open for dumping purposes. Such lid shall otherwise remain closed at all times.

(Ord. No. 368, § 8, 5-10-2010; Ord. No. 388, § 2, 1-14-2016)

Sec. 74-77. Construction debris.

It shall be the duty of the owner/occupant of a residential dwelling unit to maintain the site clean and free of excess debris during construction and to remove from the premises within a reasonable time after the completion of such construction work, all surplus construction material and all refuse building material. Such materials shall be removed from the township or disposed of within the township in accordance with the direction of the township supervisor or his authorized representative. Such materials shall not be placed for the normal weekly collection.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-78. Large bulky items.

An owner/occupant of a residential dwelling unit who has large bulky items for disposal, such as washing machines, dryers, water heaters and similar refuse, may have such items picked up in accordance with special

arrangements being made in advance with the authorized waste hauler, which arrangements shall include the time and place of pick-up. It shall be the responsibility of the owner/occupant to have the refuse at the location designated by the waste hauler prior to the time of collection. Waste haulers shall not enter buildings or structures for collection of large bulky items or related refuse. Collection of large bulky items may be subject to additional charges. Such charges shall be the responsibility of the owner/occupant and billed in accordance with procedures as established by resolution of the township board.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-79. Hazardous waste.

Hazardous waste shall not be collected by the authorized waste hauler on the normal, regular weekly pick-up. Lawful and proper disposal of hazardous waste shall be the responsibility of the owner/occupant of the residential dwelling unit.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-80. Collection schedule.

Every residential dwelling unit within the township shall have its refuse collected according to the district in which they are located and in accordance with collection schedule established by the township board. Such schedule may be modified by resolution of the township board. In event the township or the authorized waste hauler has a legal holiday within any calendar week, the refuse will be collected the following day excluding holidays and Sundays, unless published to the contrary.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-81. Rates; billing for refuse collection.

The owner/occupant of a residential dwelling unit shall be charged at a rate per month for refuse collection and disposal as established by resolution of the township board from time to time.

- (1) *Rates.* The authorized waste hauler shall charge fees for collection and disposal of refuse placed for collection as established and set forth in the contract between the waste hauler and the township. Rates for collection and disposal of refuse shall be set forth in a resolution adopted by the township board of trustees.
- (2) *Billing procedure.* Charges for refuse collection and disposal shall be subject to a change in billing procedure as determined by the resolution of the township board. The initial bill may be less than or greater than one month or one quarter period. Bills shall be furnished to each owner-occupant having control over the premises in the township for the services rendered during the preceding month and/or quarter of any calendar year or fraction thereof. Such bill may be contained within the regular water billings of the township or in any other manner as determined by the township.
- (3) *Delinquent account.* If said bill for municipal services is not paid by receipt of the charges thereon by the township no later than the due date, an additional ten percent penalty shall be added and such charge with its penalty shall be carried to the next billing and added on with an additional penalty to be added to each successive billing after the first billing until the account is paid in full. The township may use whatever appropriate legal action is available for the collection of said billings, including the placing of any delinquent bill on the property tax rolls for collection.

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- (4) *Payment of charges.* Payment for the charges contained in this Chapter shall be made to the Treasurer of Harrison Township, Macomb County Michigan, unless the billing card or invoice sent for such service shall designate a different department of the township.
 - (5) *Amendment to charges.* All charges for the services rendered under this chapter or municipal service may be changed from time to time by resolution of the township board.
 - (6) *Change in owner/occupant.* It shall be the duty of any owner/occupant to notify the township supervisor if the premise is being vacated between billing periods and to pay for all services rendered based upon the number of collections and to pay for all charges for any other type of collection within a portion of a month being billed for the entire month. It shall be the duty of any owner/occupant entering into any premises within the township to contact the supervisor immediately in order that the new name of the person to be billed will be immediately registered and to avoid delays in collection. No owner/occupant shall allow or place refuse for collection other that which originates from their premises.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-82. Authorized waste hauler.

It shall be unlawful for any person, firm, partnership, corporation, association or other business entity to collect or haul garbage, rubbish, refuse or waste deposited for collection in accordance with this article unless the hauler is authorized by resolution of the township board.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-83. Indemnification.

The authorized waste hauler shall, at its sole cost and expense, fully indemnify, defend and hold harmless the township, its board members, officers, boards, commissions and employees against any and all claims, demands, suits, judgments, executions, liability, expense, debt, damages or penalty whatsoever, or any amount paid in compromise thereof (including but not limited to expenses for reasonable legal fees and disbursements and liabilities assumed by township in connection therewith), arising out of or connected with the performance of waste hauling activities.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-84. Performance bond.

- (a) *Required.* An authorized waste hauler shall, at its sole cost and expense, obtain and maintain during the life of the contract, a corporate surety bond with a United States surety company authorized to do business in the State of Michigan and found acceptable by the township attorney, in the amount of \$400,000.00 to guarantee full performance of its obligations and faithful adherence to all requirements of this article and all terms of any contract entered into with the township. The authorized waste hauler shall provide this corporate surety bond or suitable equivalent to the township at least 30 days prior to commencement of its duties pursuant to its contract with the township.
- (b) *Rights reserved.* The rights reserved to the township with respect to the bond are in addition to all the rights of the township, whether reserved by this article, terms of the contract, or authorized by law; and no action, proceeding or exercise of a right with respect to such bond shall affect any other right the township may have.

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- (c) *Required endorsement.* The bond shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until sixty (60) days after receipt by the Township by registered mail, a written notice of such intent to cancel or not to renew."

Receipt of the 60-day notice shall constitute a material breach of any contract entered into between the waste hauler and the township, granting the township the right to call in the bond.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-85. Selection of authorized waste hauler.

A sealed competitive bid procedure shall be utilized for the selection of an authorized waste hauler. The township board shall develop bid specifications for same. The township board is authorized to include in the bid specifications those requirements, conditions and specifications determined to be reasonably related to:

- (1) Promoting and protecting the public health, safety and welfare;
- (2) Providing appropriate services to single family residential sites within the township;
- (3) Promoting the general understanding of and need for resource recovery, recycling and composting;
- (4) The collection and disposal of solid waste, recyclable material and yard waste from all single family residential sites;
- (5) A household hazardous waste collection and disposal program;
- (6) The rates and charges for the services of the authorized waste hauler for residential dwelling units within the township;
- (7) Procedures for the collection of rates and charges for services rendered or to be rendered to each residential dwelling unit by the authorized waste hauler;
- (8) A contractual obligation to provide collection and disposal service to residential dwelling units as requested at the rates and charges specified;
- (9) The submission of reports describing the volume of solid waste, recyclable materials and yard waste generated in the township and the location of sites of generation, as well as other reports required by the supervisor to determine the efficiency and effectiveness of the proposed waste hauler collection and disposal program;
- (10) Provisions for the termination by the township of the waste hauler in the event of the failure of the performance of the waste hauler;
- (11) The rights of the township in the event of a breach of contract by the waste hauler;
- (12) Operational specifications for collection trucks and equipment, number of employees, maintenance facilities, container handling, schedules and routes, and citizens complaints;
- (13) The right of the township to inspect the record and operations of the waste hauler;
- (14) A provision for a multi-media informational program with respect to resource recovery, recycling and composting;
- (15) A requirement that the waste hauler comply with applicable federal and state laws, ordinances, as well as rules and regulations related thereto;
- (15) A requirement that the waste hauler secure and maintain in good standing all permits and licenses required by federal and state law, local ordinance, as well as rules and regulations related thereto;

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- (16) Other miscellaneous requirements and provisions as may be specified by the township supervisor, including but not limited to, dumpster service at municipal buildings and facilities, a recyclable material drop-off center and spring clean-up assistance.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-86. Insurance.

- (a) *Insurance required.* Any waste hauler hired by resolution of the township board shall at all times or for the term of the contract carry public liability, property damage, workers compensation and vehicle insurance in the form and amount set forth below. All insurance shall provide for a 60-day notice to the township in the event of a material alteration or cancellation of coverage prior to the effective date of such alteration or cancellation. Failure to provide or maintain insurance shall render any contract entered into between the township and waste hauler null and void. Insurance requested herein shall be provided by an insurance company(s) licensed to conduct business in the state with a current rating no less than "A" by A.M. Best Company and shall be approved by the township and township attorney. The authorized waste hauler shall procure and maintain during the life of the contract the following:
- (1) Workers compensation insurance in accordance with all applicable statutes of the state. Coverage shall include employer's liability coverage.
 - (2) Commercial automobile liability coverage, including Michigan No-fault Coverage for all vehicles used in the performance of the contract. Limited liability shall not be less than \$1,000,000.00 per occurrence combined single limits bodily injury and property damage. Commercial automobile liability coverage must include coverage for all autos, owned, non-owned and hired.
 - (3) Commercial liability coverage, not less than \$1,000,000.00 per occurrence; \$1,000,000.00 general aggregate; \$1,000,000.00 personal and advertising injury; \$1,000,000.00 products/completed operations aggregates; \$500,000.00 fire damage to real property; and \$5,000.00 medical payments. Coverage shall not exclude contractual liability, explosion, collapse or underground hazards.
 - (4) Umbrella liability, not less than \$3,000,000.00 each occurrence and \$5,000,000.00 general aggregate. Coverage shall be umbrella form and not excess insurance. Pollution liability shall be included in coverage.
 - (5) Pollution liability coverage, occurrence or claims made forms are acceptable with limits not less than \$2,000,000.00 each occurrence/aggregate or \$2,000,000.00 general aggregate/per project. Coverage shall include clean-up costs, on and off the site including transportation, and liability to third parties.
- (b) *Additional insured.* The township shall be named as an additional insured on all policies. The authorized waste hauler shall provide the township with a certificate of insurance evidencing such coverage upon the effective date of the contract and maintain on file with the township a current certificate throughout the term of the contract.
- (c) *Proof of insurance.* The authorized waste hauler shall supply a copy of all insurance policies required under this section no later than 30 days prior to commencement of its duties pursuant to the contract with the township.

(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-87. Destruction.

It shall be unlawful for any person to damage or destroy the bags or containers of refuse, waste, garbage or rubbish placed for storage or pick-up by the authorized waste hauler.

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(Ord. No. 368, § 8, 5-10-2010)

Sec. 74-88. Enforcement.

This article shall be enforced by the township ordinance enforcement officer or other individual duly appointed by resolution of the township board.

(Ord. No. 368, § 8, 5-10-2010)

Chapter 78 TAXATION⁵⁷

Sec. 78-1. Application for tax exemption certificates; fee schedule.

- (a) Pursuant to the guidelines set forth in this section, the township board shall establish by resolution the fees to be charged which shall accompany any application for a tax exemption certificate for a parcel of property situated within an industrial development district or commercial redevelopment district within the township. This fee shall be uniform for all individual applicants for tax abatement and shall be nonrefundable. All resolutions establishing such fees pursuant to this section shall be kept on file in the office of the township clerk and shall be made available for inspection upon request.
- (b) All fees established by resolution pursuant to this section shall become effective upon the publication of the resolution and shall be in effect for all applications for tax exemption certificates received thereafter by the township. The fees shall apply regardless of the date of the establishment of the industrial development district or commercial redevelopment district acting as the basis for the application.

(Comp. Ords. 1988, §§ 12.401, 12.402)

State law reference(s)—Industrial development districts, MCL 207.551 et seq.; industrial exemption certificate application fee authorized, MCL 207.555; Commercial Development Act, MCL 207.651 et seq.

Chapter 82 TELECOMMUNICATIONS⁵⁸

ARTICLE I. IN GENERAL

⁵⁷Cross reference(s)—Any ordinance promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness saved from repeal, § 1-12(a)(3); any ordinance authorizing or approving any contract, deed or agreement saved from repeal, § 1-12(a)(4); any ordinance making or approving any appropriation or budget saved from repeal, § 1-12(a)(5); any ordinance levying, imposing or otherwise relating to taxes or fees in lieu of taxes not codified in this Code saved from repeal, § 1-12(a)(10); any ordinance levying or imposing any special assessment saved from repeal, § 1-12(a)(12); administration, ch. 2; finance, § 2-191 et seq.; businesses, ch. 22.

State law reference(s)—General Property Tax Act, MCL 211.1 et seq.

⁵⁸Cross reference(s)—Utilities, ch. 90; zoning, app. A; communication towers and antennas, app. A, § 3.26.

Secs. 82-1—82-30. Reserved.

ARTICLE II. CABLE TELEVISION⁵⁹

DIVISION 1. GENERALLY

Sec. 82-31. Definitions.

Unless otherwise defined in the franchise agreement, the following terms, when used in this article, shall have the meaning provided:

Basic cable service means any service tier which includes the retransmission of local television broadcast signals.

Board means the board of trustees for the township.

Cable communication system, cable system, cable television system and *system* mean a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed in whole or in part to provide cable service which includes video programming and which is provided to multiple users for a fee within a community. Such term does not include:

- (1) A facility serving only to transmit television signals of one or more television broadcast stations;
- (2) A facility that serves only subscribers in only one or more multiple-unit dwellings, unless such facility uses any public easement in the public right-of-way;
- (3) A facility of a common carrier, subject in whole or in part to title 11 of the Commission Act of 1934, as amended, except that such facility shall be considered a cable system to the extent that such facility is used, whether on a common carrier basis or otherwise in the transmission of video programming to a subscriber; or
- (4) Any facilities of any electric utility used solely for operating its electric utility system where no video programming to subscribers occurs.

Cable service means either or both of the following:

- (1) One-way transmission to subscribers of video programming or other programming service;
- (2) Subscriber interaction, if any, which is involved in video programming or other programming service.

Channel and *cable channel* mean a portion of the electromagnetic frequency spectrum which is used in a cable system which is capable of delivering a television channel.

Education, government access facilities and *E/G access facilities* mean either or both of the following:

- (1) Channel capacity designated exclusively for noncommercial educational or government use;
- (2) Facilities and equipment for the use of such channel capacity.

⁵⁹Cross reference(s)—Harron cable television franchise agreement ordinance, app. B.

Franchise means an initial authorization or renewal issued by the board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes in whole or in part the construction or operation of a cable system.

Franchise agreement means a franchise grant, ordinance or contract containing provisions associated with the franchise granted, including but not limited to references, specifications, requirements and related matters.

Franchise fee means any fee or assessment imposed by the township or any other governmental entity on a grantee or cable subscriber or both as a result of their status. The term "franchise fee" shall not include:

- (1) Any tax, fee or assessment of general applicability imposed in both utilities and cable operators or their services or upon businesses or their services, but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers;
- (2) Capital costs required by the franchise to be incurred by the grantee for system expansion, upgrade, improvement, maintenance, and repair or for public educational or governmental access facilities;
- (3) Requirements or charges incidental to awarding or enforcement of the franchise, including payments for bonds, securities, funds, letters of credit, insurance indemnification, penalties or liquidated damages; or
- (4) Any fee imposed under USC title 17 or any successors or amendments.

Grantee means any person receiving a franchise pursuant to this article and the lawful successor, transferee or assignee of any such person.

Grantor and township mean the township represented by its board of trustees or any designee acting within the scope of its jurisdiction and delegated authority.

Gross annual receipts means the annual gross receipts received by the grantee from all sources of operation of the cable television system within the township utilizing the public streets and rights-of-way for which a franchise is required in order to deliver such cable service, in accordance with the definition of gross revenues set forth in the cable franchise agreement.

Initial service area means the area of the township which will receive service initially as set forth in any franchise agreement.

Installation means the connection of the system to subscribers' terminals and the provision of service.

Service area and franchise area mean the entire geographic area within the township now constituted or in the future as may be constituted unless specified otherwise, in any franchise issuing ordinance or agreement.

Service tier means a category of cable services provided by the grantee and for which a separate rate is charged by the grantee.

Street means each of the following dedicated to the public situated within the township limits: streets, roads, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way, and similar public property areas that the grantor shall in writing permit to be included within the definition of street from time to time.

Subscriber means any person who elects to subscribe for any purpose to a service provided by the grantee by means of or in connection with the cable system or who pays the charges for such service.

(Ord. No. 326, § 1.2, 9-28-1998)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 82-32. Findings.

The township finds that the public health, safety and welfare is best benefited and served by establishing regulatory powers as authorized by state and federal law involving cable television systems. The board of trustees finds that cable television systems have great impact upon the residents of the township and are subject to complex and rapidly changing technology. Regulation at the local municipal level where authorized by state and federal law is deemed to benefit public health, safety and welfare.

(Ord. No. 326, § 1.1(B), 9-28-1998)

Sec. 82-33. Severability.

If any provision of this article is held by any court or by federal or state agency of competent jurisdiction to be invalid or as otherwise modified in any way in order to conform to the requirements of such law, such provision shall be considered separate and distinct, such holdings shall not affect the validity and enforceability of all other provisions. If such law, rule or regulation is subsequently appealed, rescinded, amended or modified removing the invalidity, such provision shall be deemed to again be in full force and effect provided the grantor shall give the grantee 30 days' written notice of such change before requiring compliance.

(Ord. No. 326, § 1.54, 9-28-1998)

Sec. 82-34. Administration; delegation of powers and authority.

- (a) The board/grantor is designated as the issuing authority entity which is responsible for the continuing administration of this article.
- (b) Unless prohibited by federal or state law, however, the board/grantor may delegate administrative responsibility with respect to this article to the cable advisory committee or one or more officers or employees of the issuing authority.
- (c) The board/grantor may never delegate its franchising or revocation power to another person.

(Ord. No. 326, § 1.3, 9-28-1998)

Cross reference(s)—Administration, ch. 2.

Sec. 82-35. Applicability of this article to a grantee.

- (a) This article is not intended to repeal and does not have the effect of repealing any current franchising agreement that presently exists between the grantor and a franchised grantee.
- (b) As a result of subsection (a) of this section, the provisions of this article shall have no effect on an existing franchise agreement until the expiration of the existing franchise agreement or until, prior to the expiration of the franchising agreement, the board/grantor and the affected grantee either execute an amended franchise or renewal franchise agreement in which both parties agree to be bound by the terms of this article (except as specifically granted relief, exemption, clarification or comparable policy), or both parties agree to a specific date for expiration of the existing franchise which is prior to the present expiration date.

(Ord. No. 326, § 1.6, 9-28-1998)

Sec. 82-36. Grantee providers or their assignees subject to article and future ordinances.

A grantee, its assigns or transferee, shall be subject to and expected to comply with all ordinances now or hereafter adopted and in effect within the township, including this article, to the extent that the grantee has not received an exemption or relief from such ordinance or this article, or not in conflict with any terms of the grantee's cable franchise agreement.

(Ord. No. 326, § 1.7, 9-28-1998)

Sec. 82-37. Federal or state jurisdiction.

- (a) This article shall be construed in a manner consistent with all applicable federal and state laws.
- (b) In the event of a discontinuance of federal or state preemption in any area involving cable service or cable systems resulting in an expansion of potential municipal regulatory authority, the grantor may in its discretion adopt reasonable rules and regulations, provided such rules and regulations will not substantially and materially adversely affect the grantee or the grantee's obligations under the franchise.
- (c) The provisions of this section shall apply to all franchises granted or renewed after the effective date of this article and to the extent permitted by applicable federal and state law to preexisting franchises granted prior to the effective date of this article.

(Ord. No. 326, § 1.11, 9-28-1998)

Sec. 82-38. Township cable television committee.

- (a) The township board shall establish a standing cable television committee of such number of members as it shall determine is necessary and appropriate from time to time, which committee shall be a recommending body to the board in all matters relating to the implementation and operation of this article and the cable system as provided in this article. Any previous committee in existence on September 28, 1998, shall be deemed to be established pursuant to the terms of this article.
- (b) The township board reserves the right to change or modify the authority or powers of such committee from time to time as it may determine appropriate. Grantees shall cooperate with the township in all matters pertaining to access programming. The township and its committee shall not interfere, regulate or participate in the management and day-to-day operation of any grantee's business except as may otherwise be expressly provided in this article or any franchise agreement, and as permitted by law. The grantee, to the extent practical, will endeavor to inform the committee of material changes in the operation and programming of the cable system at monthly cable committee meetings, or otherwise in a reasonable manner.
- (c) Membership of the committee shall be appointed by the township board, and membership number and duration shall be established by resolution of the township board.

(Ord. No. 326, § 1.25, 9-28-1998)

Sec. 82-39. Unauthorized consumer use.

It shall be unlawful for any person to attach, fix or cause to be attached or affixed any equipment or device or to otherwise modify the cable system which allows access or use of the cable system without payment to the grantee for the use.

(Ord. No. 326, § 1.21, 9-28-1998)

State law reference(s)—Tampering with utility property, MCL 750.383a.

Secs. 82-40—82-60. Reserved.

DIVISION 2. FRANCHISE

Sec. 82-61. Required.

It shall be unlawful for any person to construct, install or operate a cable television system in the township within any public street without a propriety-granted franchise awarded pursuant to this division.

(Ord. No. 326, § 1.5, 9-28-1998)

Sec. 82-62. Franchise to install and operate.

The franchise granted by the township shall encompass the following purposes:

- (1) To operate a cable television system and engage in the business of providing cable television service and, as mutually agreed, such other services as may be permitted by law to subscribers in the designated service area.
- (2) To erect, install, construct, repair, rebuild, reconstruct, replace, maintain, and retain cable lines, related electronic equipment, supporting structures, appurtenances and other property in connection with the operation of the cable system in, on, over, under, upon, along and across streets, public places and utility easements within the designated service area.
- (3) To maintain and operate a cable television system for the origination, reception, transmission, amplification and distribution of television and radio signals and for the delivery of cable services.
- (4) To set forth the obligations of a grantee under the franchise.
- (5) To comply with the ordinances, resolutions and regulations of the township, including zoning ordinances and applicable state and federal laws.

(Ord. No. 326, § 1.4, 9-28-1998)

Sec. 82-63. Applications.

- (a) Unless otherwise stated in the franchise agreement, any person desiring an initial franchise for a cable system shall file an application with the township. A nonrefundable application fee established by the township shall accompany the application. If additional costs are incurred exceeding the application fee, the applicant shall pay the difference to the township within 30 days following receipt of an itemized statement of such costs, which may include financial, legal, technical evaluation, administrative review, costs for additional special board meetings, notice and public costs.
- (b) Unless otherwise stated in the franchise agreement, applications for cable systems shall contain, where applicable:
 - (1) A statement as to the proposed franchise and service area.

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- (2) Resume of prior history of the applicant, including expertise of the applicant in the cable television field.
 - (3) List of partners, general and limited, except where limited partnerships are offered through sale upon a recognized stock exchange, a list of shareholders and shares controlled except where stock is offered for public trading through a stock exchange. Notwithstanding, all partners or shareholders owning or controlling in excess of five percent shall be listed.
 - (4) Officers, directors and managing employees of applicant, together with a description of experience and background.
 - (5) Names and addresses of any parent or subsidiary of applicant or any other business entity owning or controlling applicant in whole or in part or owned or controlled in whole or in part by applicant.
 - (6) Current financial statement of applicant, verified by a certified public accountant audit, or otherwise certified to be true, complete and correct to the satisfaction of the township.
 - (7) Proposed construction and service schedule.
 - (8) Any reasonable further information deemed applicable in the discretion of the grantors.

(Ord. No. 326, §§ 1.16, 1.17, 9-28-1998)

Sec. 82-64. Application consideration.

- (a) Unless otherwise stated in the franchise agreement, upon receipt of any application for an initial franchise, the cable television committee or its successor shall prepare a report and make recommendation respecting such application to the township board.
- (b) Unless otherwise stated in the franchise agreement, a public hearing shall be set at a date and time approved by the board. Such public hearing may be extended within the discretion of the township. Within 30 days after the close of the hearing, the board shall make a decision based upon evidence received whether or not to grant the franchise requested, and if granted, subject to what conditions. The board may grant one or more franchises or may decline to grant any franchises. Among criteria to be reviewed in determining whether to grant a franchise or impose conditions shall be the following:
 - (1) Benefits accruing as a result of further competition and improved service.
 - (2) Technical expertise and background of the applicant.
 - (3) Other reasonable criteria as may be established by the grantor.

(Ord. No. 326, § 1.18, 9-28-1998)

Sec. 82-65. Term.

A franchise granted shall be for a term established in the franchise agreement, commencing on the grantor's adoption of an ordinance or resolution authorizing the franchise. The franchise granted may be renewed upon application by the grantee pursuant to the provisions of this article and applicable state and federal law.

(Ord. No. 326, § 1.8, 9-28-1998)

Sec. 82-66. Renewal.

Franchise renewal shall be in accordance with applicable law, including the Cable Communications Act of 1984. The grantor and the grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the franchise upon mutual execution of the franchise renewal agreement.

(Ord. No. 326, § 1.19, 9-28-1998)

Sec. 82-67. Fee.

- (a) Following the issuance and acceptance of the franchise, the grantee shall pay the grantor a franchise fee in the amount and upon terms set forth in the franchise agreement.
- (b) The grantor, on an annual basis, shall be furnished a statement within 60 days within the close of the calendar year, either audited or certified by a certified public accountant or certified by an office of the grantee, reflecting total gross annual receipts and all payments, deductions and computations for the period covered by the payment. Such statement shall provide itemization and identification of all sources of revenue by category, including but not limited to subscriber fees, royalties, lease payments, and other revenue sources. Upon ten days' prior written notice, the grantor shall have the right to conduct an independent audit of the grantee's records in accordance with generally accepted accounting procedures. If such audit indicates a franchise fee underpayment of three percent or more, the grantee shall assume all reasonable costs of such audit.
- (c) Except as otherwise provided by law, no acceptance of payment by the grantor shall be construed as a release or as an accord or satisfaction of any claim the grantor may have for further or additional sums payable or for the performance of any other obligations of the grantee.
- (d) If any franchise payment or recomputed amount is not made on or before the date specified in the franchise agreement, the grantee shall pay as additional compensation:
 - (1) An interest charge computed from due date at an annual rate, equal to the prime lending rate as published in the "Money Rate" section of the Wall Street Journal.
 - (2) If the payment is late by 45 days or more, a sum equal to five percent of the amount due in order to defray those additional expenses and costs incurred by the grantor by reason of delinquent payment. Such sums shall be charged against portions unpaid only where partial payment is made.
- (e) Franchise fee payment shall be made in accordance with the schedule indicated in the franchise agreement.

(Ord. No. 326, § 1.27, 9-28-1998)

Sec. 82-68. Security fund.

- (a) The grantor may require the grantee to deposit into an interest-bearing account established by the grantor and the grantee the sum established in the franchise agreement as a security fund. This sum shall be maintained on deposit in a bank or savings and loan for a term as provided in the franchise agreement, with any interest payable to the grantee.
- (b) The security fund shall be available to the grantor to satisfy all claims, liens or taxes due the grantor from the grantee which arise by reason of construction, operation or maintenance of the system and to satisfy any actual or liquidated damages arising out of franchise breach, subject to procedures and amount designated in the franchise agreement.

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- (c) Subject to approval as to form and issuer by the grantor, the security fund requirements may be satisfied by conveyance of an irrevocable letter of credit or by provision of a corporate surety bond issued by a Best A-rated insurance company in a form provided by the grantor.

(Ord. No. 326, § 1.28, 9-28-1998)

Sec. 82-69. Hold harmless.

The grantee shall indemnify, defend and hold harmless the grantor, its officers, agents, employees and professional consultants, from any and all liability, claims, damages, costs or expense, including reasonable actual attorney's fees arising from injury and damages to persons or property to the extent caused in whole or in part by acts or omissions undertaken by the grantee, its officers, agents, employees, consultants and contractors, selected by the grantee. The grantee shall at its sole costs and expense upon demand of the grantor either appear and defend any and all suits or provide counsel at reasonable expense to the grantee for actions or other legal proceedings brought or instituted or had by third persons or duly constituted authorities against the grantor, its officers, agents or employees, and arising out of any acts or omissions of the grantee, its agents, employees, consultants and independent contractors, selected by the grantee within the scope of this indemnity. The grantor may appoint co-counsel at its sole expense, and such acts shall not modify or waive the indemnification granted in this section.

(Ord. No. 326, § 1.31, 9-28-1998)

Sec. 82-70. Insurance.

- (a) The grantee, prior to commencement of franchise operations, shall obtain policies of liability, workers compensation and property insurance from companies authorized to transact business in the state which are Best A-rated companies.
- (b) Liability insurance shall:
- (1) Be issued to the grantee and name the grantor, its officers, agents, employees and professional consultants, as additional insured.
 - (2) Indemnify for all liability for personal and bodily injury and damage to property arising from activities conducted and premises used pursuant to this article by providing coverage, including but not limited for:
 - a. Negligent acts or omissions;
 - b. Use of motor vehicles; and
 - c. Personal injury, including defamation and invasion of privacy.
 - (3) Provide a combined single limit in the amount provided for in the franchise agreement.
 - (4) Provide for notice to the grantor at least 30 days prior to any cancellation.
- (c) Workers compensation insurance shall:
- (1) Be approved as to substance and form by the state insurance commissioner.
 - (2) Cover all employees of the grantee using definitions of employee as applicable to workers compensation matters in the state, which employees are involved with franchise operations between the grantor and the grantee.
 - (3) Provide for every benefit and payment conferred by state statute upon an injured employee.

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- (d) Property insurance shall provide fire and multiperil insurance coverage with extended coverage on franchise property used by the grantee in an amount adequate to enable the grantee to resume franchise operations following the occurrence of any risk covered by this insurance. Property insurance shall also provide for damage to property of third persons by acts or omissions of the grantee, its agents, employees and contractors, in an amount as set forth in the franchise agreement.
 - (e) Certified copies of insurance policies or a certificate of insurance evidencing such policy shall be provided to the department head of cable television, as requested; and in all cases insurance shall be prepaid for at least a six-month period.
 - (f) Conduct of franchise operations shall not commence until compliance with provisions of this section.
 - (g) If the grantee fails to maintain any of the required policies in full force and effect, the grantor, upon 48 hours' notice to the grantee shall have the right to procure the required insurance and recover the costs from the grantee. The grantee shall also have the right to suspend or revoke the franchise if the grantee fails to maintain the policies in full force and effect. The grantor shall have the right to request cover limit increases and other insurance terms and conditions in any franchise agreement.

(Ord. No. 326, § 1.32, 9-28-1998)

Sec. 82-71. Franchise territory.

A franchise shall be valid within the territorial limits of the township and within any area added during the term of the franchise and within any area subject to conditional property transfer pursuant to Public Act No. 425 of 1984 (MCL 124.21 et seq.), or intergovernmental transfer pursuant to Public Act No. 8 of 1967 (Ex. Sess.) (MCL 124.531 et seq.), or in any other similar state law, provided the grantor, in its sole discretion, consents to such an extension in writing.

(Ord. No. 326, § 1.9, 9-28-1998)

Sec. 82-72. Grantor's retained rights and authorities.

- (a) Subject to preemption by or other approval authority of the FCC or any other federal or state governmental entity or agency, the grantor retains the authority to provide for:
 - (1) The regulation of any multichannel system within the geographical limits of the issuing authority, and within the limits prescribed by applicable law.
 - (2) The award and grant of a grantee franchise (where required) subsequent to review of an application or proposal by the grantor.
 - (3) The periodic review and/or amendment or repeal of all or part of this article, except as it may unilaterally impose substantial capital requirements not anticipated in the franchise agreement.
 - (4) If mutually agreed to with a franchised grantee provider, the periodic review and/or amendment of any existing franchise agreement.
- (b) Subject to preemption by or other approval authority of the FCC or any other federal or state governmental entity or agency, the grantor authority retains the jurisdiction to enforce all laws and regulations relating to multichannel customer service practices and consumer protection.

(Ord. No. 326, § 1.10, 9-28-1998)

Sec. 82-73. Franchise nontransferable.

- (a) The grantee shall not sell, assign, transfer, lease, sublease, dispose of, pledge or encumber in whole or in part, sell, voluntarily or involuntarily, consolidate or otherwise permit a change in ownership management and control over the franchise existing as of the issuance of franchise or any rights or privileges therein granted without the prior consent expressed by resolution of the township board, which shall not be unreasonably withheld. The foregoing shall not require the township board to consent to any transfer or change in control where it does not find adequate evidence that the transferee has the necessary legal or technical qualifications to carry out the terms of the franchise. The issuance of a security interest by the grantee in any trade fixtures shall not be considered a transfer for purposes of this section.
- (b) The requirements of subsection (a) of this section shall apply to any change in control or the grantee. The word "control" as used includes ownership control and actual working control as exercised through direct management of day-to-day activities associated with implementation of the franchise. Prior authorization of the board shall be required where ownership or control of more than 25 percent of the voting stock of the grantee is acquired by any person or group of persons acting in concert if the grantee is a corporation.
- (c) The grantee shall forthwith notify the grantor in writing of any foreclosure proceeding instituted or any other judicial sale of all or a substantial part of the franchise property of the grantee or upon the termination of any lease or interest involving all or a substantial part of franchise property. Such notification shall be deemed conclusive as notice to the grantor that a change in control of ownership of the franchise has occurred and the provisions governing consent of the grantor to such change shall apply.
- (d) In seeking the grantor's consent to any change in ownership or control, the grantee shall be responsible for providing that the transferee provides information requested by the grantor relating to financial, legal and technical qualifications on the part of the prospective transferee and its ability to carry out the terms of the franchise, and executes all necessary applications and forms. Notice of a proposed transfer and information regarding qualification shall be submitted in all cases no less than 60 days prior to the prospective date of any transfer, and acted upon by the grantee within 120 days after complete information requested is furnished.
- (e) Upon the consent of the grantor, any creditor having the pledge of the grantee or its assets for the advancement of money for construction or operation of the franchise, upon the grantee's default in its obligation shall be permitted to take control and operate the cable television system. A plan shall be submitted for such operation at least 30 days prior to assuming such control, setting forth qualifications and technical capability to operate and maintain the system and comply with all franchise requirements. Control over such system shall not be exercised for a period exceeding one year unless extended in writing by the grantor in its discretion.
- (f) The grantee and any financial institution shall reimburse the grantor to the extent specified in the franchise agreement for all reasonable legal and administrative expenses in connection with transfer of the franchise or control of the franchise, including but without limitation administrative review, financial, legal and technical evaluation, document preparation expenses, notice and publication costs.

(Ord. No. 326, § 1.12, 9-28-1998)

Sec. 82-74. Nonexclusive franchise.

The franchises granted shall be nonexclusive. The grantor reserves the right to grant at any time additional franchises for a cable television system or any component of such system within its discretion, subject to applicable state and federal law.

(Ord. No. 326, § 1.14, 9-28-1998)

Sec. 82-75. Multiple franchises.

- (a) The grantor may grant any number of franchises on a township-wide or limited service area basis. The grantor may limit the number of franchises granted based upon but not necessarily limited to considerations such as:
 - (1) The capacity of the public right-of-way to accommodate equipment and fixtures of cable system operators and other public utilities.
 - (2) Benefits accruing to cable subscribers as a result of cable system competition, such as lower rates and approved service.
 - (3) Disadvantages from competition such as installation of unsightly aboveground fixtures or equipment and disruptions from excavation or construction in the right-of-way.
- (b) Grantees awarded a franchise to serve the entire township shall offer service to all residents in accordance with construction and services schedules agreed upon mutually between the grantor and the grantee consistent with applicable law.
- (c) The grantor may require that any new grantee be responsible for underground trenching and associated costs if, in the grantor's sole opinion, the right-of-way in a particular area cannot feasibly and reasonably accommodate aboveground installation.

(Ord. No. 326, § 1.15, 9-28-1998)

Sec. 82-76. Power to revoke.

The grantor reserves the right to revoke any franchise pursuant to this article and rescind all rights and privileges associated with it. If not timely removed, the grantor may arrange for and remove such equipment and facilities and pursue any and all remedies to offset costs, including proceeding against security deposits or bonds.

(Ord. No. 326, § 1.43, 9-28-1998)

Sec. 82-77. Receivership and foreclosure.

- (a) At the option of the grantor, a franchise shall be deemed to cease and terminate 120 days after appointment of a receiver or trustee in bankruptcy or otherwise to take over and/or conduct business of the grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship has been vacated prior to the expiration of 120 days or unless the grantor otherwise agrees in its sole discretion to continuation.
- (b) In the case of foreclosure or other judicial sale of franchise property or any material part of such property, the grantor may serve notice of termination to the grantee; and all rights and privileges shall cease and terminate 30 days after service of such notice unless the grantor agrees otherwise in its sole discretion in writing.
- (c) The exercise of remedies provided in this section shall not excuse the grantee or its successors from full compliance with the provisions of this agreement involving removal, restoration and duties following termination.

(Ord. No. 326, § 1.48, 9-28-1998)

Sec. 82-78. Rights reserved to grantor.

- (a) The grantor reserves to itself every right and power, including all remedies and authority unless otherwise expressly excepted by the provisions of this article or any franchise agreement.
- (b) The grantor shall have the right to waive any provision of any franchise agreement except those required by law if the grantor determines:
 - (1) It is in the interest of public safety, health and welfare to do so.
 - (2) That enforcement of such provision shall impose undue hardship upon the grantee, subscribers or both.

Waivers shall be evidenced by a resolution of the board. A waiver shall not be deemed a waiver of any other provision or an entitlement to further or future waivers unless the statement so recites.

(Ord. No. 326, § 1.49, 9-28-1998)

Secs. 82-79—82-100. Reserved.

DIVISION 3. OTHER REQUIREMENTS

Sec. 82-101. Geographic coverage.

- (a) The grantee shall design, construct and maintain the cable television system to have the capability to pass every dwelling unit in the township, subject to any service area line extension requirements of the franchise agreement.
- (b) After service has been established in the service area, the grantee shall provide service to any requesting subscriber within that service area, within 30 days from the date of request, provided the grantee is able to secure rights-of-way necessary to extend service to such subscriber within such 30-day period upon reasonable terms and conditions.

(Ord. No. 326, § 1.13, 9-28-1998)

Sec. 82-102. Privacy report.

- (a) *Required.* Upon the grantor's request, but not more than once annually, the grantee shall submit to the grantor a report indicating the degree of compliance with the provisions of rights of individuals set forth in this article.
- (b) *Cable tapping prohibited.* The grantee shall not, nor shall the grantee knowingly permit any person, agency or entity, without the customer's consent, to tap, or to arrange for the tapping, of any cable, line, signal input device or customer outlet or receiver for any purpose except routine maintenance of the system, polling with audience participation or audience viewing surveys to support advertising research regarding viewers where individual viewer behavior cannot be identified.
- (c) *Invasion of privacy and personal rights prohibited.* In the conduct of providing its services or pursuit of any collateral commercial enterprise resulting from its services, the grantee shall take all action necessary to prevent an invasion of a customer's or general citizen's right to privacy or other personal rights as such rights are defined by applicable law. The grantee shall not without lawful court order utilize the cable system's

interactive two-way equipment or capability for unauthorized personal surveillance of any customer or general citizen.

- (d) *Sale of personalized data restricted.* The grantee shall not sell or otherwise make available lists of the names and addresses of customers which identifies, by name, customer viewing habits, or personalized data pertaining to a customer's use of any of the grantee's services without the express written consent of the customer to which the personalized data pertains. For purposes of this subsection, "personalized data" shall mean the name and/or address of an individual customer directly associated with data obtained on his use as specific services provided by or through the grantee. Nothing in the cable franchise agreement shall be construed to prevent, as a normal incident of commercial enterprise, the sale or availability of nonpersonalized or aggregate data which is not personalized data as defined in the cable franchise agreement.
- (e) *Landlord/tenant.* The grantee shall be required, in accordance with the cable franchise agreement and applicable law, to provide service to individual units of a multiple-housing facility with all services offered to other dwelling units within the service area, so long as the owner of the facility consents in writing, if requested by the grantee, to the following:
- (1) To the grantee's providing of the service to units of the facility;
 - (2) To reasonable conditions and times for installation, maintenance and inspection of the system of the facility premises;
 - (3) To reasonable conditions promulgated by the grantee to protect the grantee's equipment and to encourage widespread use of the system; and
 - (4) To not demand or accept payment from the grantee for permitting the grantee to provide service to the facility and to not discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not.

(Ord. No. 326, § 1.20, 9-28-1998)

Sec. 82-103. X-rated and similar motion pictures.

The grantee shall not program, nor in any way display materials as part of basic cable or pay cable services, including Pay Per View, X-rated motion pictures or video programming or audio portions of pay channels.

(Ord. No. 326, § 1.22, 9-28-1998)

Sec. 82-104. Special service requirements for blind, hearing-impaired or ambulatory-impaired customers.

In addition to any other requirements mandated by this article, or by federal or state law, the grantee shall comply with the following special service requirements for blind, hearing-impaired or ambulatory-impaired customers:

- (1) Provide wheelchair accessibility to the grantee's customer service office;
- (2) For any customer declared legally blind by the state, the grantee must provide, if requested by such customer, large type, braille, voice synthesized or functionally equivalent notices, bills and other pertinent multichannel system information;
- (3) Provide, at a nondiscriminatory cost, a special closed-captioned converter for the hearing impaired;

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- (4) Provide, at a nondiscriminatory cost, a remote control device and/or converter for wheelchair subscribers or subscribers with a permanent medical or physical ambulatory impairment;
 - (5) Where applicable, provide modified or special instruction for use of equipment by individuals who have physical impairments; and
 - (6) In times of disaster emergency or other instances requiring an emergency alert, mandating an all-channel video blanking capability, so that all channels would be blanked simultaneously with the audio alert signal, in order to increase the likelihood that hearing-impaired and sight-impaired customers would be alerted.

(Ord. No. 326, § 1.23, 9-28-1998)

Sec. 82-105. Local office complaint procedures and service standards.

- (a) Except as otherwise provided in the franchise agreement, the grantee shall maintain within the township a local office or virtual office to provide the necessary facilities, equipment and personnel to comply with the following consumer protection and service standards under normal operating conditions, excluding emergency situations, such as weather or other emergency circumstances created other than as a result of the fault of the grantee.
 - (1) Toll-free telephone line capacity during normal business hours to ensure that a minimum of all calls will be answered before the fourth ring and 90 percent of all callers for service will not be required to wait more than 30 seconds before being connected to a service representative.
 - (2) Emergency telephone line capacity on a 24-hour basis, including weekends and holidays.
 - (3) Either service and business office in the township open Monday through Friday, adequately staffed to accept subscriber payments and explain bills and complaints, 9:00 a.m. to 5:00 p.m., and a business office in the township, open 9:00 a.m. to 5:00 p.m. adequately staffed to accept subscriber payments and timely respond to service requests and complaints or a virtual office consisting of a toll-free number which all subscribers may access from their home 24 hours a day, seven days a week, to register complaints and questions, staffed 24 hours a day by trained personnel responding to calls in conformity with subsection (a)(1) of this section and capable of timely responding to service requests and complaints.
 - (4) An emergency system maintenance and repair staff capable of responding to a repairing major system malfunction on a 24-hour-per-day basis.
 - (5) An installation staff capable of installing service to any subscriber within seven days after receipt of a request in all areas where trunk and feeder facilities have been activated.
 - (6) At the subscriber's request, the grantee shall schedule within a specified four-hour period all appointments with subscribers for installation of service.
- (b) The grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Scheduled interruptions insofar as possible shall be preceded by at least 24 hours' notice and shall occur during a period of minimum use of the cable system, preferable between 12:00 midnight and 6:00 a.m.
- (c) The grantee shall maintain a written log or an equivalent stored in computer memory and capable of access and reproduction into printed form for all service interruptions and a request for service that result in a service call.
- (d) The grantee shall maintain a repair force of technicians capable under normal circumstances in responding to subscriber requests for service within the following time frames:

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- (1) For system outage within two hours, including weekends, of receiving subscriber calls or requests for service, which by number identify the system outage of sound or picture of one or more channels affecting at least ten percent of the subscribers of the system.
 - (2) For an isolated outage within 24 hours, including weekends, of receiving request for service identifying an isolated outage of sound or picture for one or more channels.
 - (3) Where inferior signal quality within 48 hours, including weekends, of receiving a request for service identifying a problem concerning picture or sound quality.

The grantee shall be deemed to have responded to a request for service under the provisions of this section when a technician arrives at the service location and begins work on the problem. In the case of a subscriber not being home when the technician arrives, the technician shall leave written notification of arrival. Three successive subscriber failures to be present at an appointed time shall excuse the grantee of duty to respond. The grantee shall not charge for repair or replacement of defective equipment provided by the grantee to subscribers.

- (e) Unless excused, the grantee shall determine the nature of the problem within 48 hours of beginning work and resolve all cable-system-related problems within five business days unless it is not reasonable due to technical issues.
- (f) Upon ten days' notice, the grantee shall establish its compliance with any or all of the standards required in this section. The grantee shall provide sufficient documentation to permit the grantor to verify the compliance providing due regard to applicable privacy laws.
- (g) A repeated noncompliance with any of the service standards set forth in subsections (a)—(e) of this section, after the grantee's receipt of due notice and an opportunity to cure, may be deemed a material breach of the franchise agreement.
- (h) The grantee shall establish written procedures for receiving, acting upon and resolving subscriber complaints without intervention by the grantor. The written procedure shall prescribe the manner in which a subscriber may submit a complaint, either orally or in writing, specifying the subscriber's grounds for dissatisfaction. The grantee shall file a copy of these procedures with the grantor.
- (i) Subject to applicable subscriber privacy laws, the grantor shall have the right to review the grantee's response to subscriber complaints in order to determine the grantee's compliance with the franchise requirements.
- (j) The grantee shall not refuse service to any existing or prospective subscriber within the service area, provided financial and other obligations to the grantee are honored. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the grantee are honored. If the grantee elects to rebuild, modify or sell the system, or the grantor gives notice of an intent to terminate or not renew the franchise, the grantee shall act so as to ensure that all subscribers receive service so long as the franchise remains in force. In the event of a change in control of the grantee or in event of a new operator's acquiring the system, the original grantee shall cooperate with the grantor, a new grantee or operator in maintaining continuity of service to all subscribers.
- (k) If the grantee fails to operate any substantial portion of the system for seven consecutive days without prior approval or subsequent excuse by the grantor, the grantor may at its sole option operate the system or designate an operator until such time as the grantee restores service under conditions acceptable to the grantor. During such time, the grantor shall be entitled to collect and retain all revenues from the system; and the grantee shall indemnify the grantor against any damages the grantor may suffer as a result of such failure.
- (l) All officers, agents or employees of the grantee or its contractors or subcontractors who come into contact with members of the public, shall wear on their outer clothing a photo identification card in a form approved by the grantor. The grantee shall account for all identification cards at all times. Every vehicle of the grantee

or its major subcontractor whose daily work is exclusively for the grantee and has customer contact shall be clearly identified with logos and letters as working for the grantee.

(Ord. No. 326, § 1.24, 9-28-1998)

Sec. 82-106. Additional service standards.

Additional service standards and standards relating to consumer protection and response by the grantee to subscriber complaints not otherwise provided for in this article may be established in any franchise agreement, and the grantee shall comply with such standards in the operation of the cable television system. Standards in all cases may be more stringent than those provided in this article, but in no case may be less stringent. A verified and repeated pattern of noncompliance of any such standards after due notice of noncompliance and an opportunity to cure in the discretion of the grantor may be deemed a material breach of the franchise agreement.

(Ord. No. 326, § 1.26, 9-28-1998)

Sec. 82-107. Design and construction requirements.

- (a) The grantee shall not construct any cable system facilities until the grantee has secured the necessary permits from the grantor and any other public approvals required.
- (b) In areas of the township where transmission or distribution facilities of all public utilities providing telephone and electric power service are underground, the grantee shall likewise construct, operate and maintain its transmission and distribution facilities underground.
- (c) In areas of the township where the grantee's cables are located on the aboveground transmission or distribution facilities from the public utility providing telephone or electric power service and if both such facilities are subsequently placed underground, the grantee likewise shall reconstruct, operate and maintain its transmission and distribution facilities underground at the grantee's sole cost. Pedestals, amplifiers and power supplies normally placed above ground may continue to be placed in aboveground enclosures, unless otherwise provided in the franchise agreement, provided approved enclosure and screening is furnished satisfactory to the grantor.
- (d) The following procedures apply with respect to access and utilization of underground easements in the event of multiple franchisees desiring to serve new residential developments in which electric power and telephone utilities are underground:
 - (1) Grantees and prospective grantees shall be responsible for contacting developers in order to provide notice and information regarding cable television service to the development. Notice shall in all cases be provided at a reasonable time. With subdivisions platted pursuant to the Land Division Act (MCL 560.101 et seq.), or successor acts, notice shall be provided at least 30 days prior to final plat approval. Where projects are developed as condominium developments, notice shall be provided at least 30 days prior to the filing of the master deed.
 - (2) The developer shall provide at least ten days' working notice to prospective cable operators when trenches will be opened who have agreed to install conduit. When trenches are opened, cable operators shall commence work forthwith, progressing continuously and completing work in no case less than five working days after commencing installation.
 - (3) Final plat approval and final recording of the master deed shall not occur until each developer submits evidence that:

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- a. It has notified each grantee or prospective grantee from whom it received notice of proposed estimated dates for trenching and that each grantee shall be allowed access to such trenches on specified nondiscriminatory terms and conditions; and
 - b. It has received notification from each grantee that each grantee intends to install its facilities during open trench periods or such other terms and conditions as mutually agreeable, or that it has received no reply from the grantee or prospective grantee within ten days after notification to such grantee in which case the grantee shall be deemed to have waived its opportunity to install its facilities during the open trench period.
- (4) Grantees and prospective grantees shall provide copies of notices furnished to developers indicating the desire to establish cable facilities simultaneously to the department head for cable television at the township.
 - (5) If the joint utilities trench as provided in compliance with state regulatory agency and utility standards is insufficient for grantees and prospective grantees, an additional trench shall be provided if reasonably possible with the entire cost shared among grantees and prospective grantees. In lieu thereof, deeper trenches may be provided with costs shared by grantees and prospective grantees.
 - (6) Any cable operator desiring to serve an area where notice has not been provided or where trenches have been closed shall be responsible for its own trenching and associated costs.

(Ord. No. 326, § 1.29, 9-28-1998)

Sec. 82-108. Technical standards.

- (a) The grantee shall construct, install, operate and maintain its system in a manner consistent with all applicable laws, ordinances, construction standards, governmental requirements, FCC technical standards, and any detailed standards set forth in its franchise agreement. The grantee shall provide to the grantor upon request a written report of the result of the grantee's periodic proof of performance test conducted pursuant to FCC and franchise standards and guidelines.
- (b) Repeated failure to maintain specified technical standards shall constitute a material breach of the franchise.

(Ord. No. 326, § 1.30, 9-28-1998)

Sec. 82-109. Records required and right of grantor to inspect records.

- (a) The grantee shall at all times maintain:
 - (1) A record of all service calls, interruptions or degradation of service for the preceding two years provided such complaints result in or require a service call.
 - (2) A full and complete set of plans, records, and as-built maps showing the location of the cable system installed or in use exclusive of subscriber service drops and equipment in subscribers' homes.
 - (3) A summary of service calls, identifying number, general nature and disposition on a monthly basis. Such summary shall be provided to the grantor within 30 days following any grantor request.
- (b) The grantor may impose reasonable requests for additional information, records and documents from time to time provided they reasonably relate to the scope of the township's rights pursuant to this article or the franchise.
- (c) Upon reasonable notice and during normal business hours, the grantee shall permit examination by any authorized representative of the grantor of all franchise property and facilities within or without the

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township and all records relating to the franchise, including but not limited to gross revenues received, which the grantor reasonably requires to carry out its regulatory responsibilities. The grantor or its designee shall have the right to be present at any such examination. Copies of such records shall be provided at the grantee's expense where requested by the grantor or its designee.

(Ord. No. 326, § 1.33, 9-28-1998)

Sec. 82-110. Annual reports.

The grantee shall submit a written annual report to the grantor with respect to the preceding calendar year in a form set forth in the franchise agreement within 90 days after the end of the calendar year, including but not limited to, the following information:

- (1) A summary of the previous year's activities, including services begun or discontinued during the reporting year.
- (2) A list of the grantee's officers, members of its board of directors, and other principals of the grantee's.
- (3) A list of stockholders, partners or other equity investors holding five percent or more of the voting interest in the grantee.
- (4) An indication of any residences in the grantee's service area where service is not available and a schedule for providing service.
- (5) Information regarding the number of homes where service is potentially available, the number of subscribers, additional television outlets and number of basic subscribers.
- (6) A breakout of revenues in accordance with section 82-104.

The grantee may withhold proprietary information providing a detailed description of the nature of proprietary information and basis for deeming it proprietary is reasonably furnished establishing the proprietary nature of information withheld.

(Ord. No. 326, § 1.34, 9-28-1998)

Sec. 82-111. Copies of federal and state communications.

- (a) The grantee shall provide upon request to the grantor copies of all documents submitted by the grantee in the form of applications, requests and reports, copies of all decisions, correspondence, charges or actions by any federal, state or local regulatory agency, administrative body, court or governmental body, regarding the grantee's operation within the franchise area. The grantee may restrict further disclosure of confidential documents so noting in providing copies to the grantor, which shall not be made available for public inspection.
- (b) The grantee shall permit inspection; but where documents contain trade secrets, confidential or proprietary information, summaries of documents redacting such material may be provided. The grantee bears the burden of proof to establish the confidential nature of information submitted.

(Ord. No. 326, § 1.35, 9-28-1998)

Sec. 82-112. Public reports.

The grantee upon reasonable request by the grantor shall provide copies of all reports or summaries filed with public agencies to the grantor, including those of parents or affiliate companies, where the grantee's operations relate to the franchise activities of the township within 45 days of their issuance.

(Ord. No. 326, § 1.36, 9-28-1998)

Sec. 82-113. Complaint report and opinion survey.

Upon request of the grantor, but not more than biannually, the grantee shall conduct a subscriber satisfaction survey pertaining to quality of service in a form and content reasonably acceptable to the grantor at the grantee's sole cost, which may be transmitted in aggregate to subscribers in the grantee's invoice for cable services.

(Ord. No. 326, § 1.37, 9-28-1998)

Sec. 82-114. Reporting procedures.

- (a) All reports required by this article, except those noted as confidential, shall be available for public inspection by the grantor during normal business hours.
- (b) All reports and records required under this article shall be furnished at the sole expense of the grantee, except as otherwise provided pursuant to any franchise agreement.
- (c) The willful refusal, failure or neglect of the grantee to file any reports required shall be deemed a material breach of the franchise agreement if such reports are not provided in substantial compliance with this article within 90 days after written request.
- (d) Materially false or misleading statements or representations contained in any report shall be deemed a breach of the franchise.

(Ord. No. 326, § 1.38, 9-28-1998)

Sec. 82-115. Annual review of system performance.

- (a) Upon request by the grantor, the grantor and the grantee shall meet to review system performance and quality throughout each year. Technical performance tests, subscriber complaints, response to complaints, subscriber surveys, and other information available relating to cable system performance and needs shall be utilized.
- (b) Upon methods and procedures established by the cable TV committee, subscribers may orally or in writing participate during a portion of review meetings.
- (c) Within 30 days after concluding performance review meetings, the grantor may issue findings with respect to cable system franchise compliance and service quality.
- (d) If the grantee is found not to be in compliance with the requirements of this article or the franchise, the grantor may direct corrective action in accordance with procedures in the franchise agreement. Repeated failure to comply shall be deemed a breach of the agreement.

(Ord. No. 326, § 1.39, 9-28-1998)

Sec. 82-116. Emergency review of system performance.

- (a) The grantor shall have the right to compel the grantee to test, analyze and report on the performance of the system in order to protect the public against substandard cable service. Such request may be authorized in the sole discretion of the grantor on the basis of complaints received or other evidence providing reasonable suspicion of the reliability or quality of the cable service.
- (b) The grantor may not compel tests or reports unless:
 - (1) Evidence exists that the grantee has not corrected problems in questions, despite a previous written request from the township; and
 - (2) A 30-day written notice of intention to exercise rights pursuant to this section has been provided to the grantee.
- (c) Tests shall be made and reports delivered to the grantor no later than 30 days after the grantor notifies the grantee that it is exercising such right and shall be made at the grantee's sole cost; provided that if the grantee is compelled to test and such test results are in full compliance with all FCC standards, the grantor shall bear the reasonable cost of the test.
- (d) Test reports shall include information regarding the nature of complaints precipitating tests, system component tested, equipment and procedures employed, test results, and the method by which complaints were resolved, at a minimum.

(Ord. No. 326, § 1.40, 9-28-1998)

Sec. 82-117. Evaluation of services provided.

At least once every three years, the grantor may hold special evaluation sessions of the cable system services in comparison to those provided to comparable communities in the county. The grantee shall be notified as to time, date, place and agenda. Sessions may be open to the public and advertised 30 days prior to each session. The grantor or the grantee may propose agenda items.

(Ord. No. 326, § 1.41, 9-28-1998)

Sec. 82-118. Remedies for franchise violations.

- (a) Material breach of the agreement shall be considered to have occurred if the grantee:
 - (1) Fails to timely perform material obligations required by this article or the franchise agreement; or
 - (2) Knowingly has provided false or misleading statements in connection with a request for franchise agreement.
- (b) Prior to imposing any remedy, the grantor shall give the grantee notice and an opportunity to be heard before the township board in accordance with the following procedures:
 - (1) The grantee shall be provided notice by registered or certified mail or personal delivery explaining the default and demanding correction within a reasonable time deemed to be not less than five days in the case of failure to pay any amounts due pursuant to the franchise agreement or this article. In the event of a system outage or inferior signal quality involving ten percent or more of subscribers, correction shall occur within ten days. In all other cases, correction shall occur within 30 days.
 - (2) In the event of failure to correct within the time provided, the grantor shall give written notice of not less than 14 days of a public hearing to be held before the township board, specifying generally the

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nature of violations alleged to have occurred. The grantee shall have the right to be heard and present evidence at such hearing. A decision shall be rendered following the presentation of evidence. If the board finds that the violation has been corrected, a breach has not occurred or that the grantee has commenced a continuous, diligent effort which is continuing time in order to provide a full remedy, proceedings shall terminate; and no penalty or other sanctions shall be imposed. If breach has occurred, has not been timely corrected, or diligent proceedings have not been commenced and continued or a finding has been made that no additional time is reasonably necessary to correct the problems, the township board may impose in its sole discretion one or more of the remedies provided.

(c) New remedies provided are as follows:

- (1) Cure the violation and recover the actual cost from the security fund if such violation is not cured within 30 days after written notice to the grantee of the grantor's intention to cure and draw upon the security fund.
- (2) Assess against the grantee liquidated damages in an amount set forth in the franchise agreement for any such violation.
- (3) For repeated violations of consumer service standards of this article or the franchise agreement, which have materially degraded the quality of service, the grantor may request the grantee to issue rebates or credits to subscribers, in an amount to be determined by the grantee, and reviewed by the grantor. Credit shall be reasonably related to the nature of the degradation of service and measured by the period of the degradation, to provide monetary relief substantially equal to the reduced quality of service resulting from the grantee's failure to perform.
- (4) Initiate proceedings to revoke the franchise in accordance with the provisions of this article.

(Ord. No. 326, § 1.42, 9-28-1998)

Sec. 82-119. Force majeure; inability to perform.

If the grantee's performance of any of the terms, conditions or obligations required by this article or the franchise prevented is prevented by a cause or event not within the grantee's control, such an ability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result; however, such an ability to perform shall not relieve the grantee from the obligations imposed by this article pertaining to refunds and credits for interruptions in service. For the purpose of this section, causes or events not within the control of the grantee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters, such as floods, earthquakes, landslides and fires, but shall not include financial inability of a grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts and omission of the grantee, for the failure of the grantee to secure the supplies, services or equipment necessary for installation, operations, maintenance or repair of the cable communication system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

(Ord. No. 326, § 1.44, 9-28-1998)

Sec. 82-120. Abandonment or removal of franchise.

- (a) If the use of any property of the grantee within the franchise area is discontinued for a continuous period of six months, the grantee shall be deemed to have abandoned that franchise property.

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- (b) The grantor, in its sole discretion, may permit the grantee to abandon facilities or equipment in place. Unless permission is expressly provided for nonremoval, the grantee shall remove all abandoned aboveground facilities and equipment upon notice from the grantor and shall restore any affected street to its former state in as good a condition as that prevailing prior to such removal without materially interfering with property of other persons. The grantor shall have the right to inspect and approve streets, easements, facilities and equipment prior to and after removal. Security fund or line of credit and insurance provisions shall remain in full force and effect during the period of removal and until full compliance with the terms and conditions of this section.
 - (c) If requested by the grantor, the grantee shall provide transfer of ownership of franchise property abandoned in a form satisfactory to the grantor.
 - (d) Upon request, all such removal of aboveground portions of the system and restoration shall occur in a time frame approved by the grantor and in no case less than 180 days.
 - (e) As determined in the sole discretion of the grantor, the grantee may abandon underground franchise property so long as it does not interfere with the use of street or public rights-of-way or with the use of any public utility, prospective grantee, or other party entitled to current or prospective use of easement areas.

(Ord. No. 326, § 1.45, 9-28-1998)

Sec. 82-121. Restoration by grantor.

If the grantee does not timely complete removal and restoration, the grantor may, upon 14 days' notice, complete the work or any portion of the work. The grantee shall reimburse the grantor for all costs, direct and indirect, incurred. Such costs may be recovered through the security fund provided or any other remedy in law or equity.

(Ord. No. 326, § 1.46, 9-28-1998)

Sec. 82-122. Extended operation and continuity of services.

The grantor in its sole discretion may permit the grantee to continue its operations on terms contained in its franchise, upon expiration of any franchise agreement or revocation, but shall not be compelled to continue its operations for more than six months. Permission to continue for any period of time shall not be deemed to create any right or entitlement to further continuation. The grantee shall use best efforts to provide continuous uninterrupted service during transition period following franchise expiration or termination.

(Ord. No. 326, § 1.47, 9-28-1998)

Sec. 82-123. Rights of individuals and subscribers.

- (a) The grantee shall not deny service or access, or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, age, sex, weight, sexual preference or marital status. The grantee shall comply with all applicable federal, state and local laws or regulations relating to nondiscrimination.
- (b) The grantee shall adhere to equal opportunity requirements of federal, state and local regulations as now written or as amended from time to time.
- (c) The grantee shall take reasonable steps to prevent the invasion of subscribers or general citizens' right of privacy or other personal rights through the use of the system as such rights are delineated or defined by applicable law.

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- (d) The grantee shall not provide subscribers' names to other commercial entities for purposes of mailing lists without providing an opportunity for subscribers to avoid such occurrence. The grantee shall not without lawful court order or other valid legal authority use any system's interactive two-way equipment ability for unauthorized personal surveillance of any subscriber or general citizen.
 - (e) The grantor recognizes that it is critical that a customer of a grantee fully understands and realizes the rights and responsibilities of both the customer and the grantee with respect to the provision, maintenance and repair of multichannel service.
 - (f) The grantor believes that if sufficient information is provided to a customer on certain customer service practices such as rates, billing periods, number and types of services provided, and rules concerning equipment use and return, then that customer will have the information necessary to make an informed decision on what, if any, multichannel services to subscribe to and receive.
 - (g) In order to provide customers with the variety of information needed to make an informed decision, and to ensure that customers are notified of their and the grantee's rights and responsibilities with respect to the multichannel system, a grantee must provide a customer with a written description of the rights set forth in this section.
 - (h) This notice shall be provided at the time of initial installation. Thereafter, a subscriber shall be provided with a written notice at least once every 12 months. If, however, a grantee amends, repeals, adds, deletes, modifies or makes other changes to any customer service practice that is required in this article, the grantee shall provide a subscriber with such written notification at least 30 days prior to the effective date of such amendment, repeal, addition, deletion, modification or other change.
 - (i) Unless expressly prohibited by the state, a grantee may comply with the notice requirements by providing the notice over the grantee's system, on a channel clearly designated for the dissemination of such information.

(Ord. No. 326, § 1.50, 9-28-1998)

Sec. 82-124. Notification of customers' and grantees' rights and responsibilities; minimum contents.

- (a) At the time the grantee is required to furnish an initial notice such notice shall contain, at a minimum, the following:
 - (1) An up-to-date listing of the specific multichannel services provided, clearly indicating and isolating the standard and/or basic, premium and informational services offered, as well as the service tiers or service clusters offered.
 - (2) Notification of a subscriber's ability to purchase or lease, from the grantee, a lock box, parental control mechanism, or other device which will prohibit the viewing of a particular multichannel service during a period selected by the subscriber.
 - (3) Pursuant to FCC regulations, a subscriber's ability of purchasing or using an A/B or input selector switch.
 - (4) A comprehensive listing and explanation of all rates and charges (including rates for standard or basic and premium channels/services, particular service tiers or service clusters, current discount or promotional fees, installation charges, and security deposits, if any).
 - (5) If service clustering is available, a description and explanation of any penalties, credits, restrictions, upcoming (within 60 days of the notice) service clustering changes or differing alignments, or other pertinent information.

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- (6) A comprehensive listing and explanation of all billing options available.
 - (7) The customer service office hours and telephone number in a manner consistent with the specific policy set forth in this article.
 - (8) The billing practices of the grantee in a manner consistent with the specific policy set forth in this article.
 - (9) The specific customer complaint/inquiry resolution policy that is adopted and followed by the grantee and which is consistent with the parameters set forth in this article.
 - (10) If applicable, and permitted, the rules and regulations for using any facilities, including a studio or mobile van of the grantee.
 - (11) The method of securing a voluntary disconnection in a manner consistent with the specific policy set forth in this article.
 - (12) The extent of the credit/refund policy in a manner consistent with the specific policy set forth in this article.
 - (13) The equipment use and return policy, together with any required security deposits in a manner consistent with the specific policy set forth in this article.
 - (14) The additional rights of blind, hearing-impaired or ambulatory-impaired customers in a manner consistent with the specific policy set forth in this article.
- (b) The notice shall be written in plain, simple-to-understand English. The notice shall contain no print smaller than eight-point type; and any exclusions, limitations or caveats shall be clearly indicated as such in the notice.
- (c) The notice may be delivered to a subscriber via an insert in the subscriber's periodic invoice, or through a special mailing, or over a grantee channel clearly designated for the dissemination of such information. In such case, the notice shall run continuously over such clearly designated channel for a minimum duration of one week during each calendar year.

(Ord. No. 326, § 1.51, 9-28-1998)

Sec. 82-125. Billing practices.

- (a) Within the notice that is required by this article, subscribers shall be informed of at least the following practices of the grantee:
- (1) Billing procedures (including payments necessary to avoid discontinuance of service);
 - (2) Payment due and delinquent fees;
 - (3) Amount of percentage of late charges, if any;
 - (4) Advance billing options;
 - (5) Resolution procedures for billing disputes, complaints and inquiries;
 - (6) Refund policy for service interruptions, substandard signal quality, or uncontracted service;
 - (7) Current service rates in a detailed and understandable format;
 - (8) Procedure and amount of charges for installation or relocation of the grantee's facilities and/or equipment;

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- (9) Current schedule and explanation for any billed charges or other nonregularly occurring fees invoiced to subscribers;
 - (10) Any lower-income or fixed-income rates together with any qualifications to obtain such rates; and
 - (11) Any current discount rates or bulk service rates.
- (b) Existing subscribers shall be informed of the items listed in subsection (a)(1) of this section at least once every 12 months.
 - (c) Whenever there is a change in the grantee's billing practices or payment requirements, all subscribers must be notified in writing at least 30 days before such billing practices or payment requirements become effective.
 - (d) In any case where a subscriber requests a cancellation or reduction of service within 30 days after the notification of a scheduled rate or charge adjustment, the subscriber's liability for the newly implemented rate or charge shall cease from the moment the rate or charge adjustment becomes effective.
- (Ord. No. 326, § 1.52, 9-28-1998)

Sec. 82-126. Emergency management capabilities.

Each franchisee shall upgrade and maintain at a level as reasonably requested by the township upon recommendation by the emergency management coordinator emergency alert capabilities, including audio override, video crawl message, accessible from common touchtone phones.

(Ord. No. 326, § 1.53, 9-28-1998)

Chapter 86 TRAFFIC AND VEHICLES⁶⁰

ARTICLE I. IN GENERAL

Sec. 86-1. Liability insurance.

An owner or registrant of a motor vehicle with respect to which liability insurance is required by chapter 31 of the Insurance Code of 1956 (MCL 500.3101 et seq.) who operates or permits a motor vehicle to be operated upon a public highway within the township without such insurance shall be guilty of an offense.

(Comp. Ords. 1988, § 20.221)

Sec. 86-2. Motor carrier safety.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

⁶⁰Cross reference(s)—Offenses and miscellaneous provisions, ch. 62; parking vehicles or boats for sale or trade a misdemeanor, § 62-5; traffic controls within Metropolitan Beach, § 66-40; off-the-road vehicles, § 66-41; off-street parking and loading requirements, app. A, § 6.00 et seq.

State law reference(s)—Traffic generally, MCL 257.1 et seq.; powers of local authorities, MCL 257.605, 257.606.

Motor vehicle means a vehicle which is self-propelled or a vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Trailer means a vehicle, with or without motive power, designed for carrying property and for being drawn by a motor vehicle.

Truck means a motor vehicle designed, used or maintained primarily for the transportation of property.

Truck tractor means a motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(b) *Prohibited acts.*

- (1) A person shall not drive, and an individual, partnership, association, corporation, or their lessees or receivers appointed by any court shall not employ, engage, hire or contract for hire any person to operate, drive or maintain, any truck, truck tractor or trailer unless the person meets the qualifications as set forth by the department of state police under the authority of the Motor Carrier Safety Act of 1963 (MCL 480.11 et seq.)
- (2) An individual, partnership, association, corporation, or their lessees or receivers appointed by any court shall not operate any truck, truck tractor or trailer, or permit any person to drive any truck or truck tractor which does not meet driver or operator safety standards, safety standards for equipment and devices on trucks, truck tractors or trailers and their loading and unloading as set forth in rules promulgated by the department of state police under the authority of the Motor Carrier Safety Act of 1963 (MCL 480.11 et seq.).
- (3) An individual, partnership, association, corporation, or their lessees or receivers appointed by any court shall not operate or maintain any facility used in connection with the transportation of property by any truck, truck tractor or trailer which facility does not meet safety standards for the operation and maintenance of such facility as set forth in rules promulgated by the department of state police under the authority of the Motor Carrier Safety Act of 1963 (MCL 480.11 et seq.).

(c) *Violations.*

- (1) Any driver or operator who violates this chapter or a rule promulgated under the Motor Carrier Safety Act of 1963 (MCL 480.11 et seq.), or any owner or user of any truck, truck tractor or trailer, or any officer or agent of any individual, partnership, corporation or association of their lessees or receivers appointed by any court which is the owner or user of any vehicle, who requires or permits the driver or operator to drive any truck, truck tractor or trailer in violation of such act or a rule promulgated under such act, shall be punished as provided in such act.
- (2) A peace officer, deputy sheriff or an officer of the motor carrier division of the department of state police, upon reasonable cause to believe that a motor vehicle is being operated in violation of this chapter or a rule promulgated pursuant to such act may stop the motor vehicle and inspect the motor vehicle. If a violation is found, the officer may issue a notice to appear or other legal process for that violation.

(Comp. Ords. 1988, §§ 20.421—20.423)

Secs. 86-3—86-30. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT⁶¹

Sec. 86-31. Parking, speed on school property.

- (a) The L'Anse Creuse School Board is authorized and empowered to post their property in the township with certain signs indicating the allowance of parking or no parking; and on streets and drives on school property, the school board may set maximum speed limits, it being understood that the school board would secure the advice and direction of both the fire chief as to proper ingress and egress on the school property for fire trucks and will likewise secure the recommendation of the sheriff's department of the county for proper speeds.
- (b) Any provision of this section which describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code (MCL 251.1 et seq.) shall be processed as a civil infraction, and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with section 907 of the Michigan Vehicle Code (MCL 257.907).

(Comp. Ords. 1988, § 20.302)

State law reference(s)—Municipal regulation of operation, parking and speed of vehicles on school property, MCL 257.961.

Sec. 86-32. Parking violations bureau.

There is created a township parking violations bureau, established to accept civil infraction admissions in parking violation cases and to collect and retain civil fines and costs as prescribed by ordinance. The expense of operating the parking violation bureau shall be borne by township employees, and the personnel of the bureau shall be township employees.

(Comp. Ords. 1988, § 20.251)

State law reference(s)—Authority to create parking violations bureau, MCL 600.8395.

Secs. 86-33—86-40. Reserved.

ARTICLE III. COMMERCIAL VEHICLES AND COMMERCIAL EQUIPMENT

Sec. 86-41. Definitions.

The following definitions shall apply along with those listed in the Motor Vehicle Code for purposes of this article:

⁶¹Cross reference(s)—Administration, ch. 2.

Commercial equipment shall mean any construction equipment or large equipment used primarily in the course of conducting a trade or business, and includes a tow truck which is a vehicle designed to be able to tow or transport inoperable or disabled vehicles.

Construction equipment shall mean bulldozers, front-end loaders, power shovels, and other heavy construction equipment, or trailers designed for the transportation of such equipment.

Mobile structure trailer means a trailer that has a roof and walls and is at least ten (10) feet wide and which may be used off-road for commercial purposes.

Utility trailer shall mean a vehicle designed to be towed by a motor vehicle in order to carry heavy commercial or construction equipment.

Residential district means any one-family residential, two-family residential, multiple-family residential, residential waterfront, residential mobile home park or high and mid-rise districts as defined and delineated in the zoning ordinance and maps of the township.

Single-family residential area means any one-family residential district as defined and delineated in the zoning ordinance and zoning maps of the township.

(Ord. No. 352, 7-24-2006)

Sec. 86-42. Regulation of parking and storage.

- (a) Except as provided in subparagraph (d), no person shall park or store any commercial vehicle or commercial equipment upon any public property located in any zoning district, including but not limited to public streets, stub streets, rights-of-way, sidewalks, and planting areas between sidewalks and curbs.
- (b) Except as provided in subparagraph (d), no person shall park or store any commercial vehicle or equipment on private property in a residential district other than in an enclosed building.
- (c) Except as provided in subparagraph (d), no person shall park or store any commercial vehicle or commercial equipment on private property in any nonresidential district unless such vehicle or equipment is used in conjunction with the principal use or an accessory use of the property. In such event, said parking or storage must comply with all other codes and ordinances of the township.
- (d) The parking of commercial vehicles or commercial equipment in any zoning district shall be limited to the use of such vehicles or equipment in the performance of a service to the adjacent property for the period of time necessary to complete such service.

(Ord. No. 352, 7-24-2006)

Sec. 86-43. Responsibility.

The owner of the commercial vehicle or commercial equipment sought to be stored or parked in violation of this article and the owner of the property upon which the vehicle or equipment is being kept (unless it is public property) shall each be responsible for compliance with the terms of this article. In any proceeding for violation of any parking or storage provision of this article, the person to whom a commercial vehicle or commercial equipment is registered, as determined from the registration plate displayed on said vehicle or equipment (or other vehicle identifying information), shall be presumed in evidence to be the owner of such commercial vehicle or equipment. For purposes of determining the ownership of real property, it shall be presumed that the person whose name appears on the most recent tax assessment roll of the township is the owner of the property.

(Ord. No. 352, 7-24-2006)

Sec. 86-44—86-60. Reserved.

ARTICLE IV. UNIFORM TRAFFIC CODE AND MICHIGAN VEHICLE CODE⁶²

Sec. 86-61. Code adopted.

- (a) The Uniform Traffic Code for Cities, Townships and Villages, promulgated by the director of state police and published in the 1979 edition of the Michigan Administrative Code and amendments as published in the Quarterly Supplement No. 5 to the 1979 edition of the Michigan Administrative Code, in accordance with Public Act No. 62 of 1956 (MCL 257.951 et seq.) is adopted by reference as in this article modified.
- (b) The Michigan Vehicle Code, as amended including all future amendments, (MCL 257.1 et seq.) is adopted by reference. In the event of a conflict between the Michigan Vehicle Code and the Uniform Traffic Code for Cities, Townships and Villages, the Michigan Vehicle Code shall control.

(Comp. Ords. 1988, § 20.201; Ord. No. 341, § 1, 3-8-2004)

State law reference(s)—Authority to adopt Uniform Traffic Code by reference, MCL 257.951; authority to adopt statutes by reference, MCL 42.23.

Sec. 86-62. References in code.

References in the Uniform Traffic Code for Michigan Cities, Townships and Villages to "governmental unit" shall mean the township.

(Comp. Ords. 1988, § 20.202)

Sec. 86-63. Changes in code.

- (a) *Amendments.* The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are amended or deleted as set forth and additional sections and subsections are added as indicated. Subsequent section numbers used in this section shall refer to the like numbered sections of the Uniform Traffic Code.
 - (1) After section 1.018a of the Uniform Traffic Code, the following is added as section 1.018b:
Sec. 1.018b PARK.
"Park" means the Regional Park and public parks located in Harrison Township, Macomb County, Michigan.
 - (2) After section 1.027 of the Uniform Traffic Code, the following is added as section 1.027a:
Sec. 1.027a REGIONAL PARK.
"Regional Park" means Metropolitan Beach, a public park established and operated by the Huron-Clinton Metropolitan Authority.
 - (3) After section 2.5a of the Uniform Traffic Code, the following is added as a continuation of section 2.5a:

⁶²Editor's note(s)—Ord. No. 352, adopted July 24, 2006, renumbered Art. III to now read as Art. IV.

For purposes of this section, a vehicle is deemed abandoned in a park when it has been left unattended in the park after the hours of 10:00 p.m., Eastern Standard Time, without the written permission of the superintendent of the park.

(4) After section 8.10(t) of the Uniform Traffic Code, the following is added as section 8.10(u):

(u) On or alongside a roadway in the Regional Park, or off the surfaced area of a designated parking lot in the Regional Park.

(5) After section 8.10 of the Uniform Traffic Code, the following is added as section 8.10.1:

Sec. 8.10.1 DRIVING OFF ROADWAY.

No person shall drive a vehicle off any roadway in the Regional Park except into a designated parking area.

(6) After section 8.14 of the Uniform Traffic Code, the following is added as section 8.14.1:

Sec. 8.14.1 VEHICLES SHALL BE PARKED PROMPTLY.

Upon entering any designated parking area in the Regional Park, a vehicle shall be parked in a marked parking space as promptly as possible.

(b) *Deletions.* The following sections and subsections of the Uniform Traffic Code for Cities, Townships and Villages are amended by deleting the following sections and subsections:

Sections 5.15, 5.15a, 5.15b, 5.15c, 5.15d, 5.15e, 5.15f and 5.15h, being [former] codified sections 20.208 through 20.2081.

(Comp. Ords. 1988, §§ 20.205, 20.208)

Sec. 86-64. Michigan Vehicle Code Section 625(1)(C) adopted.

The Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949, MCL 257.1 to 257.923, as amended, is hereby adopted by reference. MCL 257.625(1)(C) of the Vehicle Code is specifically adopted by reference, pursuant to Public Act 8 and Public Act 9 of 2012.

(Ord. No.377, § 3, 10-22-2012)

Sec. 86-65. Violations and penalties.

The penalties provided by the Michigan Vehicle Code are adopted by reference. The township may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days; provided, however, that a violation of MCL 625(1)(C) is punishable by one or more of the following:

- (1) Community service of not more than 360 hours.
- (2) Imprisonment for not more than 180 days.
- (3) A fine of not less than \$200.00 or more than \$700.00.

(Ord. No. 377, § 4, 10-22-2012)

Chapter 90 UTILITIES⁶³

ARTICLE I. IN GENERAL

Secs. 90-1—90-30. Reserved.

ARTICLE II. COMBINED WATER AND SEWER SYSTEM AND RATES AND CHARGES THEREFOR⁶⁴

DIVISION 1. GENERALLY

Sec. 90-31. 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:

Biochemical oxygen demand (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius expressed in terms of weight and concentration (milligrams per liter (mg/l), as measured by standard methods.

Combined system means all sewage collection and disposal facilities and/or water supply and distribution facilities owned and/or operated by the township, now or in the future, including storm sewers, water mains, wells, and all works, instrumentalities and properties used or useful in connection with the collection, treatment and disposal of sewage or industrial wastes, or the supply, treatment and distribution of water. This combined system shall be deemed to include as a part thereof all sanitary sewer and water facilities acquired, constructed and financed in the township.

Commercial user means all nondomestic sources of indirect discharge other than industrial users, including but not limited to a publicly or privately owned facility where persons are engaged in the exchange or sale of goods or services, hospitals, retail establishments, schools and facilities operated by local and state governments.

Contractual obligations means the payments required to be made by the township to the county pursuant to the provisions of the sewer contract, and any other payments of similar nature required in any future contract or

⁶³Cross reference(s)—Administration, ch. 2; buildings and building regulations, ch. 18; mechanical code enforcement, § 18-2; plumbing code enforcement, § 18-3; electrical code, § 18-41 et seq.; businesses, ch. 22; environment, ch. 34; floods, ch. 42; historical preservation, ch. 46; land development, ch. 54; other utilities for engineering design and plan requirements and specification and standards for construction of site improvements, § 54-151 et seq.; wastewater collection and disposal system for engineering design and plan requirements, § 54-155; schedule of standard utility locations for engineering design and plan requirements, § 54-162; land divisions, ch. 58; solid waste, ch. 74; telecommunications, ch. 82; public utility electronic equipment enclosures, app. A, § 3.23; utility approval for zoning, app. A, § 3.30.

⁶⁴State law reference(s)—Authority to acquire, operate, etc., utilities, MCL 141.104.

contracts between the parties for the financing of additional sewer and/or water facilities under the provisions of Public Act No. 342 of 1939 (MCL 46.171 et seq.).

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Federal Water Pollution Control Act, PL 92-500, as amended, into the public waste treatment system.

Industrial user means a source of indirect discharge under regulations issued pursuant to section 402, of the act (33 USC 1342), which source originates from but is not limited to facilities engaged in industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.

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

Mobile home (trailer coach) means any vehicle designated, used or so constructed as to permit its being used as a conveyance or to be conveyed upon the public streets or highways and constructed in such a manner as will permit occupancy as a dwelling or sleeping place for one or more persons.

P means phosphorous in the waste expressed in terms of milligrams per liter (mg/l) or parts per million.

Pollutant means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

Public sewer means a common sewer controlled by a governmental agency or public utility.

Sewer contract means the contract between the township and the county, dated as of March 11, 1967, entered into pursuant to Public Act No. 342 of 1939 (MCL 46.171 et seq.) for the acquisition, construction and financing of sewer facilities as a part, or section, of the county wastewater disposal system, being the contract now on file in the offices of the township clerk and the county drain commissioner, as the county agency under the act.

Suspended solids means the total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering as measured according to standard methods.

Wastewater and *sewage* mean spent water which may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions or other land uses, including drainage water inadvertently present in such waste.

Wastewater system and *sewer system* mean any part, or all, of the property, structures, equipment, sewers, materials and/or appurtenances used in conjunction with the collection and disposal of wastewater, including the publicly owned treatment works (POTW).

(Comp. Ords. 1988, § 25.011)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-32. Infraction; fine.

- (a) The municipal civil infraction fine for a violation of this article is \$500.00.
- (b) Notwithstanding the provisions of subsection (a) of this section, any person violating any of the provisions of this article shall become liable to the township for any expense, loss, or damage occasioned the township by reason of such violation.

(Comp. Ords. 1988, § 20.025)

Sec. 90-33. Operation of combined system.

The combined system shall be operated and maintained as a single system on a public utility basis as authorized by law, particularly the Revenue Bond Act of 1933 (MCL 141.101 et seq.). It is declared to be the intent and purpose of the township board to fix and establish reasonable and uniform rates and charges applicable to various classifications of users and beneficiaries of the services furnished by the combined system, so as to provide funds to as far as possible to operate and maintain the combined system in a reasonable, proper and efficient manner and pay the contractual obligations of the township.

(Comp. Ords. 1988, § 25.012)

Sec. 90-34. Management of combined system.

The combined system shall be and remain under the management, supervision and control of the township board or such agency or department of the township as it may designate, subject to the provisions of the sewer and water contract as to the sewer and water facilities acquired and constructed pursuant to the contract. The township supervisor, with approval of the township board, may employ such persons as may be deemed necessary to carry on the management, maintenance and operation of the combined system.

(Comp. Ords. 1988, § 25.013)

Sec. 90-35. Fiscal year.

The combined system shall have an operating or fiscal year commencing on January 1 and ending on December 31 of each year.

(Comp. Ords. 1988, § 25.014)

State law reference(s)—Fiscal year, MCL 141.125.

Sec. 90-36. Additional contracts.

Nothing contained in this article shall be construed in any way to prevent the township from entering into additional contracts with the county under the provisions of Public Act No. 342 of 1939 (MCL 46.171 et seq.) for the acquisition, construction and financing of additions, extensions and improvements to the combined system, and the use of revenues of the combined system for the payment of additional contractual obligations incurred by the system.

(Comp. Ords. 1988, § 25.019)

Sec. 90-37. Annual statements and audits.

The township shall cause to be maintained and kept proper books of record and account, in which shall be made full and correct entries of all transactions relating to the combined system. Not later than two months after the close of each fiscal year, the township shall cause to be prepared a statement in reasonable detail, showing the revenues and expenses of the combined system at the beginning and close of the fiscal year, and such other information as may be necessary to enable any taxpayer of the township, user or beneficiary of the services furnished, to be fully informed as to all matters pertaining to the fiscal operation of the combined system during such year. Such annual statement shall be filed in the office of the township clerk where it will be open to public

inspection. Such books of record and account shall be audited annually by a certified public accountant to be designated by the township board and a certified copy of such audit shall be filed with the township clerk.

(Comp. Ords. 1988, § 25.023)

Sec. 90-38. Connection permits.

No connection shall be made or permitted to be made to any of the sewers or water mains of the combined system without obtaining a permit. Application for such permit shall be made and filed with the water and sewer superintendent and the issuance of such permit approved by the superintendent. No connection shall be made or permitted to be made to any of the sanitary sewers of the combined system which will in any way cause stormwater or surface drainage to be carried into the sanitary sewers.

(Comp. Ords. 1988, § 25.024)

Sec. 90-39. Liability.

Notwithstanding any provisions of this article, any person violating any of the provisions of this article shall become liable to the township for any expense, loss or damage occasioned the township by reason of such violation.

(Comp. Ords. 1988, § 25.025(2))

Sec. 90-40. Township water and sewer department sole supplier.

The township water and sewer department shall be the sole supplier of water and sewer for all the properties within the boundaries of Harrison Township. The existing properties which are receiving water and sewer services from other municipalities as from the date of this section shall be grandfathered in.

(Ord. No. 369, § 7, 5-24-2010)

Secs. 90-41—90-60. Reserved.

DIVISION 2. RATES AND CHARGES⁶⁵

Subdivision I. In General

Sec. 90-61. 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:

Single-family dwelling unit means any structure or part of a structure containing within its separate confines all necessary facilities for use as a dwelling place for human habitation, and including but not necessarily limited to a single-family home, a dwelling unit within a multiple-unit housing structure, and a mobile home (trailer coach).

⁶⁵State law reference(s)—Rates and charges, MCL 141.121.

(Comp. Ords. 1988, § 25.016(A); Ord. No. 313, 8-11-1997)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-62. Revision of rates.

The rates and charges specified in this division shall be subject to revision from time to time by resolution of the township board, it being the intent that such rates and charges shall, as far as is reasonably possible, provide sufficient funds, together with any additional funds earmarked for such purpose, to enable the combined system to be efficiently operated and maintained, and to pay the township's contractual obligations.

(Comp. Ords. 1988, § 25.018; Ord. No. 313, 8-11-1997)

Sec. 90-63. Prepaid tap or capital charge certificates.

In those instances where land developers or others have prepaid the water and sewer tap charges and have been issued certificates pursuant to resolution or authorization of the township board, the tap charges shall be considered paid, upon surrender of the appropriate certificates which equal the tap charge or charges in effect at the time of surrender.

(Comp. Ords. 1988, § 25.016(D))

Sec. 90-64. No free service.

No free service shall be furnished by the combined system to any person, firm or corporation, public or private, or to any public agency or instrumentality. The township shall pay the same water and sewer rates to itself (water and sewer department) as would be payable by a private customer for the same service.

(Comp. Ords. 1988, § 25.017; Ord. No. 369, § 1, 5-24-2010)

Sec. 90-65. Use of funds.

- (a) All revenues except those specifically defined in subsection (c) of this section shall be set aside, as collected and deposited in a bank designated by the township board duly qualified to do business in the state, in an account to be designated water and sewer system receiving fund.
- (b) There shall first be set aside, during each fiscal year, into a separate account designated the operation and maintenance fund, all sums in the receiving fund, to provide for current costs and expenses of the operation, maintenance and administration of the combined system during the fiscal year. Sewage disposal rates or charges imposed by the county for treatment and disposal of sewage through the City of Detroit system and wholesale water rates imposed by the City of Detroit or the City of Mount Clemens or any successor supplier of water shall be considered as an operational expense, and an amount sufficient to pay such rates and charges during the fiscal year shall likewise be set aside into the fund.
- (c) Ad valorem tax levies and special assessment tax levies shall be collected and deposited in a separate depository account in a bank designated by the township board duly qualified to do business in the state, in an account to be designated the water and sewer system contractual obligations fund; and such moneys will be used for and applied to the payment of contractual obligations as they become due and payable.
- (d) There shall be established a water and sewer capital projects account for the express purpose of extension, replacement and/or major repairs or upgrading of the township water and sewer system. This fund will be financed by the funding of the annual depreciation of the systems. On December 3, 1997, there shall be

transferred to the capital projects account those balances in the contractual obligations fund that represent sewer and water tap fees and interest generated by the contractual obligations fund.

The contribution to the water and sewer capital projects fund in the amount of the annual depreciation of the systems shall be suspended for fiscal year 2010 and 2011.

(Comp. Ords. 1988, § 25.025; Ord. No. 313, 8-11-1997; Ord. No. 371, § 1, 12-13-2010)

Secs. 90-66—90-90. Reserved.

Subdivision II. Billing and Collection

Sec. 90-91. Definitions.

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

Recurring rates and charges means and includes water consumption rates, sewer use rates, water and sewer lateral benefit charges where payable in installments, and any other rates and charges established which are payable in installments, or on a recurring basis.

(Comp. Ords. 1988, § 25.016(B))

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-92. Liability for payment.

The owner of the premises shall be jointly and severally liable with the occupant for any sum due for water consumed.

(Comp. Ords. 1988, § 25.316(c))

Sec. 90-93. Billing.

All recurring rates and charges shall be billed quarterly or as amended by the township board as necessary during each fiscal year and shall represent charges for the period immediately preceding the date of the bill. These bills shall become due and payable within 20 days from the date of the bill; and for all bills not paid when due, a penalty of ten percent of the amount of such bill shall be added. An installment payment plan may be set up with the water and sewer department and approved by the superintendent or such other person as designated by the township board.

(Comp. Ords. 1988, §§ 25.016(B), 25.316(b); Ord. No. 369, § 2, 5-24-2010)

Sec. 90-94. Failure to receive bill.

Failure of the consumer to receive any bill shall not relieve him of the liability for the charges incurred, and the consumer shall call at the office of the department for such bill if it has not been received.

(Comp. Ords. 1988, § 25.316(a))

Sec. 90-95. Collection and lien.

- (a) The water department is hereby authorized to enforce the payment of charges for water service to any premises by discontinuing the water service to such premises, and the payment of charges for sewage disposal service to any premise may be enforced by discontinuing either the water service or the sewage disposal service to such premises or both, and an action for assumpsit may be instituted by the township against the customer.
- (b) The recurring rates and charges shall constitute a lien pursuant to Public Act No. 94 of 1933 (MCL 141.101 et seq.) on the property served and benefited; and if not paid within six months after they are due, the official in charge of collection shall, prior to September 1 of each year, certify to the township supervisor the fact of such delinquency, whereupon such charge shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien enforced in the same manner as general township taxes against such premises are collected and the lien enforced; however, as provided in section 21 of the Revenue Bond Act of 1933 (MCL 141.121), where notice is given that a tenant is responsible for the payment of the consumption rates and debt service rates, no further water or sewer service shall be rendered to such premises until a cash deposit shall have been made as security for the payment of such charges or service. A cash deposit shall be determined and approved by a resolution of township board.
- (c) In addition to other remedies provided, the township water and sewer superintendent or such other person as designated by the township board shall have the right to shut off and discontinue the supply of water and sewer disposal to any premises for the nonpayment of charges and rates when due. Notice of shut off shall be sent by certified mail prior to the shut off and discontinuance of water and sewer disposal. The provisions of this section shall be enforced by the water and sewer superintendent or such other person as designated by the township board of trustees.

(Comp. Ords. 1988, §§ 25.016(C), 25.316(c); Ord. No. 369, § 3, 5-24-2010)

State law reference(s)—Lien, MCL 123.162 et seq.

Sec. 90-96. Reconnection fee.

Whenever service has been disconnected because of the nonpayment of sums due for water, an additional fee shall be paid for resumption of service. Reconnection fees may be changed from time to time by resolution of the township board.

(Comp. Ords. 1988, § 25.316(f); Ord. No. 369, § 4, 5-24-2010)

Sec. 90-97. Recovery of sums due.

The township may institute an action to recover any sums due and owing to the township in accordance with any of the provisions of this article.

(Comp. Ords. 1988, § 25.316(e))

Secs. 90-98—90-110. Reserved.

Subdivision III. Water

Sec. 90-111. Water rates.

The water service charges and rates to users and beneficiaries of the combined system shall be prescribed from time to time by resolution approved by the township board.

(Comp. Ords. 1988, § 25.015; Ord. No. 313, 8-11-1997)

Sec. 90-112. Consumption rates.

Each connection shall pay the following readiness-to-serve charge. Nonresidential connections invoiced monthly shall pay one-third the quarterly rate. All minimum charges shall apply to each single-family dwelling unit.

WATER READINESS-TO-SERVE CHARGE

Meter Size (inches)	No. of Equivalent Single-Family Dwelling Units	Quarterly Charge
¼ & ⅜	1.0	\$ 4.50
1	2.5	11.25
1½	5.0	22.50
2	8.0	36.00
3	16.0	72.00
4	25.0	112.50
6	50.0	225.00
8	80.0	360.00
10	115.0	517.50

A water commodity charge shall be invoiced for all water consumed at the rate of \$1.54 per 100 cubic feet.

(Comp. Ords. 1988, § 25.015(1); Ord. No. 313, 8-11-1997)

Sec. 90-113. Maintenance fee.

A fixed month maintenance fee established by the township board on the recommendation of the superintendent shall be assessed against each and every meter in service and shall be included in the minimum monthly charge.

(Comp. Ords. 1988, § 25.316(g))

Sec. 90-114. Water tap charges.

Each premises connecting to the water lines of the combined system shall, at the time of obtaining permit for such connection shall pay a water tap charge in accordance with the following schedule (provided no payment for tap charges will be accepted unless a permit is issued):

Meter Size (inches)	Number of Equivalent Single-Family Dwelling Units	Water Tap Charge
¾ - ¾	1.0	\$ 200.00
1	2.5	500.00
1½	5	1,000.00
2	8.0	1,600.00
3	15	3,000.00
4	25	5,000.00
6	50	10,000.00
8	80	16,000.00

(Comp. Ords. 1988, § 25.015(2); Ord. No. 313, 8-11-1997)

Sec. 90-115. Water lateral benefit charge.

There shall be paid on behalf of any premises making a direct private connection to any public water line of the combined system which has not been either privately constructed and paid for on behalf of the premises, or publicly financed at least in part by means of special assessments, levied against the property on which the premises are located, for the privilege of making use of the water line as a lateral, a lateral benefit charge based upon \$50.00 per front foot of the property abutting the water line. This charge shall be paid in cash, at the time of application for a building permit, for new homes or buildings to be constructed. Existing homes or buildings, in lieu of payment in cash, shall have the option expressed in writing at the time of obtaining permit for connection, of paying the charges in equal annual installments over a period of ten years, together with interest at a rate of eight percent per annum on the unpaid balance.

(Comp. Ords. 1988, § 25.015(3); Ord. No. 313, 8-11-1997)

Sec. 90-116. Water connections and charges.

In addition to all other charges specified in this subdivision, there shall be paid on behalf of each premises connecting to the water lines of the combined system all costs of making such connection, plus all permit fees and inspection fees.

(Comp. Ords. 1988, § 25.015(4))

Sec. 90-117. Fire hydrant rates.

For fire hydrant maintenance (not flushing), the township, from the fire department budget, shall pay each fiscal year a sum to be determined and approved by resolution of the township board, for each fire hydrant, the number of hydrants to be determined March 1 of each year.

(Comp. Ords. 1988, § 25.015(5); Ord. No. 369, § 5, 5-24-2010)

Cross reference(s)—Fire prevention and protection, ch. 38.

Sec. 90-118. Connection/disconnection fee.

Except as otherwise provided, a \$15.00 fee shall be assessed by the township for every connection to or disconnection from the water system performed by the township for any premises. This fee shall be charged, assessed and collected in the same manner as any other water service bill. The additional fee shall not be assessed where the connection and disconnection to the water system is required for maintenance or emergency repairs on the system.

(Comp. Ords. 1988, § 25.316(h))

Secs. 90-119—90-130. Reserved.

Subdivision IV. Sewers

Sec. 90-131. Sewer rates.

The sewer services charges and rates to users and beneficiaries of the combined system shall be prescribed from time to time by resolution approved by the township board. All minimum charges shall apply to each single-family dwelling unit.

(Comp. Ords. 1988, § 25.016)

Sec. 90-132. Sewer rates and charges (based upon water use).

- (a) *Readiness-to-serve charge.* Each connection shall pay the following readiness-to-serve charge. Nonresidential connections invoiced monthly shall pay one-third the quarterly rate:

Meter Size (inches)	Number of Equivalent Single-Family Dwelling Units	Quarterly Charge
¾ & ⅝	1.0	\$ 5.07
1	2.5	12.68
1½	5.0	25.35
2	8.0	40.56
3	16.0	81.12
4	25.0	126.75
6	50.0	253.50
8	80.0	405.60
10	115.0	583.05

For all sewage flow, the commodity charge shall be at the rate of \$2.00 per 100 cubic feet.

- (b) *Computation of industrial waste pollutant strength surcharge.* The industrial waste pollutant strength surcharge shall be computed in accordance with the following formula:

$$SC \ 0.624 \ V \ a \ (\text{BOD};\text{minus};275 \ + \ b \ (\text{TSS};\text{minus};350) \ + \ c \ (\text{P};\text{minus};12) \ + \ d \ (\text{FOG};\text{minus};100)$$

Where:

SC	=	Pollutant strength surcharge fee in dollars for the billing period.
V	=	Volume of waste discharged in the billing period in Mcf (1,000 cubic feet).
BOD	=	Five-day biochemical oxygen demand of the waste expressed in milligrams per liter (ppm).
TSS	=	Total suspended solids in the waste expressed in milligrams per liter (ppm).
P	=	Phosphorus in the waste expressed in milligrams per liter (ppm).
FOG	=	Fats, oil and grease in excess of 100 mg/l.
a,b,c,d	=	Surcharge rates, \$/pound for treating BOD, TSS, P and FOG, respectively.
0.624	=	Factor which converts Mcf to MM pounds (million pounds).
a	=	\$0.137/pound
b	=	\$0.186/pound
c	=	\$2.443/pound
d	=	\$0.048/pound

For purpose of surcharge computation, the values of pollutant strength shall not be less than the allowable values. The allowable values are:

BOD	=	over 275/mg/l
TSS	=	over 350/mg/l
P	=	over 12/mg/l
FOG	=	over 100/mg/l

- (c) *Industrial waste control charge (IWC)*. There is established an industrial waste control charge (IWC), which shall be a monthly charge billed by the City of Detroit Board of Water Commissioners, the Detroit City Council and/or the United States District Court. The IWC shall be a flat rate billed to all nonresidential customers and shall be based solely upon water meter size, in accordance with the following schedule:

Nonresidential Meter Size (inches)	Charge
5/8	\$ 2.66
3/4	4.00
1	6.66
1 1/2	14.66
2	21.31
3	38.63
4	53.28
6	79.92
8	113.20
10	186.48

- (d) *Computation of nonresidential sewerage charges*. The total sewerage charge for a particular nonresidential customer would be computed from the following formula:

$$UC = RC + V(R) + SC + IWC$$

Where:

UC	=	Total sewerage charge for billing period in dollars.
RC	=	Readiness-to-serve charge.
V	=	Volume of waste discharged in billing period per Mcf.
R	=	Commodity charge.
SC	=	Surcharge in dollars as computed above.
IWC	=	Industrial waste control charge in dollars as computed above.

In addition to the charges computed according to the above formula, there shall be an additional ten percent administrative charge for billing, processing and collection of the user charge by the township.

(Comp. Ords. 1988, § 25.016(1); Ord. No. 313, 8-11-1997)

Sec. 90-133. Sewer tap charge.

Each premises connecting to the sewer lines of the combined system shall, at the time of obtaining a permit for such connection, pay a sewer tap charge in accordance with the following schedule (provided no payment for tap charges shall be accepted unless a permit is issued):

Meter Size (inches)	Number of Equivalent Single-Family Dwelling Units	Sewer Tap Charge
5/8 - 3/4	1.0	\$ 800.00
1	2.5	2,000.00
1 1/2	5.0	4,000.00
2	8.0	6,400.00
3	15.0	12,000.00
4	25.0	20,000.00
6	50.0	40,000.00
8	80.0	64,000.00

(Comp. Ords. 1988, § 25.016(2); Ord. No. 313, 8-11-1997)

Sec. 90-134. Sewer lateral benefit charge.

There shall be paid on behalf of any premises making a direct private connection to any public sewer line of the combined system which has not been either privately constructed and paid for on behalf of the premises, or publicly financed at least in part by means of special assessments levied against the property on which the premises are located, for the privilege of making use of the sewer line as a lateral, a lateral benefit charge based upon \$80.00 per front foot of the property abutting the sewer line with house lead, and \$62.00 per front foot of the property abutting the sewer line without house lead. This charge shall be paid in cash at the time of application for a building permit, for new homes or buildings to be constructed. Existing homes or buildings, in lieu of payment in cash, shall have the option expressed in writing at the time of obtaining permit for connection of paying the

charge in equal annual installments over a period of ten years, together with interest at the rate of eight percent per annum on the unpaid balance.

(Comp. Ords. 1988, § 25.016(3); Ord. No. 313, 8-11-1997)

Sec. 90-135. Sewer connections and charges; additional leads.

In addition to all other charges specified in this subdivision, there shall be paid on behalf of each premises connecting to the sewer lines of the combined system all costs of making such connection, plus all permit fees and inspection fees. When leads for sewer lines are constructed in special assessment districts, or privately constructed, and the owner of the premises wishes additional leads, such additional leads will be put in at cost plus 20 percent if the township constructs the lead, or the owner may construct the lead at his own expense and pay the township permit and inspection fees.

(Comp. Ords. 1988, § 25.016(4))

Sec. 90-136. Special rates.

For miscellaneous services or in instances where a premises receives sewer service but not water service, and in all other instances for which special rates shall be required, such rates shall be fixed by the township board.

(Comp. Ords. 1988, § 25.016(5); Ord. No. 298, § I; Ord. No. 304, § II; Ord. No. 313, 8-11-1997)

Sec. 90-137. Additional charges; unreasonable burden on system.

If the character of sewage from any manufacturing or industrial plant or any other building or premises shall be such as to impose an unreasonable additional burden upon the sewers of the combined system, an additional charge may be made over and above the regular rates; or it may be required that such sewage be treated by the responsible person before being emptied into the sewer; or the right to empty such sewage may be denied if necessary for the protection of the sewer and sewage disposal facilities of the combined system, or the public health or safety.

(Comp. Ords. 1988, § 25.021)

Secs. 90-138—90-170. Reserved.

ARTICLE III. WATER SYSTEM

DIVISION 1. GENERALLY

Sec. 90-171. 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:

Consumer means the person served by or legally using water supplied by the department.

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 utilizing water for any purpose,

connected directly or indirectly with the corporation stop at the main, whether such installation is owned outright or used under lease or otherwise, by the consumer.

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.

Curb stop means a valve for insertion in the service pipes, in size of three-fourths inch to two inches in diameter, inclusive, at or near the curblin.

Curb stop box means a box or metal housing which encloses, protects and provides access to the curb stop.

Department means the department of the combined water and sewer department.

Inspector means the township plumbing inspector or his authorized representative.

Meter box means any approved box or vault for the housing of water meters.

Private main means any system of water pipes, valves, fittings, equipment and appurtenances used to distribute water within the area served by the township water system, but owned privately by any person.

Service control valve means a valve for installation 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.

Stop cock means a valve.

Superintendent means the superintendent of the combined water and sewer system of the township.

Tap means the drilling and threading of an opening in a main for insertion of a corporation stop.

Township water mains means the system of water pipes, valves, fittings, equipment and all appurtenances used to distribute water throughout the area served by the township water system, whether located on public property or on private property over which easements have been provided.

Yoke meter means a metal yoke especially manufactured for the setting of water meters.

(Comp. Ords. 1988, § 25.311)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 90-172. Civil infraction fine.

The municipal civil infraction fine for violations of this article is \$500.00.

(Comp. Ords. 1988, § 25.401)

Sec. 90-173. Provisions deemed incorporated in all contracts.

The provisions of this article shall be deemed incorporated and a part of every agreement or contract to furnish water by the township to any consumer. All persons using water from the mains shall be deemed to have agreed to be bound by such provisions.

(Comp. Ords. 1988, § 25.312)

Sec. 90-174. Consumer's responsibility.

- (a) The consumer shall assume all responsibility for the water service upon his premises from the curb stop, and for the service pipes, apparatus and plumbing used in connection with such service.
- (b) The consumer shall indemnify, save harmless and defend the department 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 his service pipes or installation.

(Comp. Ords. 1988, § 25.313)

Sec. 90-175. Access to premises.

Any duly authorized employee of the department shall have access to the consumer's premises at all reasonable hours for the purpose of reading meters, inspections, making repairs, or installing or removing any or all department apparatus used for rendering service to the consumer.

(Comp. Ords. 1988, § 25.315)

Sec. 90-176. Discontinuance of service.

The department reserves the right to discontinue service to the consumer, after due notice has been given, for violation of any of the rules and regulations of the department or the provisions of this article, for nonpayment of any charge or assessment for repair of damage to the system or its equipment, or for nonpayment of water bills.

(Comp. Ords. 1988, § 25.317)

Sec. 90-177. Vacating premises; change of occupancy; notice required.

When premises are to be vacated or there is a change of owner, occupant or agent, prompt notice shall be given to the department. The consumer may discontinue service by giving not less than 24 hours' notice to the department during its regular office hours.

(Comp. Ords. 1988, § 25.318)

Sec. 90-178. Department property; protection required.

All meters, mains and other equipment and appurtenances installed by the department at its own expense shall remain the property of the department. No unauthorized person shall disconnect any meter, connect to a meter, or disturb any piping between the meter and the department's distributing system after the meter has been set. The consumer shall at all times properly protect the meter from freezing or warping of the disc by hot water or by other unnecessary damage, and shall be liable for the cost of any repairs required by the consumer's negligence. Nonpayment of any charges assessed pursuant to this section shall be grounds for discontinuance of service.

(Comp. Ords. 1988, § 25.319)

Sec. 90-179. Disruption of service.

The department may shut off the water in a main for the purpose of making repairs or extensions, or for any other necessary purpose, after reasonably attempting to give notice to consumers, unless the emergency is of such nature as to preclude the giving of notice.

(Comp. Ords. 1988, § 25.320)

Sec. 90-180. Lawn sprinkling; regulations.

The use of water for sprinkling lawns and gardens, and the hours for such use, shall be prescribed by the regulations adopted by the department.

(Comp. Ords. 1988, § 25.321)

Sec. 90-181. Emergencies; use of water, curtailment.

- (a) The superintendent shall from time to time promulgate, subject to the approval of the township board, such regulations for the operation and use of the water distribution system, relative to the amount of pumpage of water, as shall be deemed expedient and necessary; and such regulations shall be and become part of this article and enforceable under this article.
- (b) In the event of an emergency, whenever the amount of water pumpage from the distribution system has reached such volume that unless restricted the public health, safety and general welfare of the people is likely to be endangered, the superintendent may take such action as necessary to protect the public health, safety and welfare.
- (c) The penalty prescribed in this article shall apply to any violation of such regulations.

(Comp. Ords. 1988, § 25.322)

Sec. 90-182. Funds; maintenance, records.

All funds of the department shall be kept separate from other funds of the township, and an accurate separate record shall be kept of all receipts and disbursements of the department.

(Comp. Ords. 1988, § 25.323)

Sec. 90-183. Regulations authorized.

- (a) The superintendent shall from time to time promulgate, subject to the approval of the township board, such regulations for the operation and use of the water system as shall be deemed expedient and necessary to effectuate this article; and such regulations shall be and become part of this article and enforceable under this article.
- (b) In the event of an emergency, to protect the public health, safety and general welfare of the people, the superintendent shall take such action necessary to protect the public health, safety and welfare.
- (c) The penalty prescribed in this article shall apply to any violation of such regulations.

(Comp. Ords. 1988, § 25.324)

Sec. 90-184. Tapping charges; water systems; connections, fees, requirements.

- (a) No application for tapping into the water system of the township shall be accepted unless the applicant shall have entered into a contract with the township for such services, and unless the payment of such charges as are set forth in article II of this chapter are paid by the applicant as required in article II.
- (b) Upon issuance of meter and final inspection for multiple dwellings, the applicant will assume water and sewer rates for all units serviced by the meter, regardless of how many units are occupied.

(Comp. Ords. 1988, § 25.381)

Secs. 90-185—90-200. Reserved.

DIVISION 2. METERS

Sec. 90-201. Required.

- (a) All connections with the water mains shall be prepared for the use of water through meters.
- (b) A block of store buildings, a terrace building or an apartment house may have a single meter for all, or separate meters for each unit, depending upon the arrangement of the service lines.

(Comp. Ords. 1988, § 25.371)

Sec. 90-202. Size; type; determination; charges.

- (a) All meters which are to be used for the measuring of water consumed shall be furnished by the department and shall remain the property of the township; however, the cost of installation of each and every meter shall be assessed against the property owner and paid at the time of installation at a charge to be set by resolution of the township board on recommendation of the superintendent.
- (b) The plumbing inspector or the superintendent shall in cases of all two-inch meters determine the necessity of a single disk or compound meter based on the estimated use of water. When requesting the installation of any such meter, the consumer shall furnish information as to the amount of his contemplated water demand; and the department shall then determine the proper type and size of meter to be installed. Unless otherwise authorized by the superintendent, the supply of water through each water service shall be recorded through one meter. Unless otherwise authorized by the superintendent, meters with inlet and outlet openings up to two inches, inclusive, shall be of the disk type. Whenever meters with openings larger than two inches are required, the department shall determine the type to be used. When used on fire protection services, special type meters prescribed by the department shall be used. All water services 1½ inches and larger shall be installed with full-size meter bypass, equipped with a wheel-operated gate valve and with wheel-operated meter control valves at the inlet and outlet of the meter. On services two inches to six inches, inclusive, a test tee having a two-inch flanged wheel gate valve shall be installed between the meter and the outlet valve. For services eight inches or larger, the required flanged and valved tee opening shall be three inches in diameter.

(Comp. Ords. 1988, § 25.372)

Sec. 90-203. Interference, removal; prohibitions.

No unauthorized person shall interfere, tamper with, damage, destroy or remove a water meter from any service connection. Whenever a meter is removed by permission of the department, it shall be returned to the department immediately under penalty of having the water shut off or, in the case of a plumber, having the license of such plumber revoked.

(Comp. Ords. 1988, § 25.373)

Sec. 90-204. Private fire lines, sprinkler systems; meters required.

- (a) All water used for private fire lines and sprinkler systems shall be metered. The applicant may purchase the meter or detector check from the department. Whenever a detector check is used, the department shall install the bypass and small meter, after the plumber, contractor, owner or other person sets the detector check. Such detector checks shall be permitted on fire lines supplying sprinkler systems or hose connections dependent on township pressure only to maintain a supply of water in such systems or connections, and in sprinkler systems dependent on a storage tank or fire pump for supply and pressure.
- (b) Water services installed to supply standpipes and sprinkler systems for fire protection only will be subject to metering and other regulations. Complete specifications for the proposed work shall be submitted to the department before connection to the water distribution system shall be made. Unmetered fire protection services shall be installed in such a manner that all outlets subject to sealing will be exposed and easily accessible for the inspection of seals at any time. No connections for any other purpose to unmetered fire services shall be permitted.

(Comp. Ords. 1988, § 25.374)

Cross reference(s)—Fire prevention and protection, ch. 38.

Sec. 90-205. Installation, location; regulations.

- (a) Where more than one meter is placed on a single line, it must be installed to permit separate operation in case of shutoff of water service.
- (b) Meter templets with couplings up to and including one inch shall be furnished without charge whenever the plumber, contractor, owner or other person has submitted an application to the department. The templets with couplings shall be set before the premises become occupied.
- (c) Whenever it is necessary to make more than one trip to set a meter due to faulty workmanship, a charge of \$4.00 shall be made for each additional trip.
- (d) All meters shall be set horizontally in dry, clean, sanitary locations, readily accessible, with gate valves on both sides, and in such places that small leaks and the spilling of water will do no damage. Rod shutoff in lieu of valves is prohibited.
- (e) Meters and valves located in locked closets or compartments, coal bins, under buildings or porches, or any other place not readily accessible are prohibited. Meters may be set in toilet rooms of gasoline service stations, 24 inches or farther from any urinal. Meters may be set under show windows only when set within eight inches of a door at least 24 inches wide and 24 inches high and with couplings at least four inches above the floor with 18-inch clearance above the meter coupling to allow for meter reading. The meter shall be set opposite the center of the doorway.

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- (f) The department shall install all meters up to two inches whenever the plumber, contractor, owner or other person has compiled all preparatory work. Detector checks used on fire lines shall be obtained at the department's meter shop and shall be installed by the plumber, contractor, owner or other person.
- (g) With department approval, meters may be set in cellar, basement, under a kitchen sink or on the first floor. A run, not to exceed 130 feet, will be allowed between the lot line nearest the street main and the meter.
- (h) In dwellings or buildings used for residence purposes only, the owner may use checkvalves on feed pipes entering range boilers provided a safety valve is used whenever a checkvalve is set.
- (i) Plugged tees or other accessible outlets between the meter and the main are prohibited.
- (j) The clearance distance from a wall or any other object to the center of a service pipe shall not be less than shown below:

Meter Size (inches)	Clearance (inches)
3/8, 1/4, 1	5
1 1/2	12
2	14

Larger sizes shall be installed in accordance with blueprints furnished by the department.

- (k) Bypasses and meter connections the same size as the service lines shall be required on all meters larger than two inches. Bypasses on two-inch meters and smaller are prohibited. The bypass which shall be curb stops with seal openings and meter connections shall be constructed in accordance with department blueprints and specifications.
- (l) Tile meter housing with iron rim and cover for five-eighths-inch and three-fourths-inch meters may be installed if such installation is made in compliance with department plans and specifications. The department shall provide plans and specifications for meter boxes larger than two inches.

(Comp. Ords. 1988, § 25.375)

Sec. 90-206. Protection required.

All consumers shall take any and all precautions that may be required to prevent the pipes and meters from freezing in cold weather. The meter boxes shall be maintained free from water at all times.

(Comp. Ords. 1988, § 25.376)

Sec. 90-207. Failure to register; water usage, amount, determination.

The consumer shall accept as standard of measurement the meter installed by the department. Should the 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 by averaging the amount for the period immediately preceding and subsequent to such defective registration by the meter, the method to be used at the discretion of the department.

(Comp. Ords. 1988, § 25.377)

Sec. 90-208. Tests, inspections.

- (a) The department, at its expense, shall make periodic tests and inspections of its meters in order to maintain them at a high standard of accuracy. A test of the accuracy of any water meter shall be made, free of charge, upon request of a consumer provided such meter has not been tested within 12 months previous to such request. Any meter registering a variance of not more than two percent shall be deemed accurate.
- (b) A consumer may request the department to test the meter serving his premises. A minimum of one week's notice shall be given before such test shall be made. If less than 12 months have elapsed since the meter was last tested, the department shall require the consumer to pay a fee in the amount of \$10.00 if the meter size is one inch or smaller; \$15.00 for simple meters larger than one inch; \$25.00 for compound meters larger than one inch. Such fee shall be returned to the consumer if the meter is found to register more than two percent fast. If the meter is found to be less than two percent fast, the fee will be forfeited to the township.
- (c) The department shall notify the consumer of the time and place of such test, not less than five days in advance of the date of the test. The consumer or his representative may be present when such test is conducted. A written report giving the results of the test will be furnished to the consumer within ten days after completion of the test. Should any consumer be unsatisfied with the test made by the department, he may request that the meter be tested by the manufacturer; provided, that he shall agree to pay the cost of such test if the meter is found accurate within the two percent limits. If the manufacturer shall find the meter to be more than two percent fast, the cost of such test shall be borne by the department.

(Comp. Ords. 1988, § 25.378)

Sec. 90-209. Meter repairs.

The department shall maintain and repair its meters provided that a monthly maintenance fee shall be assessed against each and every meter in the manner set forth in this article, however, should any meter be damaged by freezing, hot water or otherwise, due to negligence of the consumer, the cost of such repairs shall be charged to the consumer.

(Comp. Ords. 1988, § 25.379)

Sec. 90-210. Seals; tampering; prohibitions.

Whenever it is necessary to break any seal attached to a water meter or water service, the department shall be notified. No unauthorized person shall tamper with, change, damage or destroy any seal attached to a water meter or water service. Any meter that shows evidence of tampering shall be removed by the department for testing and repairs, and the cost of such test and repairs shall be charged to the consumer or property owner.

(Comp. Ords. 1988, § 25.380)

Secs. 90-211—90-230. Reserved.

DIVISION 3. EQUIPMENT INSTALLATION

Sec. 90-231. License.

- (a) Only a licensed contractor may apply for a permit as required in this division. A licensed contractor shall first obtain a license for such work from the superintendent and pay a fee in the amount established by resolution.
- (b) In order to be issued a license, the licensed contractor must be qualified for such work, such qualifications to be provided by the superintendent and regulations issued from his office.
- (c) The license shall be subject to revocation by the superintendent at any time for violation of any of the provisions of this article and any other applicable ordinances of the township or for such cause as the superintendent may find to revoke the license, provided such person may appeal the revocation to the township board.
- (d) Such licensed contractor shall deposit with the township a performance bond equaling not less than \$2,500.00 subject to conditions as set forth by the superintendent by issuance of regulations.
- (e) The performance bond shall remain in effect for one year after the tap connection has been inspected to protect the township from any damage caused by the permit holder which may not be physically determined at the time of inspection.
- (f) The person must give a certificate of insurance or satisfactory proof of insurance for a period exceeding the completion of the connections, and such insurance shall contain public liability insurance in an amount of not less than \$50,000.00 per person and \$100,000.00 per occurrence with the further provision of a minimum of \$50,000.00 property damage.
- (g) Permits shall be obtained from the department before any consumer shall install water service equipment. Permits shall not be issued to plumbers or contractors unless such persons have been licensed by the state. Nothing contained in this subsection shall be construed to prohibit any person from performing any work on premises owned by him, provided a permit is procured and such work is performed in accordance with the provisions of this article.
- (h) Before extending service pipes, replacing or changing stop boxes or meter settings, or repairing and altering services, a permit shall be procured. In the event of an emergency when the department offices are closed, such work may be performed without a permit provided the person doing such work shall notify the department on the next succeeding business day and pay the fees which would normally have been required for the issuance of the permit.
- (i) Applications for permits shall be made at the department offices in the form and manner prescribed. Complete information shall be furnished regarding the proposed installation or other work to be performed to ensure adequacy of service.

(Comp. Ords. 1988, § 25.341; Ord. No. 366, § 1, 4-12-2010)

Sec. 90-232. Correction of defective work.

Whenever the inspector finds any water service, curb box or plumbing job that is defective or irregular, the department may direct such work as will be required to correct the defect or irregularity. Any permittee who fails to comply with the provisions of this section or refuses or neglects to correct his work after notice of any defect or irregularity within a reasonable time shall be denied subsequent permits; in addition, he shall become subject to the penalty provided in section 90-32. The permittee shall reimburse the department for any loss in revenue resulting from the water service being left on without permission or the failure to procure a permit.

(Comp. Ords. 1988, § 25.342)

Sec. 90-233. Department information; liability, exemption.

The department shall not be liable for any expense incurred by a permittee in locating mains, services, curb stops or corporation stops, arising out of information procured from department records.

(Comp. Ords. 1988, § 25.343)

Sec. 90-234. Shutting off water; restriction.

No permittee shall turn water off or on at the corporation stop or curb stop to any service pipe, except to make repairs and test his 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 stop or curb stop.

(Comp. Ords. 1988, § 25.344)

Sec. 90-235. Use on one connection, limitation.

- (a) Unless permission is otherwise granted by the department, separate premises shall have separate service pipe installations, curb stops and curb boxes, and shall be separately metered.
- (b) In no event shall a consumer extend his service pipes or plumbing across any public way, or to an adjacent property in order to furnish service to the property, even though such adjacent property be owned by him.
- (c) Whenever water is to be supplied to several persons in apartments, offices or stores, all located in a single building and supplied through one service, the department shall contract with one person who shall be responsible for the payment of water bills in accordance with the rate established in article II of this chapter.

(Comp. Ords. 1988, § 25.345)

Sec. 90-236. Leaks; repair, notice.

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 department shall give the consumer written notice of such fact; 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 department may discontinue the service by shutting off the water at the curb stop or by excavating to and closing the corporation stop. The cost of excavating and shutting off such service shall be paid by the consumer (and the consumer and owner are jointly and severally liable) before service is restored. If in the judgment of the department any leak on the consumer's installation is of such nature as to endanger public safety or constitute a nuisance or a source of waste, the department may shut off or discontinue such service without previous notice to the consumer; and service shall not be restored until such leak is repaired.

(Comp. Ords. 1988, § 25.346)

Sec. 90-237. Water service pipe; requirements.

- (a) The water service pipe may be placed in the same trench with the building drain and building sewer, upon compliance with the following conditions:
 - (1) The bottom of the water service pipe, at all points, shall be at least 12 inches above the top of the sewer line at its highest point and five feet deep.

- (2) The water service pipe shall be placed on a solid shelf excavated at one side of the common trench.
 - (3) The number of joints in the service pipe shall be kept to a minimum.
 - (4) The materials and joints of sewer and water service pipe shall be installed in such a manner and shall possess the necessary strength and durability to prevent the escape of solids, liquids and gases, under all known adverse conditions such as corrosion, strains due to temperature changes, settlement, vibrations and superimposed loads.
- (b) When any premises are supplied through two or more interconnecting water service pipes, each pipe shall be equipped with a checkvalve near the meter outlets, so set that water can flow into the premises but no water can flow out.
- (c) The water service pipe to any building shall be of sufficient size to permit a continuous and ample flow of water on all floors at all times. It shall be so graded in size as to make for equal distribution of the water to the respective risers and branches in accordance with the need of the fixtures or flushing medium employed. Frictional losses in piping, meters, valves, fittings and faucets shall be considered and allowance made, according to maximum usage demand and average pressure, when piping size is estimated. The service line from the main to the building on the premises shall be installed in accordance with department regulations. No service line shall have an inside diameter less than three-fourths inch. All service pipes of two inches or less in diameter shall be of U.S. government specification type K. copper tubing; those over two inches in diameter may be of cement lines cast iron.
- (d) Specifications of required copper service pipe dimensions shall be as follows:

	¾-inch	1-inch	1½-inch	2-inch
Outside diameter, inches	0.875	1.125	1.625	2.125
Wall thickness, inches	0.065	0.065	0.072	0.083
Weight per foot, pounds	0.641	0.839	1.360	2.060

The connection of the copper service pipe to the corporation stop shall be made by the use of an approved adapter fitting. The 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. Only three-part flared unions shall be used for connections in copper pipes, and all other types of flared unions are prohibited.

- (e) All service pipes shall be placed at least 4½ feet below the finished grade.
- (f) The service line shall be laid out to the main at right angles to the face of the building at the point where the service line enters the face of the building. Service lines to buildings without basements shall be laid from the main in front of the building, and at right angles to the face of the building. From this point, the service line may be offset to pass the building in a line parallel to the side of the building, inside the property line and as close to the building as practicable. If such procedure does not enable the service line to approach the main at right angles, no plumber, contractor or any other person shall proceed with such work unless he notifies the department and receives specifications for the completion of the work.
- (g) No drainage or plumbing system or part of such system shall be covered, backfilled or floored until it has been inspected, tested and approved as prescribed in this article.
- (h) If any building drainage or plumbing system or part of such system which is installed, altered or repaired is covered before being inspected, tested and approved as prescribed in this article, it shall be uncovered for inspection after notice to the plumber, contractor, owner or other person to uncover the work has been issued by the superintendent.

(Comp. Ords. 1988, § 25.348)

Sec. 90-238. Corporation stops; gate valves; service connections.

- (a) Single or multiple corporation stops or pipe saddles will be used to supply services or private mains up to and including two inches in diameter. Gate valves will be used to supply services or private mains over two inches in diameter. Connection of services between 1¼ inch and two inches to the township main shall be through one-inch corporation stops with branch connections making an angle of 45 degrees to the service proper.
- (b) On 1½-inch and two-inch services, a saddle will be required; on three-inch services, a four-inch connection at the main and a four-inch valve shall be required. Services four inches and over shall have the same size connection as the service.

(Comp. Ords. 1988, § 25.349)

Sec. 90-239. Curb stops.

An approved type round way, inverted core, Minneapolis pattern, tee head curb stop of good grade bronze material shall be installed on all three-fourths-inch, one-inch and two-inch service lines at a point as near the curb line as practical and permissible. A cast iron extension curb box of an approved pattern shall be placed over the curb stop so that it is readily accessible for turning on and off by department employees. The curb box shall be centered over the curb stop and shall be exposed flush with the finished grade level.

(Comp. Ords. 1988, § 25.350)

Sec. 90-240. Curb stop keys; possession, use; restriction.

Only plumbers and other persons authorized by the department shall be permitted to use curb stop keys. The loaning of such key is prohibited.

(Comp. Ords. 1988, § 25.351)

Sec. 90-241. Service control valves.

Valves of wheel, nonrising stem gate valves, stopcock or plug type may be used. They shall be of approved standard manufacture and housed in approved type service or roadway valve boxes.

(Comp. Ords. 1988, § 25.352)

Sec. 90-242. Tapping mains; applications, requisites, tap charges.

- (a) All taps shall be made by the department after proper application for service by consumers or their authorized agents. Such applications shall be made on standard forms and shall contain the street name, house number, lot number, the name of the plumber or contractor, the names of the applicant and the owner, the size of the service pipe, and any other information which may be required by the department. The department shall be given at least 24 hours' notice in advance of the time a tap is to be made.
- (b) Whenever any plumber or contractor shall make application to the department for any tap, he shall exhibit all plumbing and excavation permits that may be required from any city, county or other authority having jurisdiction.
- (c) Water connection charges shall be set by resolution of the township board on recommendation of the superintendent.

(Comp. Ords. 1988, § 25.353)

Sec. 90-243. Tapping mains; service pipe, installation prerequisite.

The service trench shall not be backfilled until the connection has been completed and the department has approved the installation. Clean earth or sand 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.

(Comp. Ords. 1988, § 25.354)

Sec. 90-244. Completion of work; inspection required.

- (a) The inspection and approval of water services, installed or repaired in accordance with the provisions of this article, shall be by the division of inspections.
- (b) Upon completion of any new service pipe installation or repairs, it shall be the duty of the permittee to obtain department approval before covering the work. The permit, showing work performed and including sketch and accurate measurements, shall be returned to the department within ten days after the work authorized by such permit has been completed.
- (c) When work is completed, the permittee shall leave the water shut off at the curb stop, roadway valve or service control valve.

(Comp. Ords. 1988, § 25.355)

Secs. 90-245—90-280. Reserved.

ARTICLE IV. SEWER USE AND DISCHARGE RESTRICTIONS AND REQUIREMENTS⁶⁶

DIVISION 1. GENERALLY

Sec. 90-281. Delegation of authority.

The City of Detroit, through the Detroit Water and Sewerage Department, as the state approved control authority, is authorized to administer and enforce the provisions of this article on behalf of the Township of Harrison (township). The township has executed and hereby ratifies its delegation agreement through the Macomb County Wastewater Disposal District with the City of Detroit through the Detroit water and sewerage department, which sets forth the terms and conditions of such delegated authority, consistent with this article, and shall allow the Detroit water and sewerage department to perform the specific responsibilities of control authority pursuant to state and federal law.

(Ord. No. 379, 7-22-2013)

⁶⁶Editor's note(s)—Ord. No. 379, adopted July 22, 2013, repealed the former Div. 1, §§ 90-281—90-285, and enacted a new Div. 1 as set out herein. The former Div. 1 pertained to similar subject matter and derived from Comp. Ords. 1988, §§ 25.110, 25.121, 25.122, 25.124, 25.142, 25.220(1), 25.231, 25.232, and 25.241.

Sec. 90-282. Wastewater discharge control; purpose.

- (a) The purpose of this article is the protection of the environment, and of public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of wastes admitted to or discharged into the wastewater collection and treatment system under the jurisdiction of the township and enabling the township to comply with all applicable state and federal laws required by the Federal Water Pollution Control Act, being 33 U.S.C. § 1251 et seq.), and the General Pretreatment Regulations, being 40 CFR part 403.
- (b) The objectives of this article are:
 - (1) To prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the system or contaminate the resulting sludge, or will pose a hazard to the health or welfare of the people or of employees of the City of Detroit Water and Sewerage Department;
 - (2) To prevent the introduction of pollutants into the wastewater system which will pass inadequately treated through the system into receiving waters, the atmosphere or the environment, or otherwise be incompatible with the system;
 - (3) To improve the opportunity to recycle or reclaim wastewater or sludge from the system in an economical and advantageous manner; and
 - (4) To provide for the recovery of the costs from users of the wastewater collection and treatment system sufficient to administer regulatory activities and meet the costs of the operation, maintenance, improvement or replacement of the system.
- (c) This article provides for the regulation of contributors to the Detroit, county and township wastewater collection and treatment system through the issuance of wastewater discharge permits to certain users and through the enforcement of general requirements for all users, authorizes monitoring and enforcement, and authorizes fees and penalties.

(Ord. No. 379, 7-22-2013)

Sec. 90-283. Authority.

By virtue of the obligations and authority placed upon the township by the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being (33 U.S.C. § 1251 et seq.; the 1963 Constitution of the State of Michigan; Public Act 245 of 1929, as amended, being M.C.L. 323.1 et seq.; the 1997 City Charter; the National Pollutant Discharge Elimination System (NPDES) permit for the City of Detroit Publicly Owned Treatment Works (POTW); the Consent Judgment in U.S. EPA v. City of Detroit et al, Federal District Court for the Eastern District of Michigan Case No.77-1100, as amended; and existing or future contracts between the board of water commissioners and suburban communities or other governmental or private entities; or by virtue of common law usage of the system, this article shall apply to every user contributing or causing to be contributed, or discharging, pollutants or wastewater into the wastewater collection and treatment system of the City of Detroit POTW.

(Ord. No. 379, 7-22-2013)

Sec. 90-284. Definitions.

- (a) For purposes of this article and unless the context specifically indicates otherwise, the following terms and phrases, shall have the meanings ascribed to them by this section:

(Supp. No. 31)

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- (1) *Act or the act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, being 33 U.S.C. § 1251 et seq.
 - (2) *Authorized representative of industrial user* means:
 - a. Responsible corporate officer, where the industrial user submitting the reports required by this article is a corporation, who is either (a) the president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or (b) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred and fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five million dollars (\$25,000,000.00) in second-quarter 1980 dollars, when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or
 - b. A general partner or proprietor where the industrial user submitting the reports required by this article is a partnership or sole proprietorship respectively. (See section 90-285(n).)
 - (3) *Available cyanide* means the quantity of cyanide that consists of cyanide ion (CN⁻) hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury and silver, determined by EPA method OIA-1677, or other method designated as a standard method or approved under 40 CFR 136.
 - (4) *Best management practices (BMP)* means programs, practices, procedures or other directed efforts initiated and implemented by the user, which can or do lead to the reduction, conservation or minimization of pollutants being introduced into the ecosystem, including but are not limited to the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control, and may include technical and economic considerations.
 - (5) *Biochemical oxygen demand (BOD)* means the quality of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five days at 20 degrees Celsius expressed in terms of mass and concentration (milligrams per liter (mg/l)) as measured by standard methods.
 - (6) *Board* means the board of water commissioners of the City of Detroit.
 - (7) *Bypass* means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility. (See 40 CFR § 403.17.)
 - (8) *Centralized waste treatment (CWT) facility* means any facility that treats any hazardous or nonhazardous industrial waste received from off-site by tanker truck, trailer roll-off bins, drums, barges, or any other forms of shipment including:
 - a. A facility that treats industrial waste received exclusively from off-site; and
 - b. A facility that treats industrial waste generated on-site as well as industrial waste received from off-site.
 - (9) *Township* means the Charter Township of Harrison.
 - (10) *Compatible industrial wastewater* means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.
 - (11) *Compatible pollutant* means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

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- (12) *Composite sample* means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provides a representative sample of the average stream during the sampling period. A minimum of four aliquot per 24 hours shall be used where the sample is manually collected. (See 40 CFR 403, Appendix E.)
 - (13) *Confidential information* means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. (See section 90-290.)
 - (14) *Control authority* means the Detroit Water and Sewerage Department which has been officially designated as such by the State of Michigan under the provisions of 40 CFR 403.12. (See 40 CFR 403.12(a).)
 - (15) *Cooling water* means the noncontact water discharged from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.
 - (16) *Days* mean consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this article.
 - (17) *Department* means the City of Detroit Water and Sewerage Department, and authorized employees of the department.
 - (18) *Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the State of Michigan.
 - (19) *Director* means the director of the Detroit Water and Sewerage Department, or the director's designee.
 - (20) *Discharger* means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.
 - (21) *Domestic sewage* means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.
 - (22) *Environmental Protection Agency or administrator or EPA administrator* means the United States Environmental Protection Agency or, where appropriate, the authorized representatives or employees of the EPA.
 - (23) *Facility* means a location, which contributes causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.
 - (24) *Fats, oils or grease (FOG)* means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable or mineral origin that's extractable by solvent in accordance with standard methods
 - (25) *Flow proportional sample* means a composite sample taken with regard to the flow rate of the wastestream.
 - (26) *Grab sample* means an individual sample collected over a period of time not exceeding 15 minutes, which reasonably reflects the characteristics of the stream at the time of sampling.
 - (27) *Indirect discharge or discharge* means the discharge or the introduction of pollutants into the POTW from any nondomestic source regulated under 33 U.S.C. § 1317(b), (c) or (d).
 - (28) *Industrial user* means a person who contributes causes or permits wastewater to be discharged into the POTW, including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable but excludes single-family and multi-family residential dwellings with discharges consistent with domestic waste characteristics.

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- (29) *Industrial waste* means any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade or research, including the development, recovery or processing of natural resources.
- (30) *Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
- a. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
 - b. Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, as amended, being 33 U.S.C. § 1345, the Solid Waste Disposal Act (SWDA), as amended, (including the Resource Conservation and Recovery Act (RCRA), and state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.
- (31) *May* means permissive.
- (32) *National categorical pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with 33 U.S.C. § 1317 (b) and (c) which applies to a specific class or category of industrial users.
- (33) *National Pollutant Discharge Elimination System (NPDES) permit* means a permit issued pursuant to 33 U.S.C. § 1342.
- (34) *New source* means:
- a. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 U.S.C. § 1317(c) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided, that: (a) the building, structure, facility or installation is constructed at a site where no other source is located; or (b) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (c) the production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered; or
 - b. Construction on a site where an existing source is located resulting 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 subsections a.(b) or a.(c) [above] of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or
 - c. Construction of a new source has commenced where the owner or operator has: (a) begun, or caused to begin as part of a continuous onsite construction program: (1) any placement, assembly, or installation of facilities or equipment; or (2) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly, or installation of new source facilities or equipment; or (b) 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. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for

feasibility, engineering, and design studies do not constitute a contractual obligation under this section.

- (35) *Pass through* means discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit including an increase in the magnitude or duration of a violation.
- (36) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district, or any other legal entity, or their legal representative, agent or assigns.
- (37) *pH* means the intensity of the acid or base condition of a solution, calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.
- (38) *Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.
- (39) *Pollution* means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.
- (40) *Pretreatment* means the reduction of the amount of pollutants, the removal 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 otherwise introducing such pollutants into the POTW. The reduction, removal or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.
- (41) *Pretreatment requirements* means any substantive or procedural requirements related to pretreatment, other than a national pretreatment standard imposed on an industrial user. (See 40 CFR 403.3(r).)
- (42) *Pretreatment standards* means all national categorical pretreatment standards, the general prohibitions specified in 40 CFR 403.5(a), the specific prohibitions delineated in 40 CFR 403.5(b), and the local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in section 90-285 of this Code.
- (43) *Public sewer* means a sewer of any type controlled by a governmental entity.
- (44) *Publicly owned treatment works (POTW)* means a treatment works as defined by 33 U.S.C. § 1292(2)(A) which is owned by a state or municipality, as defined in 33 U.S.C. § 1362, including:
- a. Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;
 - b. Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or
 - c. The municipality, as defined in 33 U.S.C. § 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
- (45) *POTW treatment plant* means that portion of the POTW designed to provide treatment to wastewater, including recycling and reclamation of wastewater.

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- (46) *Quantification level* means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring of the contaminant.
- (47) *Representative sample* means any sample of wastewater, which accurately and precisely represents the actual quality, character, and condition of one (1) or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR Part 136.
- (48) *Sanitary wastewater* means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for onsite noncommercial consumption.
- (49) *Shall* means mandatory.
- (50) *Significant noncompliance* means any violation which meets one (1) or more of the following criteria:
- a. Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six-month period exceed by any magnitude the daily maximum limit or the average limit for the same parameter;
 - b. Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except pH);
 - c. Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the department determines has caused, alone or in combination with other discharges, interference or pass-through including endangering the health of POTW personnel or the general public;
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;
 - e. Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within 90 days after the scheduled date;
 - f. Failure to provide required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within 30 days after the due date;
 - g. Failure to accurately report noncompliance; or
 - h. Any other violation or group of violations which the department determines will adversely affect the operation or implementation of the local pretreatment program.
- (51) *Significant industrial users* means any user of the POTW who:
- a. Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water; or
 - b. Has discharges subject to the national categorical pretreatment standards; or
 - d. Requires pretreatment to comply with the specific pollutant limitations of this article; or

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- e. Has in its discharge toxic pollutants as defined pursuant to 33 U.S.C. § 1317, or other applicable federal and state laws or regulations, that are in concentrations and volumes which are subject to regulation under this article as determined by the department; or
 - f. Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this state or adopted under the Federal Solid Waste Disposal Act, as amended by the Federal Resource Conservation and Recovery Act, as amended, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or
 - g. Is found by the City of Detroit or the township to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.
- (52) *Slug* means any discharge of a nonroutine episodic nature including, but not limited to, an accidental spill or a non-customary batch discharge.
- (53) *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, 1987, as amended.
- (54) *Standard methods* mean methods set forth in 40 CFR Part 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants" or the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 CFR 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two references are in disagreement regarding procedures for the analysis of a specific pollutant, the methods given in 40 CFR Part 136 shall be followed.
- (55) *State* means the State of Michigan.
- (56) *Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (57) *Suspended solids (total)* means the total suspended matter which floats on the surface of, or is suspended in, water, wastewater or other liquids, and is removable by laboratory filtration or as measured by standard methods.
- (58) *Total PCB* means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.
- (59) *Total phenolic compounds* means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2,4-dichlorophenol, 2,4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.
- (60) *Toxic pollutant* means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provisions of the Clean Water Act, being 33 U.S.C. § 1317, or included in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or by other federal or state laws, rules or regulations.
- (61) *Trade secret* means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from

becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

- (62) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this article or with national categorical pretreatment standards due to factors beyond the reasonable control of the industrial user but excludes noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
 - (63) *User* means any person who, directly or indirectly, contributes, causes or permits the discharge of wastewater into the POTW as defined herein.
 - (64) *Wastewater or wastestream* means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW including infiltration and inflow waters, stormwater, and cooling water.
 - (65) *Wastewater discharge permits* mean permits issued by the department in accordance with section 90-287 of this Code.
 - (66) *Waters of the state* means groundwater, lakes, rivers, streams, all other watercourses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.
- (b) For purposes of this article, the following acronyms shall have the meanings designated by this section:
- (1) *BMR*: Baseline monitoring report.
 - (2) *BOD*: Biochemical oxygen demand.
 - (3) *CFR*: Code of Federal Regulations.
 - (4) *EPA*: Environmental Protection Agency.
 - (5) *FOG*: Fats, oil or grease.
 - (6) *L*: liter.
 - (7) *MDEQ*: Michigan Department of Environmental Quality.
 - (8) *mg*: milligrams.
 - (9) *mg/l*: milligrams per liter.
 - (10) *NPDES*: National Pollutant Discharge Elimination System.
 - (11) *POTW*: Publicly Owned Treatment Works.
 - (12) *RCRA*: Resource Conservation and Recovery Act, being 42 U.S.C. § 6901 et seq.
 - (13) *SIC*: Standard industrial classification.
 - (14) *SWDA*: Solid Waste Disposal Act, being 42 U.S.C. § 6901 et seq.
 - (15) *TSS*: Total suspended solids.
 - (16) *U.S.C.*: United States Code.

(Ord. No. 379, 7-22-2013)

Sec. 90-285. Discharge prohibitions.

- (a) *General pollutant prohibitions.* No user shall discharge or cause to be discharged into the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass through. These general discharge prohibitions shall apply to all users of the POTW whether or not the user is subject to national categorical pretreatment standards or to any other federal, state, or local pretreatment standards or requirements. In addition, it shall be unlawful for a user to discharge into the POTW:
- (1) Any liquid, solid or gas, which by reason of its nature or quantity, is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or to be injurious in any other way to persons, to the POTW, or to the operations of the POTW. Pollutants, which create a fire or explosion hazard in a POTW, include, but are not limited to, wastestreams with a closed cup flash point of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21; or
 - (2) Any solid or viscous substance in concentrations or quantities, which are sufficient to cause obstruction to the flow in a sewer or other encumbrances to the operation of the POTW, including, but not limited to, grease, animal guts or tissues, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud or glass grinding or polishing wastes, or tumbling and deburring stones; or
 - (3) Any wastewater having a pH of less than 5.0 units or greater than 11.5 units; or
 - (4) Any wastewater containing petroleum oil, non-biodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass through, or constitute a hazard to humans or animals; or
 - (5) Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair; or
 - (6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW, such as residue, sludge, or scum to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. 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 33 U.S.C. § 1345, with any criteria, guidelines, or developed and promulgated regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or with state criteria applicable to the sludge management method being used; or
 - (7) Any substance which will cause the POTW to violate either the Consent Judgment in U.S. EPA v. City of Detroit et al., Federal District Court for the Eastern District of Michigan Case No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit; or
 - (8) Any discharge having a color uncharacteristic of the wastewater being discharged; or
 - (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150 degrees Fahrenheit or which will cause the influent at the wastewater treatment plant to rise above 104 degrees Fahrenheit (40 degrees Celsius); or
 - (10) Any pollutant discharge which constitutes a slug; or

- (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable federal or state regulations; or
 - (12) Any floating fats, oil or grease which are sufficient to cause interference with or pass through the POTW; or
 - (13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half of one inch or greater which are sufficient to cause interference with the POTW.
- (b) *Specific pollutant prohibitions.* No user shall discharge wastewater containing any of the following pollutants in excess of the following limitations:
- (1) *Compatible pollutants.* See Appendix C.
 - (2) *Noncompatible pollutants.* No user shall discharge wastewater containing in excess of:

Arsenic (As)	1.0 mg/l
Cadmium (Cd)	See Appendix C
Chromium (Cr)	25 mg/l
Copper (Cu)	2.5 mg/l
Cyanide (Available)	1.0 mg/l
Iron (Fe)	1,000 mg/l
Lead (Pb)	1.0 mg/l
Nickel (Ni)	5.0 mg/l
Silver (Ag)	1.0 mg/l
Zinc (Zn)	7.3 mg/l
Total Phenolic Compounds	1.0 mg/l or See Appendix B

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR Part 136.

- a. *The limitation for total PCB is nondetect.* Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ug/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the total PCB concentration is below the detection level, or submission of a BMP in accordance with this article.
- b. *The limitation of mercury (Hg) is nondetect.* Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ug/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with this article.

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance 40 CFR Part 136.

- (3) *Compliance period.* Within thirty (30) days of the effective date of the ordinance codified herein, the department shall notify all industrial users operating under an effective wastewater discharge permit of the requirement to submit a compliance report within 180 days after the effective date of the

ordinance codified herein. The compliance report shall demonstrate the user's compliance or noncompliance with these limitations, and, in the event of noncompliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed 18 months from the effective date of the ordinance codified herein.

An industrial user who does not demonstrate compliance may petition the department for a second extension as part of an administrative consent order. The department shall include appropriate monitoring, reporting, and penalties into an administrative consent order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

- (c) *National categorical pretreatment standards.* All users shall comply with the applicable national categorical pretreatment standards and requirements promulgated pursuant to the act as set forth in 40 CFR Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this article, then the more stringent standard or requirement shall be controlling. Affected dischargers shall comply with applicable reporting requirements under 40 CFR Part 403 and as established by the department. The national categorical pretreatment standards which have been promulgated as of the effective date of this section are delineated in Appendix A.
- (1) *Intake water adjustment.* Industrial users seeking adjustment of national categorical pretreatment standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the department, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.
 - (2) *Modification of national categorical pretreatment standards.* The department may apply to the U.S. Environmental Protection Agency, or to the Michigan Department of Environmental Quality, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7. Such authorization may be granted only when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought, provided, that any limitation of such pollutant(s) in the NPDES permit neither are being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the department, any industrial user desiring to obtain such credit shall make an application to the department, consistent with the provisions of 40 CFR 403.7 and of this article. Any credits which may be granted under this section may be subject to modification or revocation as specified in 40 CFR 403.7, or as determined by the department. A requisite to the granting of any removal credit may be that the industrial user pay a surcharge based upon the amounts of such pollutants removed by the POTW, such surcharge being based upon fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect, or be modified to reflect, any credit granted pursuant to this section.
 - (3) *New sources.* Industrial users who meet the new sources criteria shall install, maintain in operating condition, and 'start-up' all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed 90 days, new sources must meet all applicable pretreatment standards.
 - (4) *Concentration and mass limits.* When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the department 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. Equivalent limitations shall be calculated in accordance with sections 40 CFR 403.6(c)(3) and/or 40 CFR 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 U.S.C. §1317(d) and of

this article. 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.

- (5) *Reporting requirements for industrial users upon effective date of categorical pretreatment standards-baseline report.* 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 submission under section 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the department a report containing the information listed in 40 CFR 403.12(b)(1-7). Where reports containing this information have already been submitted to the director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least 90 days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the department a report which contains the information listed in 40 CFR 403.12(b)(1-5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b)(4) and (5).
- (d) *Dilution prohibited.* Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water, or in any way dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant specific limitation or requirement imposed by the township, the City of Detroit or by the State of Michigan.
- (e) *Hauled in wastewater.* Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this article including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the department for unloading such waste in accordance with the board's rules pertaining thereto. The discharger shall be subject to applicable terms and conditions, surcharges, fees or rates as established by the board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements specified in section 90-287 of this Code. The department may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this article.
- (f) *Centralized waste treatment.* It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the department. Any authorization granted, or permit issued, by the department to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the department to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the department to discharge wastewater is not required to obtain further authorization from the department before discharging such wastewater.

An industrial user, that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW, shall provide the following minimum information in support thereof:

- (1) The general nature, source and process(es) generating the type of wastewater. Any wastewater, which is generated from those processes and is subject to national categorical pretreatment standards as delineated in Appendix A, shall be so designated;

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- (2) The identity of the toxic pollutants known or suspected to be present in the wastewater;
 - (3) At least one sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (f)(1) of this section;
 - (4) A statement, that is certified by a professional engineer, which addresses the treatability and compatibility of the wastewater, received or collected by the facility's treatment process(es);
 - (5) The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the department; and
 - (6) Other information requested by the department including, but not limited to, information required by section 90-287(c)(1) through (18) of this Code, or by rules adopted by the board.

The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in this article, will be deemed approved for discharge into the POTW. The Centralized Waste Treatment (CWT) facility shall comply with all applicable provisions contained in section 90-287 of this Code regarding permits. In furtherance of its obligations as control authority, the department may include in the permit a requirement to report at selected intervals the information mandated in Subsections (1) through (6) of this section.

All users granted a permit under this section shall maintain records which, as a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the department.

- (g) *Groundwater discharges.* Unless authorization has been granted by the department, the discharge of any groundwater into the POTW is prohibited.

The department may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within 180 days after its enactment.

If a person, who proposes to discharge groundwater resulting from purge, response activity, or UST projects, has applied for and received a permit from the department, the department may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in section 90-287 of this Code, or in accordance with any rules adopted by the board.

- (h) *Township right of revision.* The City of Detroit and the township reserve the right to establish rules or regulations adopted by the board, additional or more stringent limitations or requirements on discharges to the POTW. Ninety days after adoption by the board, industrial users shall comply with such rules and regulations.

- (i) *Accidental discharges.*

- (1) Each industrial user, which does not currently have an approved spill prevention plan or slug control plan, shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article, and all significant industrial users shall submit to the department detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. Unless the significant industrial user has an approved spill prevention or slug control plan, all existing significant industrial users shall complete and submit such a plan within 60 days of the effective date of this article [November 19, 1986]. New significant industrial users shall submit such a plan prior to the time they commence discharging.

For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemical and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five (5) percent or greater in the raw material, chemical solution or waste material, are required to be reported. Volumes of less than fifty-five (55) gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass through or cause interference with the POTW.

The industrial user shall promptly notify the department of any significant changes or modifications to the plan including, but not limited to, a change in the contact person, or substance inventory.

- (2) At least once every two years, the department shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within 30 days of notification by the department.
- (j) *Notification requirements.* Unless a different notice is provided by this article or applicable law, within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state or township laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with subsection (l) of this section, the industrial user shall telephone the department at its control center and notify the department of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the department, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property.
- (k) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board, or other prominent place, advising employees whom to contact in the department in the event of an actual or excessive or prohibited discharge.
- (l) *Recovery of costs.* Any user discharging in violation of any of the provisions of this article, which produces a deposit or obstruction, or causes damage to or impairs the department's POTW, or causes the department to violate its NPDES permit, shall be liable to the department for any expense, loss, damage, penalty or fine incurred by the department because of said violation or discharge. Prior to assessing such costs, the department shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment, or violation of the city's NPDES permit and the department's intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this article. Such charge shall be in addition to, and not in lieu of, any penalties or remedies provided under this article, or this Code, or other statutes and regulations, or at law or in equity.
- (m) *Hazardous waste notification.* All industrial users, who discharge into the township collection system, shall notify the department in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR Part 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

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- (n) *Authorized representative.* The authorized representative, as defined in section 90-284(a)(2) of this Code, may designate a duly authorized representative of the individual designated in Section 90-284(a)(2)(i) or (ii) of this Code where,
- (1) The authorization is made in writing by the individual defined in [Section 90-284(a)(2)(ii)];
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (3) The written authorization is submitted to the department.
- (o) *Pollution prevention.* The department shall encourage and support industrial users to develop and implement pollution prevention programs designed to eliminate or reduce pollutant contributions beyond the levels required by this article. The department may require an industrial user to implement pollution prevention initiatives, or BMP, as part of an enforcement response, or as necessary to comply with its NPDES permit.

(Ord. No. 379, 7-22-2013)

Sec. 90-286. Fees.

- (a) The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees established by the board shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system, or as provided by law or by board action.
- (b) The board shall adopt charges and fees which shall include, but not be limited to:
- (1) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the department's industrial waste control and pretreatment programs; and
 - (2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal; and
 - (3) Reasonable fees for reimbursement of costs for hearings including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and
 - (4) Other fees, which the board may deem necessary, to carry out the requirements contained herein, or as may be required by law.

(Ord. No. 379, 7-22-2013)

Sec. 90-287. Wastewater discharge permits.

- (a) *Required.* It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass through, or otherwise not comply with the discharge prohibitions of Section 90-285 of this Code. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the department through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this article.
- (1) All significant industrial users, which are in existence on the effective date of this article, shall apply for a wastewater discharge permit within 30 days of the effective date of this article. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this

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- provision. These applications are to include all information specified in Section 90-287(c) of this Code and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).
- (2) All new significant users shall apply for a wastewater discharge permit at least 90 days prior to commencement of discharge. The application must include all information specified in Section 90-287(c) of this Code and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the department, no discharge shall be made into the POTW.
 - (3) Any user, who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW, shall request approval from the department for the discharge(s) at least 30 days prior to the commencement of the discharge.
- (b) *Permit application or reapplication.* The department may require any user to complete a questionnaire and/or a permit application and to submit the same to the department for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within 30 days of being so notified, a user shall comply with the department's request in the manner and form prescribed by the department. Failure of the department to so notify a user shall not relieve the user of the duty to obtain a permit as required by this article.
- (1) A user, which becomes subject to a new or revised national categorical pretreatment standard, shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable national categorical pretreatment standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in section 90-287(c) and (g) of this Code.
 - (2) A separate permit application shall be required for each separate facility.
 - (3) Existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of existing permits on a form prescribed by the department.
- (c) *Application or reapplication information.* In support of an application or reapplication for a wastewater discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
- (1) Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;
 - (2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;
 - (3) All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;
 - (4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in section 90-285(a) and (b) of this Code, those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous permit, or specifically requested by the Detroit water and sewerage department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and

analysis shall be performed in accordance with procedures established by the EPA pursuant to 33 U.S.C. §1314(g) and contained in 40 CFR Part 136, as amended. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

- (5) A listing and description of activities, facilities and plant processes on the premises. Those processes, which are subject to national categorical pretreatment standards or requirements, shall be so designated. As pertains to subsection (c)(4), of this section, identify which pollutants are associated with each process;
- (6) Restricted to only those pollutants referred to in subsection (c)(4), of this section, a listing of raw materials and chemicals which are either used in the manufacturing process or could yield the pollutants referred to in subsection (c)(4). Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;
- (7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week;
- (8) Denote: (i) The average and maximum 24-hour wastewater flow rates including, if any, daily, monthly and seasonal variations; (ii) each national categorical process wastestream flow rate and the cooling water, sanitary water and stormwater flow rates separately for each connection to the POTW; and (iii) each combined wastestream;
- (9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross-referenced to the information furnished in subsection (c)(8) of this section;
- (10) Each product produced by type, amount, process or processes and rate of production as pertains to processes subject to production based limits under the national categorical pretreatment standards or requirements only;
- (11) A statement regarding whether or not the requirements of this article and of the national categorical pretreatment standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;
- (12) Basic information on the program for the prevention of accidental discharges in accordance with the requirements of section 90-285(i) of this Code;
- (13) Proposed or actual hours of operation of each pretreatment system for each production process;
- (14) A schematic and description of each pretreatment facility which identifies whether each pretreatment facility is of the batch type or continuous process type;
- (15) If other than Detroit water and sewerage department potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source, and the estimated wastewater volumes from each source;
- (16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this article and the national categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;

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- (17) Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and
 - (18) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.
- (d) *Permit issuance.* Upon receipt of an application, the department shall review the application, determine, and so notify the industrial user in writing regarding any of the following:
- (1) The industrial user does not meet the definition of a significant industrial user and is not required to have a wastewater discharge permit;
 - (2) The industrial user does meet the definition of a significant industrial user but is found by the department to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The department shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6);
 - (3) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or by the department, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;
 - (4) The industrial user is required to have a wastewater discharge permit. The department shall notify the industrial user of its determination and the basis of the determination.

The department may withhold issuance of a permit to a significant user, which has not submitted an adequate or timely report, or permit application, to the department as the control authority in accordance with the reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this article. If the department determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the draft permit, so marked, for the industrial user's review. An industrial user has 30 days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in section 90-293 of this Code, 20 days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the department of any contested terms or conditions, a permit shall be issued as final. Only one facility location shall be included in each permit.

- (e) *Permit conditions.* Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this article, other applicable laws, rules, regulations, and user charges and fees established by the City of Detroit or the township without repetition therein. In addition, permits may contain the following:
- (1) Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than, or supplemental to the numeric limits enumerated in section 90-285 of this Code, or the applicable national categorical pretreatment standards;
 - (2) Limits on average, and maximum rate and time of discharge or requirements for flow regulation and equalization;
 - (3) Requirements for installation, operation, and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;
 - (4) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;

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- (5) Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedules;
 - (6) Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;
 - (7) Restrictions based on the information furnished in the application;
 - (8) Additional reporting requirements:
 - a. All permittees shall submit a report on the form prescribed by the department, or on an alternative form approved by the department, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this article. Unless required more frequently, the reports shall be submitted at six-month intervals on a schedule to be established by the department. Analytical data generated by the department may not be submitted in lieu of the facility's own monitoring data as required by the wastewater discharge permit.
 - b. Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of section 90-287(e)(8)(d) and (e) of this Code. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the department in accordance with section 90-287(e)(9) and (11) of this Code.
 - c. Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the department. A compliance report shall be submitted to the department no later than 90 days following the final compliance date for a standard, or in the case of a new source, no later than 90 days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the department and incorporated into the industrial users discharge permit and in accordance with section 90-287(e)(8)(d) and (e) of this Code. The reports shall be either on a form prescribed by the department or on an alternate form approved by the department, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, or which there is a specific limitation in the permit, or which may be identified by the department in accordance with section 90-287(e)(9) and (11) of this Code. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the department, provided there have been no changes to the elements composing the combined wastestream.
 - d. Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR Part 403, or by the department, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not include sampling or analytical techniques

for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

If an industrial user monitors any pollutant more frequently than required by the department using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

- e. This report, and those required under sections 90-285(c)(5) and 90-287(e)(8)(b) and (c) of this Code, shall include the following certification statement: "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 person or 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 a fine and/or imprisonment for knowing violations." Said certification shall be signed by the facility's authorized representative, as defined in section 90-284(a)(2) of this Code. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the authorized representative definition must be submitted to the department prior to, or together with, any reports to be signed by an authorized representative.
 - f. If sampling performed by a permittee indicates a violation, the user shall notify the department within 24 hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the department within 30 days after said user becomes, or should have become, aware of the violation.
- (9) In the event the director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW, or the receiving stream, the department has the authority to develop and enforce effluent limits applicable to the user. To the extent the department seeks to impose restrictions in a permit which are more restrictive than established in this article, the department shall provide written documentation to explain the greater restriction for protection against pass through, interference, or violation of the NPDES permit;
 - (10) Requirement for pollution prevention initiatives; and
 - (11) Other requirements reasonably necessary to ensure compliance with this article.
- (f) *Permit duration.* Permits shall be issued for a specified time period. Except as deemed necessary by the department, or as otherwise provided for under this article, permits shall be issued for a specified period of not more than five years nor less than one year. The existing permit for significant industrial users, who timely submit an application for permit reissuance to the department, shall be automatically extended until a permit is issued as final.
 - (g) *Permit modification.* The terms and conditions of the permit may be subject to modification by the department during the term of the permit as limitations or pretreatment standards and requirements identified in section 90-285 of this Code are amended, or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

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- (1) Material or substantial changes to an industrial user's facility or operation, or changes in the characteristics of the industrial user's effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change;
 - (2) Change(s) in the department's NPDES permit;
 - (3) Embodiment of the provisions of a legal settlement or of a court order;
 - (4) Any changes necessary to fulfill the department's role as control authority;
 - (5) An industrial user's noncompliance with portions of an existing permit;
 - (6) A change of conditions within the POTW;
 - (7) A finding of interference or pass through attributable to the industrial user;
 - (8) Amendments to, or promulgation of, national categorical pretreatment standards or requirements including 40 CFR Part 403 and those delineated in Appendix A of this article. Permittees shall request an application form and apply to the department for a modified permit within 90 days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this subsection shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the department may initiate this action;
 - (9) Changes in the monitoring location. (See section 90-288 of this Code);
 - (10) Typographical errors or omissions in permits;
 - (11) The department may modify the permit on its own initiative based on its findings or reasonable belief of the above; or
 - (12) The user may request a modification of the permit.

When initiated by the department, the industrial user shall be informed of any proposed change in its permit. The department will issue a draft permit and an industrial user has 30 days to file a response to the draft modified permit. Thereafter, the department will issue a final permit and, unless appealed in accordance with the procedures contained in section 90-293 of this Code, the permit will become effective 20 days after issuance.

- (h) *Permit custody and transfer.* Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without notice to and written approval of the department, and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the department of any such change at least thirty (30) days before the date of the change. Wastewater discharge permits, which do not receive the written approval of the department prior to the change, shall be null and void regardless of reassignment, or transfer, or sale. If it has occurred, the department may revoke a permit. If a change takes place, the department may require the application for a new or modified permit. Any succeeding person shall comply with the terms and conditions of any existing permit which the department allows to be retained.
- (i) *Permit notification requirements.* All industrial users shall promptly notify the department in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least 30 calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this article.

(Ord. No. 379, 7-22-2013)

Sec. 90-288. Monitoring facilities.

- (a) Significant industrial users shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling, and flow measurement of their discharge by the department and the industrial user, and to enable the department to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided for in this article. In the event the department determines that the monitoring facility identified in the permit application is inadequate, a new monitoring facility must be identified, or provided, which shall allow for collection of a representative sample of the wastewater discharged from the facility. Unless otherwise determined at the discretion of the department, said facility shall be provided within 90 days of receipt of notification by the department. The industrial user shall provide the department with:
 - (1) A drawing showing all sewer connections and sampling manholes by the size, location, elevation, and points or places of discharges into the POTW;
 - (2) A flow schematic showing:
 - a. Which connections receive each national categorical process wastestream,
 - b. Which connections receive stormwater, sanitary water or cooling water, and
 - c. Which lines handle each combined wastestream. This report shall be certified by a professional engineer. If a significant industrial user fails to install the monitoring facilities within the prescribed time limits, then the department may install such structure or device and the significant user shall reimburse the department for any costs incurred therein.
- (b) The sampling manhole should be situated on the industrial user's premises in a location readily accessible to the department. When such a location would be impractical or cause undue hardship to the industrial user, the department may allow the facility to be constructed in the public street or sidewalk area when there is room and the location will not be obstructed by landscaping or parked vehicles. It shall be the responsibility of the industrial user to obtain any necessary approvals which may be required from other government agencies for the location and construction of monitoring facilities. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed upon public or private property, the sampling and monitoring facilities shall be provided in accordance with the department's requirements and all applicable local construction standards and specifications. [(See Section 90-287(g).)]

(Ord. No. 379, 7-22-2013)

Sec. 90-289. Inspection, sampling and recordkeeping.

- (a) For purposes of administering and enforcing this article, any other applicable provisions of this Code or applicable state or federal laws and regulations, the department may inspect the establishment, facility or other premises of the industrial user. The department's employees or authorized representative shall have access to the industrial user's premises for purposes of inspection, sampling, compliance monitoring and/or metering activities.
- (b) Each such inspection or sampling activity shall be commenced and completed at reasonable times, and in a reasonable manner. Upon arrival at the industrial user's premises, the department shall inform the industrial

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user, or the industrial user's employees, that sampling and/or inspection is commencing, and that the facility's authorized representative has the right to observe the inspection and/or sampling. The department shall neither refrain from, nor be prevented or delayed from, carrying out its inspection or sampling duties due to the unavailability of the authorized representative of the facility to observe or participate in the inspection or sampling activity.

- (c) While performing work on private property, employees or authorized representatives of the department shall observe all reasonable safety, security and other reasonable rules applicable to the premises as established by the industrial user. Duly authorized employees or representatives of the department shall bear proper credentials and identification, and at the industrial user's option may be accompanied by a duly authorized representative of the industrial user. Duly authorized department representatives shall not be restricted from viewing any of the facility site. Department employees or representatives may take photographs of facilities subject to this article which shall be maintained by the department as confidential in accordance with section 90-290 of this Code.
- (d) Where an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that, upon presentation of appropriate credentials, personnel from the department will be permitted to enter for the purposes of performing their specific responsibilities.
- (e) Significant industrial users shall sample and analyze their discharge in accordance with the provisions of their permit. The department may require such samples to be split with the department for the department's independent analysis.
- (f) Industrial users shall maintain records of all information from monitoring activities required by this article, or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user, or the operation of the City of Detroit's Industrial Waste Program, or when requested by the department, by the state, or by the EPA.
- (g) Upon the request of the department, industrial users shall furnish information and records relating to discharges into the POTW. Industrial users shall make such records readily accessible to the department at all reasonable times, and allow the department to copy such records.
- (h) In the event the department obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished upon written request by the industrial user's authorized representative. When requested by the industrial user, the department employee or representative shall leave with the user, a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the department shall be controlling unless proven invalid.
- (i) In addition to any other violation caused by the discharge described herein, in the event a single grab sample of the industrial user's discharge is obtained by the department, and then analyzed in accordance with 40 CFR Part 136, and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations as listed in section 90-285(b) of this Code, or as contained in the facility's wastewater discharge permit, the industrial user shall implement its slug control plan, and shall provide a written report to the department within 14 days, which describes the cause of greater concentration and provides a description of the means by which future discharge concentrations will be held to values of less than two times the limitation in the future.

Sec. 90-290. Confidential information.

- (a) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to

demonstrate to the satisfaction of the department that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

When submitted to the department, all information claimed to be confidential must be clearly marked 'confidential.' When requested by the person furnishing the report, the portions of a report determined by the department to disclose trade secrets or trade secret processes, and which are clearly labeled as confidential, shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to this article, to the National Pollutant Discharge Elimination System (NPDES) permit, and to the state disposal system permit and/or the pretreatment programs, provided, however, that information shall be treated as confidential by the governmental agency, until such time as the information has been determined to be nonconfidential by the governmental agency. Confidential information on industrial users, which the department releases pursuant to a request of another governmental agency, should be handled by the other governmental agency pursuant to its own confidentiality procedures. The department cannot control how another governmental agency handles such confidential information, and assumes no responsibility for the disposition of the information released to the governmental agency. The department will use sufficient care to inform the other governmental agency of the existence of the industrial user's confidentiality claim.

The department shall determine whether the information requested to be treated as confidential, in fact, satisfies the requirements of confidential information as defined herein. The decision of the department shall be made in writing.

Wastewater constituents and characteristics will not be recognized as confidential information.

- (b) Except as otherwise determined by the department or provided for by applicable law, all information with respect to an industrial user on file with the city shall be made available upon request by such user or the user's authorized representative during normal business hours.

(Ord. No. 379, 7-22-2013)

Sec. 90-291. Statutes, laws and regulations.

The National Categorical Pretreatment Standards defined in 40 CFR Chapter I, Subchapter N, Parts 405-471, shall be and are incorporated by reference herein and made a part hereof. Unless otherwise provided, any reference in this article to a code, standard, rule, regulation, or law enacted, adopted, established, or promulgated by any private organization, or by any element or organization of government other than the township shall be construed to apply to such code, standard, rule, regulation, or law in effect or as amended or promulgated, from the date of enactment of this article.

(Ord. No. 379, 7-22-2013)

Sec. 90-292. Enforcement.

- (a) *Violations.* It shall be a violation of this article for any user to:
- (1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;
 - (2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in section 90-287(g)(1) of this Code;
 - (3) Refuse reasonable access to the industrial user's premises, waste discharge, or sample location for the purpose of inspection or monitoring,

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- (4) Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided, that upon request reasonable access to the facility is promptly provided to the department;
 - (5) Restrict, interfere, tamper with, or render inaccurate any of the department's monitoring devices including, but not limited to, samplers;
 - (6) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;
 - (7) Fail to comply with any limitation, prohibition, or requirement of this article including any rule, regulation, or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this article shall be deemed to be in compliance with the requirements of this article, and such permits shall remain in effect and be enforceable under this article until a superseding permit is effective. Industrial users shall comply with applicable national categorical pretreatment standards and requirements on the date specified in the federal Regulations, regardless of compliance schedules.
- (b) *Upsets*. An upset shall constitute an affirmative defense to an action brought for noncompliance with national categorical pretreatment standards where the requirements of subsection (1) of this section are met.
- (1) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:
 - a. An upset occurred and the industrial user can identify the cause(s) of the upset;
 - b. At the time, the facility was being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - c. The industrial user has submitted the following information to the department, orally or in writing, within 24 hours of becoming aware of the upset and where this information is provided orally, a written submission must be provided within five days:
 - i. A description of the 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; and
 - iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof;
 - (3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this article upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (c) *Bypass*. Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements, but only if it is for essential maintenance to ensure efficient operation of the treatment system. These bypasses are not subject to the provisions of subsections (1) and (2) of this section.
- (1) *Notice of anticipated bypass*. Industrial users anticipating a bypass shall submit notice to the department at least ten days in advance.

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- (2) *Notice of unanticipated bypass.* An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description of the bypass including exact dates and times, and if the bypass has not been corrected, the prevent reoccurrence of the bypass.
- (3) *Prohibition of bypass and enforcement.* Bypass is prohibited, and the department may take enforcement action against a user for a bypass, unless:
- a. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The industrial user properly notified the department as described in subsection (c)(2) of this section.
- (4) *Bypass approval.* Where it meets all conditions in subsection (c)(3) of this section, the department may approve an anticipated bypass.
- (d) Where one or more of the measurements taken for any pollutant defined in section 90-285(b) during a six-month period exceed by any magnitude the daily maximum nondetect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP as part of its response. The department may, as part of an administrative order, also require development of a BMP as a part of an enforcement response. Upon approval of the department, these pollution prevention initiatives, or BMP, shall be made an enforceable part of the wastewater discharge permit.

Industrial users shall provide, at six-month intervals, analytical results and certifications in support of its implementation of an approved pollution prevention initiative or BMP. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

- (e) *Emergency suspensions and orders.* The department may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where, in the opinion of the department, such suspension is necessary to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the department provides informal notification under this section, written confirmation and an order shall be provided within 24 hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the department shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the director shall notify the industrial user within 24 hours in writing of such action and order, and the specific recourse available. In any event, the department shall provide the industrial user with an opportunity for a hearing before the director, or his designated representative, within ten days of such action. The industrial user shall submit a detailed written statement to the department within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the noncomplying discharge, the department shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

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- (f) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in subsection (e) of this section, whenever the department has reason to believe that any industrial user has violated or is violating this article, the department shall serve a written notice stating the nature of the violation upon such industrial user. Where applicable, the department shall pursue appropriate escalating enforcement action as defined within its approved enforcement response plan. The failure of the department to issue a notice of violation shall not preclude the department from escalating its enforcement response.
- (g) *Administrative actions.* Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this article, the department may initiate appropriate administrative enforcement action, except in the case of emergency or flagrant violation, in order to compel the industrial user to eliminate or to remedy such violation as soon as possible.
- (1) *Remediation of violations.*
- a. *Conferences.* The department may order any person, who violates this article, to attend a conference wherein the department may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time, and place thereof. The conference shall be conducted by a representative of the department. The industrial user shall present a plan and schedule for achieving compliance with this article. Nothing contained herein shall require the department to accept or agree to any proposed plan or schedule, or to prevent the department from proceeding with a show cause hearing as set forth in subsection (2) of this section. If the attendees agree upon a compliance schedule, the user and the department's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this article and any procedures, requirements, and agreements hereunder.
- b. *Compliance schedules.* The user and the department may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:
- i. 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 upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;
- ii. No single increment referred to in subsection (i) of this section shall exceed nine months;
- iii. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the department including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and
- iv. Any deviations from the compliance schedule may result in the industrial user being found in violation of this article.

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- c. *Administrative orders.* The department may order any industrial user, who violates or continues to violate this article or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.
- (2) *Show cause hearing.* The department may order any industrial user, who violates this article or allows such violation to occur, to show cause before the department why a proposed enforcement action should not be taken. A notice shall be served upon the industrial user specifying the time and place of a hearing before the department regarding the violation, the reason(s) why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the department why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally, or by registered or certified mail with return receipt requested, at least ten days before the hearing. Service may be made upon any agent or officer of a corporation, or its authorized representative.
- a. *Hearing Proceeding.* The hearing shall be conducted in accordance with the procedures adopted by the board. A hearings officer shall conduct the show cause hearing and take the evidence, and may:
- i. In the name of the board, issue notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - ii. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.
- b. *Transcript.* At any show cause hearing held pursuant to this article, testimony shall be recorded by a court reporter.
- (3) *Actions.* After a show cause hearing has been conducted, the hearings officer shall issue an order to the industrial user directing any of the following actions:
- a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this article, or applicable local, state or federal law or regulation;
 - b. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period;
 - c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;
 - d. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;
 - e. Control of discharge quantities;
 - f. Payment of costs for reasonable and necessary inspection, monitoring, and administration of the industrial user's activities by the department during compliance efforts; and/or
 - g. Any such other orders as are appropriate including, but not limited to, immediate termination of sewer or wastewater treatment services, or revocation of a wastewater discharge permit, or

orders directing that following a specified time period sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices, or operation and maintenance practices have been employed.

- h. A finding the user has demonstrated by a preponderance of the evidence that a violation either of this article or of a duly issued permit did not occur.
- (4) *Public notification of significant noncompliance.* The department shall publish in the largest daily newspaper published in the City of Detroit a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous 12 months. All industrial users identified in a proposed publication shall be provided with a copy of the proposed notice at least 30 days before publication and allowed an opportunity to comment as to its accuracy.
- (h) *Legal actions.*
- (1) Criminal action: Any user, who violates any provision of this article including the failure to pay any fees, fines, charges or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto, or who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater discharge permit, or who tampers with or knowingly renders inaccurate any monitoring device required under this article, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not to exceed \$500.00 for each violation per day, or by imprisonment for not more than 90 days, or by both. The department is hereby authorized, through its counsel, to seek prosecution of criminal charges against any person violating any provision of this article.
- (2) Civil action: Whenever the department has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this article, the director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The department or Board may also seek additional legal and/or equitable relief. The commencement of suit neither constitutes an exclusive election of remedies nor prohibits the department, director, board, or City of Detroit from commencing action in Federal Court for discharges believed to be in violation of this article, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. In addition, the City of Detroit may recover the reasonable attorney fees, court costs, court reporters' fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this article, or the orders, rules, regulations and permits issued hereunder.
- (3) All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department.

(Ord. No. 379, 7-22-2013)

Sec. 90-293. Reconsideration and appeal.

Through the procedures of reconsideration and appeal, a user may contest actions, determinations, or decisions of the department which result from its construction, application and enforcement of this article. The procedures contained within this section govern reconsideration and appeal with respect to construction, application, and enforcement of this article.

- (a) *Selection of reconsideration or of appeal.*
- (1) Except for those actions, determinations, or decisions which are expressly identified as subject only to appeal, reconsideration may be requested by any permit applicant, permittee, authorized

industrial wastewater discharger or other discharger, who is adversely affected by any action, determination, or decision that is made by, or on behalf of, the department by the director, or an authorized representative, and that interprets, implements or enforces the provisions of this article.

- (2) An appeal may be requested by any permit applicant, permittee, authorized industrial wastewater discharge or other discharger, who is adversely affected (i) by a permit issued as final by the department, or (ii) by an administrative order entered after a show cause order and hearing, or after a hearing for reconsideration.
 - (3) Unless otherwise expressly provided for by this article, a request for reconsideration or appeal must be signed by an authorized representative, and received at the department's general offices within 20 days from the date of the occurrence of the action, determination, or decision in dispute. A request for reconsideration shall contain the requester's name and address, a brief statement of the reason(s), and the factual basis underlying the request.
 - (4) A request for reconsideration shall be filed in triplicate either by hand delivery or by certified mail to the general offices of the department. Where a request for reconsideration or appeal either is not filed within the time period provided for in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to reconsideration appeal may be deemed waived.
- (b) *Reconsideration.* Within 15 days after receipt of a timely and proper request for reconsideration, the department shall notify the applicant of the time and place for a hearing.
- (1) A hearing for reconsideration shall be conducted by a hearings officer who is designated by the director and may be an employee of the department. The decision of the hearings officer shall be in the form of a recommendation to the director and embodied in an administrative order. Except for an administrative consent order that was negotiated and agreed to by both parties, an administrative order is appealable in accordance with subsection (c) of this section.
 - (2) Where improperly or untimely submitted, the department may reject a request for reconsideration. The department shall notify the requester in writing that the request has been rejected.
 - (3) Unless the date is mutually extended by both parties, the hearing shall be conducted neither less than ten days nor more than 30 days after mailing of the notice. For cause and at the discretion of the hearings officer, the hearing may be continued for a reasonable time.
 - (4) The hearing for reconsideration shall be an informal consultation and conference where the requester in person, or by counsel, shall present their argument, evidence, data, and proof in connection with the issue(s) being reconsidered. The parties shall not be bound by the Michigan Rules of Evidence. The hearing shall be transcribed and the requester may obtain a copy of the hearing transcript, as appropriate, from the department or from the court reporter.
 - (5) Within 30 days after the close of the hearing, the hearings officer shall issue a final decision, which shall contain a recommendation to the director. The hearings officer shall send such decision to the requester by certified mail.
 - (6) Unless such action is necessary to prevent pass-through, interference or other harm to the POTW, to the public or to the waters of this state, the filing of a request for reconsideration in accordance with this section shall stay the action by the department that is the subject of the hearing for reconsideration.
- (c) *Appeal.* Within 30 days after receipt of a timely and proper request for an appeal, the department shall notify the applicant in writing regarding the time and place for a hearing. The hearing shall be

conducted in accordance with procedures set by the board until rules are promulgated pursuant to Section 2-111 of the 1997 Detroit City Charter. In addition:

- (1) Any request for an appeal must be made within 20 days of the department's action, determination or decision regarding the request for reconsideration or any permit issued in accordance with this article.
- (2) Where a request either is not filed within the time period contained in this subsection or is improperly made, the action, determination or decision of the director, or the department's authorized representative, is final and any right to appeal may be deemed waived. Where untimely or improperly submitted, the department may reject the request for an appeal, and shall notify the requester in writing that such request has been rejected.
- (3) The department shall appoint a hearings officer. The hearings officer shall review the evidence, and within 15 days after the close of the hearing shall issue a written recommendation to uphold, modify or reverse the action, determination, or decision of the department.
- (4) The written recommendation of the hearings officer shall be submitted to the board which shall render a final decision within 30 days of its next regularly scheduled meeting.
- (5) In accordance with applicable law, the user or the department may appeal any final decision of the board to a court of competent jurisdiction.
- (6) Unless such action is necessary to prevent pass through, interference, or other harm to the POTW, to the public or to the waters of this state, the filing of a request for appeal in accordance with this section shall stay the action by the department that is the subject of the appeal.

(Ord. No. 379, 7-22-2013)

Sec. 90-294. Appendices.

Appendix A

Aluminum Forming	40 CFR Part 467
Asbestos Manufacturing	40 CFR Part 427
Battery Manufacturing	40 CFR Part 461
Builder's Paper and Board Mills	40 CFR Part 431
Canned and Preserved Fruits/Vegetables	40 CFR Part 407
Canned and Preserved Seafood Proc	40 CFR Part 408
Carbon Black Manufacturing	40 CFR Part 458
Cement Manufacturing	40 CFR Part 411
Centralized Waste Treatment	40 CFR Part 437
Coal Mining	40 CFR Part 434
Coil Coating	40 CFR Part 465
Copper Forming	40 CFR Part 465
Dairy Products Processing	40 CFR Part 405
Electrical and Electronic Components I & II	40 CFR Part 469
Electroplating	40 CFR Part 413
Explosives Manufacturing	40 CFR Part 457
Feed Lots	40 CFR Part 412
Ferroalloy Manufacturing	40 CFR Part 424
Fertilizer Manufacturing	40 CFR Part 418

Glass Manufacturing	40 CFR Part 426
Grain Mills	40 CFR Part 406
Gum and Wood Chemicals Mfg.	40 CFR Part 454
Hospital	40 CFR Part 460
Ink Formulating	40 CFR Part 447
Inorganic Chemicals Manufacture (I & III)	40 CFR Part 415
Iron and Steel	40 CFR Part 420
Landfills	40 CFR Part 445
Leather Tanning & Finishing	40 CFR Part 425
Meat Products	40 CFR Part 432
Metal Finishing	40 CFR Part 433
Metal Molding and Casting	40 CFR Part 464
Metal Products and Machinery	40 CFR Part 438
Mineral Mining and Processing	40 CFR Part 436
Nonferrous Metals Forming	40 CFR Part 471
Nonferrous Metals Mfg. I	40 CFR Part 421
Nonferrous Metals Mfg. II	40 CFR Part 421
Ore Mining and Dressing	40 CFR Part 440
Organic Chemicals, Plastics, and Synthetic Fibers	40 CFR Part 414
Paint Formulating	40 CFR Part 446
Paving and Roofing Material	40 CFR Part 443
Pesticide Chemicals	40 CFR Part 455
Petroleum Refining	40 CFR Part 419
Pharmaceutical	40 CFR Part 439
Phosphate Manufacturing	40 CFR Part 422
Photographic	40 CFR Part 459
Plastics Molding and Forming	40 CFR Part 463
Porcelain Enameling	40 CFR Part 466
Pulp, Paper, and Paperboard	40 CFR Part 430 & 431
Rubber Manufacturing	40 CFR Part 428
Soap and Detergent Mfg.	40 CFR Part 417
Steam Electric	40 CFR Part 423
Sugar Processing	40 CFR Part 409
Textile Mills	40 CFR Part 410
Timber Products	40 CFR Part 429
Transportation Equipment Cleaning	40 CFR Part 442
Waste Combusters	40 CFR Part 444

Appendix B

An industrial user may elect, in lieu of the total phenols limitation specified in section 90-285(b)(2), to substitute specific limitations for each of the eight individual phenolic compounds identified under the total phenols limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the total phenols limitation, upon election:

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l

4-Chloro-3-methylphenol	1.0 mg/l
2,4-Dichlorophenol	5.5 mg/l
2,4-Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

Appendix C
Interim Discharge Limitations

No user shall discharge wastewater containing any of the following pollutants in excess of the following interim pollutant discharge limitations:

(1) Compatible pollutants:

- a. Any fats, oil or grease (FOG) in concentrations greater than 1,500 mg/l based on an average of all samples collected within a 24-period.
- b. Any total suspended solids (TSS) in concentrations greater than 7,500 mg/l.
- c. Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/l.
- d. Any phosphorus (P) in concentrations greater than 250 mg/l.

Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge, and in accordance with 40 CFR Part 146.

(2) Noncompatible pollutants:

- a. Cadmium (Cd): 1.0 mg/l.

(Ord. No. 379, 7-22-2013)

Sec. 90-295. Repealer, severability, necessity.

- (a) If any court of competent jurisdiction invalidates any provision, paragraph, word, section or article of this article, the remaining provisions, paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.
- (b) All ordinances, or parts of ordinances, that conflict with this ordinance are repealed.
- (c) This article is declared necessary for the preservation of the public peace, health, safety, and welfare of the people of the township.

(Ord. No. 379, 7-22-2013)

Secs. 90-296—90-310. Reserved.

DIVISION 2. PRIVATE SEWAGE DISPOSAL

Sec. 90-311. Where public sewer unavailable.

Where a public sanitary sewer is not available under the provisions of section 90-283(c), the building sewer shall be connected to a private sewage disposal system complying with the rules and regulations of the county health department.

(Comp. Ords. 1988, § 25.141)

Sec. 90-312. Permit.

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the county health department. The application for such permit shall be made on a form furnished by the county health department. New and existing private sewage disposal systems must be inspected every two years by a licensed contractor and provide a copy of said inspection to the water and sewer department. Systems found not to be in compliance must be abandoned. Direct connection shall be made to the public sewer in compliance with this article. If a public sewer is not available, then the private sewage disposal system must be repaired or replaced until the public sewer becomes available. Any septic tanks, cesspools and similar sewage disposal facilities shall be abandoned and filled with suitable material by the contractor and the permittee.

(Comp. Ords. 1988, § 25.142; Ord. No. 369, § 6, 5-24-2010)

Sec. 90-313. Specifications.

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the state department of public health and the county health department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(Comp. Ords. 1988, § 25.143)

Sec. 90-314. Connection to public sewer.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in section 90-283(c), a direct connection shall be made to the public sewer in compliance with this article; and any septic tanks, cesspools and similar sewage disposal facilities shall be abandoned and filled with suitable material by the contractor and the permittee.

(Comp. Ords. 1988, § 25.144)

Sec. 90-315. Maintenance.

The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the municipality.

(Comp. Ords. 1988, § 25.145)

Sec. 90-316. Additional requirements.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the county health department.

(Comp. Ords. 1988, § 25.146)

Sec. 90-317. Time limit for connection to public sewer.

When public sanitary sewer becomes usable, the building sewer shall be connected to the public sewer in accordance with the provisions of section 90-283(c). The private sewage disposal system shall be cleaned and filled with clean bank run gravel or dirt.

(Comp. Ords. 1988, § 25.147)

Secs. 90-318—90-340. Reserved.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 90-341. Permit requirement.

No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or its appurtenances without first obtaining a written permit from the superintendent.

(Comp. Ords. 1988, § 25.161)

Sec. 90-342. Classes of permits; application; fee; bonds; insurance.

- (a) *Generally.* There shall be two classes of building sewer permits: for residential and commercial service, and for service to establishments producing industrial waste. In either case, the owner or his agent shall make application on a special form furnished by the municipality. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the superintendent. A permit and inspection fee for a residential and commercial building sewer permit and an industrial building sewer permit shall be paid to the municipal treasurer at the time the application is filed.
- (b) *Performance bond.* A master plumber constructing, installing and connecting leads under this section shall deposit with the township or its representative a performance bond equaling not less than \$2,500.00 subject to conditions as set forth by the superintendent by issuance of regulations.
- (c) *Performance bond; period of effect.* The performance bond shall remain in effect for one year after the tap connection has been inspected to protect the township from any damage caused by the permit holder which may not be physically determined at the time of inspection.
- (d) *Certificate of insurance.* The master plumber must give a certificate of insurance or satisfactory proof of insurance for a period exceeding the completion of the connections, and such insurance shall contain public liability in an amount not less than \$50,000.00 per person, \$100,000.00 per occurrence with the further provision of a minimum of \$50,000.00 property damage.

(Comp. Ords. 1988, § 25.162)

Sec. 90-343. Costs; indemnification.

All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the municipality from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer, and any such loss or damage shall be a charge against the

property owner subject to the provisions of article II of this chapter constituting a lien on the property served and benefited under provisions in such article.

(Comp. Ords. 1988, § 25.163)

Sec. 90-344. Separate sewer for every building.

A separate and independent building sewer shall be provided for every building.

(Comp. Ords. 1988, § 25.164)

Sec. 90-345. Old sewers.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this article.

(Comp. Ords. 1988, § 25.165)

Sec. 90-346. Sewer specifications.

The size, slope, alignment, material 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 conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the municipality. In the absence of code provisions or in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply. In addition there shall be compliance with all applicable provisions of chapter 54.

(Comp. Ords. 1988, § 25.166)

Sec. 90-347. Elevation.

The building sewer may be brought to within five feet of the building at an elevation below the basement floor except that no building basement floor shall be served with a gravity building drain connection to the building sewer. In all buildings with basements in which any building drain is to be connected to the building sewer, it shall be connected at a level not more than one foot below grade. In all buildings, the building sewer shall be brought to the building at elevation below the frostline or approximately 48 inches.

(Comp. Ords. 1988, § 25.167)

Sec. 90-348. Surface runoff or groundwater; floor drains; sump covers.

- (a) No person shall make a connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (b) Floor drains and seepage tile shall be run to a sump pump and discharged to other than the sanitary sewer. These can be pumped to the ditch, river, lake or canal and must be run underground all the way out from the house.
- (c) Floor drains must be three-inch cast iron P-traps; pipe to sump must be plastic. Discharge line can be any suitable material at least three inches in diameter; however, the line through the wall must be three-inch cast iron with a cleanout on the inside wall. A union and checkvalve must be installed on all sump pumps.

When using plastic pipe for inside seepage basement drains, the holes in plastic should be turned down and embedded in pea pebbles to within five feet of inside basement walls.

(d) Sump covers are mandatory.

(Comp. Ords. 1988, § 25.168)

Sec. 90-349. Connection specifications.

The connection of the building sewer into the public sanitary sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight.

(Comp. Ords. 1988, § 25.169)

Sec. 90-350. Inspection; connection.

(a) The applicant and/or permittee shall notify the superintendent when the building sewer is ready for inspection and connection to the public sanitary sewer. The connection shall be made under the supervision of the superintendent or his representative only after a 24-hour notice is given by the applicant and/or permittee.

(b) All plumbing changes deemed necessary inside homes for safety purposes must be made prior to sewer installation by either the homeowner under a homeowner's permit or a master plumber or his firm and in all cases subject to inspection and approval by the plumbing inspector.

(Comp. Ords. 1988, § 25.170)

Sec. 90-351. Excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the municipality.

(Comp. Ords. 1988, § 25.171)

Secs. 90-352—90-370. Reserved.

DIVISION 4. USE RESTRICTIONS

Subdivision I. In General

Sec. 90-371. Unpolluted drainage—Discharge prohibited.

No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, cooling water or industrial process waters to any sanitary sewer.

(Comp. Ords. 1988, § 25.191)

Sec. 90-372. Same—Where discharge allowed.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the superintendent. Industrial cooling water or process waters may be discharged, upon approval of the superintendent, to a storm sewer or natural outlet.

(Comp. Ords. 1988, § 25.192)

Sec. 90-373. Delegation of authority and prohibited discharges.

- (a) *Administration.* The City of Detroit Water and Sewerage Department, as the state-approved control authority, is authorized to administer and enforce the provisions of this division on behalf of the municipality. The municipality shall enter into a contract with the City of Detroit Water and Sewerage Department, which shall set forth the terms and conditions of such delegated authority, consistent with this division, and shall allow the City of Detroit Water and Sewerage Department to perform the specific responsibilities as control authority, pursuant to state and federal law. The municipality reserves the right to directly enforce this section when it deems it in the best interest of the township sanitary sewer system.
- (b) *General pollutant prohibitions.* No user shall contribute or cause to be contributed to the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or passthrough. These general discharge prohibitions apply to all such users of the POTW, whether or not the user is subject to National Categorical Pretreatment Standards or any other federal, state or local pretreatment standards or requirements. In addition, industrial users shall not contribute the following substances to the POTW:
 - (1) Any liquid, solid or gas which, by reason of its nature or quantity, is sufficient, either alone or by interaction with other substances, to cause fire or explosion or be injurious in any other way to persons, the POTW, or the operation of the POTW.
 - (2) Any solid or viscous substance, in concentrations or quantities which are sufficient to cause obstruction to the flow in a sewer or other encumbrance to the operation of the POTW, such as but not limited to grease, animal guts or tissues, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, or tumbling and deburing stones.
 - (3) Unless more strictly limited in this division, any wastewater having a pH less than 5.5 or more than 9.5 if the equivalent calcium carbonate alkalinity exceeds 300 mg/l, or more than 10 if the equivalent calcium carbonate alkalinity is 300 mg/l or less. If an industrial user wishes to have a pH limit of 10.5, he shall monitor both pH and alkalinity.
 - (4) Any wastewater containing toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference or passthrough or constitute a hazard to humans or animals.
 - (5) Any liquid, gas, or solid or form of energy which either singly or by interaction with other wastes is sufficient to create a public nuisance or hazard to life or is sufficient to prevent entry into the sewers for their maintenance and repair.
 - (6) Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation processing where the POTW is pursuing a reuse and reclamation program. 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, with criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Federal Clean Air Act, the Federal Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

- (7) Any substance which will cause the POTW to violate the consent judgment in *U.S. EPA v. City of Detroit, et al.* C.A. No. 77-1100, or the City of Detroit's National Pollutant Discharge Elimination System permit.
 - (8) Any wastewater having objectionable color not removed in the POTW treatment process, such as but not limited to dye wastes and vegetable tanning solutions.
 - (9) 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 a public sewer which exceeds 150 degrees Fahrenheit (66 degrees Celsius) or which will cause the influent at the wastewater treatment plant to rise above 140 degrees Fahrenheit (40 degrees Celsius).
 - (10) Any pollutant which constitutes a slug.
 - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations.
 - (12) Any floating fats, oils or grease (FOG) which are sufficient to cause interference with or pass through the POTW.
 - (13) Any solid materials having a specific gravity greater than 1.2 or a cross section dimension of one-half inch or greater which are sufficient to cause interference with the POTW.
 - (14) Any stormwater or groundwater.
- (c) *Specific pollutant prohibitions.* No industrial user shall discharge wastewater containing in excess of the following limitations:
- (1) *Compatible pollutants.*
 - a. Any fats, oils or grease (FOG) in concentrations greater than 2,000 mg/l based on the average of all samples collected within a 24-hour period.
 - b. Any total suspended solids (TSS) in concentrations greater than 10,000 mg/l based on a composite sample.
 - c. Any biochemical oxygen demand (BOD) in concentrations greater than 10,000 mg/l based on a composite sample.
 - d. Any phosphorus in concentrations greater than 500 mg/l based on a composite sample.
 - (2) *Noncompatible pollutants.* No industrial user shall discharge wastewater containing in excess of:

Total arsenic	(As)	1.0 mg/l
Total cadmium	(Cd)	2.0 mg/l
Total copper	(Cu)	4.5 mg/l
Total cyanide	(CN)	2.0 mg/l
Total lead	(Pb)	1.0 mg/l
Total mercury	(Hg)	0.005 mg/l
Total nickel	(Ni)	5.0 mg/l
Total silver	(Ag)	2.0 mg/l
Total chromium	(Cr)	25.0 mg/l
Total zinc	(Zn)	15.0 mg/l
Aroclor 1260 polychlorinated biphenyl		0.0005 mg/l

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Total polychlorinated biphenyl (PCB)		0.001 mg/l
Phenolic (4AAP) compounds which cannot be removed by the POTW treatment plant as determined by the EPA approved method or amendments.		0.5 mg/l

All limitations are based on composite samples.

- (3) No industrial user classified as a significant user shall discharge wastewater containing total iron in excess of 1,000 mg/l based on a composite sample. Industrial users having total iron discharge concentrations greater than 1,000 mg/l shall submit a compliance schedule by July 1, 1987, for achieving the 1,000 mg/l limitation by July 1, 1988. This limitation shall not apply to the discharge of internal circulating water from heat exchangers during the cleaning cycle.
- (d) *National Categorical Pretreatment Standards.*
- (1) *Control.* National Categorical Pretreatment Standards and requirements promulgated pursuant to the act by the effective date of this division shall be met by affected dischargers; however, if a more stringent standard or requirement is applicable pursuant to this division, state law, or regulation, the more stringent standard or requirement shall be controlling. The control authority may, by rule or regulation, require compliance with National Categorical Pretreatment Standards and requirements promulgated after the effective date of this division. Affected dischargers shall comply with the applicable reporting requirements under 40 CFR 403 and as established by the control authority.
- (2) *Intake water adjustment.* Industrial users seeking adjustment of National Categorical Pretreatment Standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the USEPA, the adjustment shall be applied by modifying the permit accordingly.
- (3) *Modification of National Categorical Pretreatment Standards.* The control authority may apply to the state department of natural resources, or the U.S. Environmental Protection Agency, whichever is applicable, for authorization to grant removal credits in accordance with the requirements and procedures of 40 CFR 403.7. Such authorization may only be granted when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought provided that any limitation on such pollutant in the NPDES permit are neither being exceeded nor pose the prospect of being exceeded as a result of the removal credit's being granted. Should this authorization be given to the control authority, any industrial user desiring to obtain such credit shall make an application to the control authority, consistent with the provisions of 40 CFR 403.7 and this division. Any credits which may be granted under this provision may be subject to modification or revocation as specified in 40 CFR 403.7 or as determined by the control authority. A prerequisite to the granting of any removal credit may be that the industrial user pay a surcharge based on the amounts of such pollutants removed by the POTW, such surcharge being based on fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect or be modified to reflect any credit granted pursuant to this section.
- (e) *Dilution prohibited.* No user shall increase the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other pollutant-specific limitation or requirement imposed by this division. Combining in-plant wastestreams or modulating the release of pollutants upstream of the sampling point prior to the point of discharge into the public sewer shall not be construed as dilution except as otherwise restricted by National Categorical Pretreatment Standards or requirements.

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- (f) *Hauled-in wastewater.* Unloading liquid or solid waste from hauling vehicles directly into the POTW with or without the benefit of pretreatment is prohibited unless the person proposing to unload such waste has applied for and received a permit from the control authority for unloading such waste in accordance with the board's rules pertaining to such action. The discharger shall be subject to applicable terms, conditions, surcharges, fees or rates as established by the board. The control authority may establish specific limitations for sludges from municipally owned or operated POTW treatment plants which are different than the specific limitations in this division.
- (g) *Right of revision.* The municipality reserves the right to establish different or more stringent limitations or requirements on discharges to the POTW.
- (h) *Accidental discharges.* Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division. Facilities and measures to prevent and abate accidental discharges shall be provided and maintained at the owner's or industrial user's cost or expense. All significant users shall submit to the control authority detailed plans showing facilities and operating procedures to provide protection against accidental discharges. All existing significant users shall complete and submit such a plan within 180 days of the effective date of this division. New significant users shall submit such a plan prior to the time they commence discharging.
- (i) *Notification requirements.* Within one hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state, control authority or municipality laws, rules, regulations, or permit requirements and the degree of exceedance appears to be more than twice the allowable concentration, the industrial user shall telephone the control authority and the superintendent and notify the control authority and the superintendent of the discharge. The notification shall include the name of the caller, location and time of discharge, type of wastewater, estimated concentration of excessive or prohibited pollutants, and estimated volume. Within five calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. When required by the control authority, the industrial user's wastewater discharge permit shall be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other environmental impairment or any other damage to person or property. However, notification received pursuant to this subsection or information obtained by the exploitation of such notification shall not be used against any individual in any criminal case, except a prosecution for perjury or for giving a false statement. Such immunity shall not bar the criminal prosecution of nonnatural persons, nor shall it bar the pursuit of administrative or civil remedies against any person.
- (j) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees who to contact in the event of an actual or potential excessive or prohibited discharge.
- (k) *Recovery of costs.* Any user discharging in violation of any of the provisions of this division which produces a deposit or obstruction, or causes damage to or impairs the POTW, or causes the City of Detroit to violate its NPDES permit shall be liable for any expense, loss, damage, penalty or fine incurred because of the violation or discharge. Prior to assessing such costs, the control authority, county or municipality shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment or violation of the City of Detroit's NPDES permit and the intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this division. Such charge shall be in addition to not in lieu of any penalties or remedies provided under this division, other ordinances, statutes, regulations, or at law or in equity.
- (l) *Granting of variance.* The director may grant a variance from the limitations set forth in subsections (b) and (c) of this section in accordance with rules adopted by the control authority which set forth the guidelines,

standards, procedures, fees and charges by which a person may be granted such a variance. A variance shall not be granted to a user if it would result in a violation of an applicable National Categorical Pretreatment Standard or allow a prohibited discharge (violate 40 CFR 403.5) or cause the POTW to be in noncompliance with its NPDES permit. A user requesting a variance shall have the burden of showing that any guidelines or standards adopted by the board have been met before a variance may be granted. The board may adopt fees or charges for reviewing a variance application which shall be paid by a user upon applying for a variance.

(Comp. Ords. 1988, § 25.193)

Sec. 90-374. Fees.

- (a) It is the purpose of this section to provide for the recovery of costs from industrial users of the POTW. The applicable charges or fees shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system or as provided by law, contractual agreement or board action.
- (b) Charges and fees shall include but are not limited to:
 - (1) Fees for reimbursement of costs establishing, operating, maintaining or improving the control authority's industrial waste control and pretreatment programs;
 - (2) User fees based on volume of waste and concentration or quantity of specific pollutants in the discharge; and
 - (3) Other fees deemed necessary to carry out the requirements contained in this division or as may be required by law.

(Comp. Ords. 1988, § 25.194)

Sec. 90-375. Interceptors.

Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the superintendent and shall be located as to be readily and easily accessible for cleaning and inspection.

(Comp. Ords. 1988, § 25.196)

Sec. 90-376. Preliminary treatment; costs.

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

(Comp. Ords. 1988, § 25.197)

Sec. 90-377. Monitoring facilities.

Significant users, and other users when required by the superintendent, shall provide, operate and maintain at their own expense a sampling manhole or special structure to facilitate monitoring, inspection, sampling and flow measurement of their discharge by the control authority and the industrial user and to enable the control authority to conduct such other monitoring and sampling as required for determining compliance with discharge requirements, limits and standards as provided by this division. The sampling manhole should be situated on the

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industrial user's premises in a location readily accessible to the control authority. It shall be the responsibility of the industrial user to obtain any necessary approvals from the municipality or other government entities which may be required by the location and construction of monitoring facilities in the public street or sidewalk area. Such construction shall only occur when another location would be impractical or cause undue hardship upon the industrial users. In no case shall the location be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling or monitoring manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any permanently installed sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the control authority's requirements and all applicable local construction standards and specifications.

(Comp. Ords. 1988, § 25.198)

Secs. 90-378—90-390. Reserved.

Subdivision II. Administration and Enforcement⁶⁷

Sec. 90-391. Special agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the municipality and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the municipality for treatment, subject to payment by the industrial concern.

(Comp. Ords. 1988, § 25.200)

Sec. 90-392. Inspection, sampling, and recordkeeping.

- (a) For purposes of administering and enforcing this division, the control authority and/or the superintendent may inspect the establishment, facility or other premises of the industrial user. The control authority and the superintendent shall have ready access to the industrial user's premises to engage in inspection, sampling, compliance monitoring and/or metering activities. Each such inspection activity shall be commenced and completed at reasonable times, within reasonable limits, and in a reasonable manner. The control authority and the superintendent shall, upon arrival at the industrial user's premises, inform the industrial user or the industrial user's employees that sampling and/or inspection is commencing and that the industrial user has the right to observe the inspection and/or sampling. While performing work on private properties, the control authority and the municipality shall observe all reasonable safety, security and other reasonable rules applicable to the premises established by the industrial user. Representatives of the control authority and the superintendent shall bear proper credentials and identification and shall be accompanied by a representative of the industrial user, at the industrial user's option. The control authority or the superintendent shall have no authority to inquire into any process beyond that point having direct bearing on the kind and source of discharge to the POTW. However, such employees or representatives shall not be restricted from viewing any of the facility site. The control authority or the superintendent may take photographs of facilities subject to this division unless specifically prohibited by the industrial user upon request to be permitted to take photographs. When an industrial user has security measures in force, the industrial user shall make prompt and necessary arrangements with the security personnel so that upon presentation of appropriate credentials, the control authority or the superintendent will be permitted to

⁶⁷Cross reference(s)—Administration, ch. 2.

enter immediately for the purposes of performing their specific responsibilities. Significant users shall sample and analyze their discharges in accordance with the provisions of their permits. The control authority may request such samples to be split for the control authority's independent analysis. Industrial users shall maintain records of all information from monitoring activities required by this division or by 40 CFR 403.12(n). Industrial users shall maintain the records for no less than three years. This period of record retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the City of Detroit's Industrial Pretreatment Program or when requested by the control authority, the EPA, the state or the municipality. Industrial users shall, upon the request of the control authority or the superintendent, furnish information and records relating to discharges to the POTW. Industrial users shall make such records readily accessible at all reasonable times and allow the control authority or the superintendent to copy such records. If the control authority obtains samples, and analyses are made of such samples, a copy of the results of such analyses shall be promptly furnished to the owner, operator or agent in charge of the premises upon written request by the industrial user's authorized representative and to the superintendent. When requested by the industrial user, the control authority or the superintendent shall leave a portion of any sample of the user's discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis. In cases of disputes arising over shared samples, the portion taken and analyzed by the control authority or the superintendent shall be controlling unless proven invalid. If the grab sample of the industrial user's discharge is obtained and analyzed by the control authority or the superintendent and found to contain concentrations of pollutants which are two or more times greater than the numeric limitations for composite samples as listed in section 90-373(c), the industrial user shall be required to provide a written report describing the cause of greater concentration and a description of the means by which such concentration may be held to values of less than two times the composite sample concentration limitation in the future.

- (b) In all cases the control authority and significant users shall file a copy of all sampling test results with the superintendent within five calendar days.

(Comp. Ords. 1988, § 25.199)

Sec. 90-393. Confidential information.

- (a) Information and data on an industrial user obtained from written reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agencies without restriction unless the industrial user specifically requests and is able to demonstrate to the satisfaction of the control authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. All claimed confidential information must be clearly marked "confidential." When requested by the person furnishing the report, the portions of a report which disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this division, the National Pollutant Discharge Elimination System (NPDES) permit, the state disposal system permit and/or the pretreatment programs; however, such portions of a report shall be available for use by any local, state or federal agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the control authority as confidential shall not be transmitted to any governmental agency until and unless a ten-day notification of intent to transmit is first given to the industrial user.
- (b) All information with respect to an industrial user on file with the control authority shall be made available upon request by that user or the user's authorized representative during normal business hours.

(Comp. Ords. 1988, § 25.201)

Sec. 90-394. Statutes, laws and regulations.

Unless otherwise provided, any reference in this division to a code, standard, rule, regulation or law enacted, adopted, established or promulgated by any private organization, or any element or organization of government other than the municipality shall be construed to apply only to such code, standard, rule, regulation or law in effect or existence upon the date of enactment of this division.

(Comp. Ords. 1988, § 25.202)

Sec. 90-395. Enforcement.

- (a) *Violations.* It shall be a violation of this division for any user to:
- (1) Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;
 - (2) Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics;
 - (3) Refuse reasonable access to the industrial user's premises or waste discharge for the purpose of inspection or monitoring;
 - (4) Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;
 - (5) Fail to comply with any limitation, prohibition or requirement of this division, including any rule, regulation, or order issued under this division; however, if an industrial user acts in full accordance with a compliance schedule approved and incorporated into the industrial user's wastewater discharge permit pursuant to the provisions of this division, that industrial user shall be deemed to be in compliance with those requirements of this division addressed by the compliance schedule. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this division shall be deemed to be in compliance with the requirements of this division, and such permits shall remain in effect and be enforceable under this division until the expiration date of such permit or until a superseding permit is issued, whichever occurs first. Industrial users shall comply with National Categorical Pretreatment Standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.
- (b) *Upsets.* An upset shall constitute an affirmative defense to an action brought for noncompliance with limits imposed under this division or National Categorical Pretreatment Standards if the requirements of subsection (a) are met.
- (1) An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - a. An upset occurred and the industrial user can identify the specific cause of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - c. The industrial user has submitted the following information to the department, orally or in writing, within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 1. A description of the discharge and cause of noncompliance;
 2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

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3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
 - (2) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (3) The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this division upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.
- (c) *Emergency suspensions and orders.* The control authority or the superintendent may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where such suspension is necessary, in the opinion of the control authority or the superintendent, to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with or damage the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or 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 or revocation order, the control authority or the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. If such steps are taken, the director or the superintendent shall immediately notify the industrial user in writing of such action and the specific recourse available and shall provide the industrial user with an opportunity for a hearing before the director or his designated representative within ten days of such action. The control authority or the superintendent shall notify each other of this action within ten days of such action. The control authority or the superintendent shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service upon proof of the elimination of the noncomplying discharge. The industrial user shall submit a detailed written statement to the control authority and the superintendent within 15 days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.
 - (d) *Notice of violation.* Except in the case of an actual or threatened discharge as specified in subsection (b) of this section, whenever the control authority has reason to believe that any industrial user has violated or is violating this division, the control authority shall serve upon such industrial user a written notice stating the nature of the violation.
 - (e) *Notice of control authority action.* The municipality or its designated department shall be notified by the control authority of any enforcement activity taken within its boundaries.
 - (f) *Administrative actions.*
 - (1) *Elimination, remedy of violation.* Whenever the director has reasonable grounds to believe that sewage, wastes or other wastes of any kind are being or have been discharged into the wastewater system of the board in violation of this division, wastewater discharge permit or any prohibition, limitation or requirement contained in this division, the director may, except in the case of emergency or flagrant violation, by conferences, notices or cooperation, endeavor to the fullest extent possible to have the industrial user eliminate or remedy such violation.
 - (2) *Conferences.* The control authority may order any person who violates this division to attend a conference wherein the control authority may endeavor to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten days before the scheduled conference and shall set forth the date, time and place of the conference. The conference shall be conducted by a representative of the control authority. The industrial user

shall present a plan and schedule for achieving compliance with this division. The conference attendees may agree upon a compliance schedule which sets forth the terms and conditions and time period or schedule for full compliance. Nothing contained in this section shall require the control authority to accept or agree to any proposed plan or schedule or prevent the control authority from proceeding with a show cause hearing as set forth in subsection (f)(3) of this section. Should the attendees agree to a compliance schedule, the industrial user's wastewater discharge permit shall be modified accordingly. An industrial user must exhibit good faith and expeditious efforts to comply with this division and any procedures, requirements and agreements under this division.

(3) *Show cause hearing.*

- a. *Authorized.* The control authority may order any industrial user who violates this division, or allows such violation to occur, to show cause before the control authority why a proposed enforcement action should not be taken. A notice shall be served on the industrial user specifying the time and place of a hearing before the control authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the control authority why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing, with copies sent to the municipality; service may be made on any agent or officer of a corporation or authorized representative.
- b. *Hearing proceeding.* A representative of the control authority shall conduct the show cause hearing and take the evidence, and may:
 1. Issue, in the name of the board, notices of hearings requesting the attendance and testimony of the witnesses and the production of evidence relevant to any matter involved in such hearings;
 2. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action. At any show cause hearing pursuant to this division, testimony taken must be under oath and recorded stenographically.

(4) *Actions.* After a show cause hearing has been conducted, an order may be issued to the industrial user by the control authority directing any of the following actions:

- a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this division or applicable local, state, or federal law or regulation;
- b. That pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment be accomplished within a specified time period; sewer or wastewater treatment service may be discontinued upon failure to comply;
- c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring analysis during a specified time period;
- d. Submission of periodic reports on effluent quality and quantity determined by self-monitoring analysis throughout the final period set by a compliance date;
- e. Control of discharge quantities;
- f. Payment of costs for reasonable and necessary inspection, monitoring and administration of the industrial user's activities by the control authority during compliance efforts; and/or

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- g. Any such other orders as are appropriate, including but not limited to immediate termination of sewer or wastewater treatment services or revocation of a wastewater discharge permit or orders directing that following a specified time period, sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices or operation and maintenance practices have been employed.
- (5) *Public participation.* A list of all industrial users which were the subject of enforcement proceedings pursuant to section 90-395 during the 12 previous months shall be annually published by the control authority in the largest daily newspaper published in the municipality in which the POTW is located, summarizing the enforcement actions taken against the industrial users during the same 12 months whose violations remained uncorrected 45 or more days after notification of noncompliance over that 12-month period, or which involve failure to accurately report noncompliance, or require the control authority to use its emergency authorities. All industrial users identified in a proposed publication shall be provided a copy of that proposed notice at least 30 days before publication and provided with an opportunity to comment as to its accuracy.
- (g) *Legal actions.*
- (1) Any user who violates any provision of this division, including the failure to pay any fees, charges or surcharges imposed by this division, or any condition or limitation of a permit issued pursuant to this division or who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this division or wastewater discharge permit or who tampers with or knowingly renders inaccurate any monitoring device required under this division is guilty of a misdemeanor. The control authority and/or superintendent is authorized to seek, through its council, prosecution of criminal charges against any person violating any provision of this division.
- State law reference(s)—Tampering with public utilities, MCL 750.383a.
- (2) If any person discharges sewage, industrial wastes or other wastes into the POTW contrary to the provisions of this division, permit, or order issued under this division, the municipality or the control authority may commence a civil action to enjoin such discharge or to enforce compliance with this division, permit or order issued under this division, in the circuit court for the county or other appropriate court. Upon a proper showing of a violation of this division, permit, or order issued under this division, a permanent or temporary injunction may be granted without bond. The control authority or the municipality may also seek additional legal and/or equitable relief. Instituting suit in the circuit court does not constitute an exclusive election of remedies and does not prohibit the control authority or the municipality from commencing action in federal court for discharges believed to be in violation of this division, state or federal requirements pursuant to the Clean Water Act, the City of Detroit's NPDES permit, or other applicable laws or requirements. The control authority and the municipality may also recover reasonable attorney's fees, court costs, court reporter's fees, and other unusual expenses related to enforcement activities or litigation against the person found to have violated this division or the orders, rules, regulations, and permits issued under this division.

(Comp. Ords. 1988, § 25.203)

Sec. 90-396. Review and appeal.

- (a) The following procedures control the course of reconsideration and appeal to the control authority with respect to the construction, application or enforcement of this division and may be used if informal methods do not achieve satisfaction.

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- (b) Any permit applicant, permit holder, authorized industrial wastewater discharger, or other discharger adversely affected by a decision, act or determination made by or on behalf of the control authority by the director or his authorized representative in interpreting or implementing the provisions of this division or any permit issued under this division, with the exception of any decision, determination or order made following a show cause hearing pursuant to this division may file with the control authority a written request for reconsideration. Such request shall be received at the control authority's general offices within 20 days of the date of the occurrence of the control authority's action or decision to dispute. All requests shall set forth the requestor's name and address, along with a brief statement of the reasons it is requesting and the factual basis for the request. Requests shall be filed in triplicate and sent by certified mail to the general offices of the control authority.
 - (c) The control authority shall notify the applicant within 15 days after receipt of any request for reconsideration of the time and place for hearing upon the request. The hearing shall be conducted by the director or his authorized representative not less than ten days and not more than 30 days after mailing such notice. The hearing may be continued for a reasonable time for good cause shown, at the discretion of the director. The hearing shall be held as an informal consultation and conference at which the requestor, in person or by counsel, shall present his argument, evidence, data and proof in connection with the issue submitted. The parties shall not be bound by legal rules or evidence. The hearing shall be recorded, and the requestor shall be provided with a transcript upon request and upon payment of the cost. The decision of the director shall be made known to the requestor by certified mail within 30 days after the hearing.
 - (d) The requestor may appeal the ruling of the director of the request for reconsideration or any order or decision issued following a show cause hearing pursuant to this division by filing a request for an appearance before the board. The procedures for appearance before the board will be determined by the board, and the requestor will be notified of these procedures within 30 days after such a request is filed.
 - (e) The filing of a request for reconsideration or for appeal and appearance before the board shall stay any action by the control authority unless such action is immediately necessary to prevent passthrough, interference or other significant harm to the POTW.

(Comp. Ords. 1988, § 25.204)

Secs. 90-397—90-410. Reserved.

Subdivision III. Wastewater Discharge Permits

Sec. 90-411. Required.

- (a) It shall be unlawful for significant users to discharge into the POTW without a wastewater discharge permit from the control authority except as authorized by the control authority or in accordance with the provisions of this subdivision.
- (b) All significant users proposing to connect to or to contribute to the POTW shall apply for a wastewater discharge permit in accordance with the following procedures of this subdivision connecting to or contributing to the POTW. Upon determination that a permit is required, no connection to the POTW shall be made and no discharge shall occur until a permit is issued unless otherwise authorized by the control authority for a period not to exceed 60 days. All existing significant users connected to or contributing to the POTW shall apply for a wastewater discharge permit in accordance with the following procedures. The control authority may require any nondomestic user to fill out a questionnaire and submit it for the control authority's use in determining whether the industrial user is a potential significant user as well as to determine changes or lack of changes in the user's facilities.

(Comp. Ords. 1988, § 25.195(a))

Sec. 90-412. Application.

The control authority may notify an industrial user of its belief that the industrial user is, or may be, a significant user. Upon such notification, the industrial user shall complete and submit an application for a wastewater discharge permit in the manner and form prescribed by the control authority. Failure of the control authority to so notify an industrial user will not relieve any significant user of a duty to obtain a permit as required by this subdivision.

- (1) Existing industrial users shall submit a completed application on the form provided by the control authority within 60 days after being so directed and provided a form by the control authority.
- (2) Proposed new industrial users shall request an application form and submit the completed application at least 90 days prior to start-up.
- (3) An industrial user which becomes subject to a new or revised National Categorical Pretreatment Standard and which has not previously submitted an application for a wastewater discharge permit as required by this division shall apply for a wastewater discharge permit within 90 days after the promulgation of the applicable National Categorical Pretreatment Standard. The control authority may also initiate this action.
- (4) A separate application shall be required for each separate location.

(Comp. Ords. 1988, § 25.195(b))

Sec. 90-413. Application information.

In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Corporate or individual name, any assumed name, federal employer identification number, address and location of the discharging facility.
- (2) Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally.
- (3) All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual, issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.
- (4) Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in section 90-373(b) and (c) and those pollutants limited by National Categorical Pretreatment Standards or regulations for applicable industries. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to National Categorical Pretreatment Standards or requirements, the data requested in this section shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the act and contained in 40 CFR part 136, as amended (where 40 CFR, part 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,

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- 1977, and any amendments or revisions thereto) or with any other sampling and analytic procedures, where appropriate and applicable, approved by the EPA; the name and address of the laboratory performing the analytical work.
- (5) A listing and description of activities, facilities and plant processes on the premises. Those processes which are subject to National Categorical Pretreatment Standards or requirements shall be so designated. As pertains to subsection (4) of this section, identify which pollutants are associated with each process.
 - (6) Restricted to only those pollutants referred to in subsection (4) of this section, a listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in subsection (4) of this section. Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity.
 - (7) A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven days of the week.
 - (8) Average and maximum 24-hour wastewater flow rates, including daily, monthly and seasonal variations, if any; list each national categorical process wastestream flow rate and the cooling water, sanitary water and stormwater flow rates separately for each connection to the POTW; list each combined wastestream.
 - (9) A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be cross referenced to the information furnished in subsection (8) of this section.
 - (10) Each product produced by type, amount, process, or processes and rate of production as pertains to processes subject to production based limits under the national categorical standards or requirements only.
 - (11) A statement regarding whether or not the requirements of this division and the National Categorical Pretreatment Standards and requirements are being met on a consistent basis and, if not, what additional operation and maintenance work and/or additional construction is required for the industrial user to meet the applicable standards and requirements.
 - (12) Basic information on the spill containment program and the program for the prevention of accidental discharges for each of the pollutants referred to in subsection (4) of this section. The information provided shall include the approximate average and maximum quantities of such substances kept on the premises in the form of raw materials, chemicals and/or wastes and the containment capacity for each. Only substances which are in a form which could readily be carried into the POTW and which constitute a concentration of five percent or greater on a dry weight basis in the raw material, chemical solution or waste material are required to be reported. Volumes of less than 55 gallons or its equivalent need not be reported unless lesser quantities could cause passthrough or cause interference with the POTW.
 - (13) Proposed or actual hours of operation of each pretreatment system for each production process.
 - (14) A schematic and description of each pretreatment facility. Identify whether each pretreatment facility is of the batch type or continuous process type.
 - (15) If other than DWSD potable water, the industrial user's source of intake water, together with the types of usage and disposal method of each water source and the estimated wastewater volumes from each source.

(16) If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this division and the National Categorical Pretreatment Standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures.

(17) Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

(Comp. Ords. 1988, § 25.195(c))

Sec. 90-414. Issuance.

(a) Upon receipt of an application for a permit under this subdivision, the control authority shall review the application, determine and so notify the industrial user of any of the following:

(1) The industrial user is not required to have a wastewater discharge permit.

(2) The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12(a) and (b) or the control authority and that additional information and data are required, which shall be promptly furnished.

(3) The industrial user is required to have a wastewater discharge permit.

(b) The control authority may withhold issuance of a permit to a significant user which has not submitted an adequate or timely report to the control authority in accordance with the baseline reporting requirements of 40 CFR 403.12(a) and (b). If the control authority determines an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the proposed permit, so marked, for the industrial user's review. An industrial user may contest the determination of the control authority, any term or condition or wastewater discharge permit, including modifications, by filing a request for reconsideration in accordance with the procedures set forth in section 90-396. In the event of such request, the contested terms and conditions of the proposed permit shall be stayed pending the control authority's review of contested issues. If the permit is not contested or if the industrial user fails to respond within 20 days after receipt of the proposed permit, the permit may be issued as proposed. A permit shall be issued upon resolution by the control authority of any contested terms or conditions. Only one facility location shall be included in each permit.

(Comp. Ords. 1988, § 25.195(d))

Sec. 90-415. Conditions.

(a) Wastewater discharge permits shall be deemed to contain all provisions of this division, other applicable laws, rules, regulations, user charges and fees established without repetition.

(b) Permits may also contain the following:

(1) Limits on the average and maximum wastewater constituents or characteristics if more restrictive than or supplemental to the numeric limits enumerated in section 90-373 or the applicable National Categorical Pretreatment Standards.

(2) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization.

(3) Requirements for installation, operation and maintenance of discharge sampling manholes and monitoring facilities by the industrial user.

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- (4) Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW.
 - (5) Specifications for industrial user monitoring programs, which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedule.
 - (6) Requirements for the prevention of accidental discharges and the containment of spills.
 - (7) Restrictions based on the information furnished in the application.
 - (8) Compliance schedules; the following conditions shall apply to these schedules:
 - a. 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 upgraded or additional pretreatment facilities or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.).
 - b. No increment referred to in subsection (8)a of this subsection shall exceed nine months.
 - c. Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority, including, as 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 industrial user to return to the established schedule. In no event shall more than 75 days elapse between each such progress report to the control authority.
 - d. The compliance schedule embodied in an industrial user's wastewater discharge permit shall be binding until the expiration and fulfillment of the schedule or until such permit is modified. Changes to the compliance schedule which are acceptable to the control authority shall be incorporated into the wastewater discharge permit by modification. Any deviations from the compliance schedule may result in the industrial user's being found in violation of this division.
 - (9) In addition to the above:
 - a. All permittees shall submit a report to the control authority and municipality in the prescribed form or an alternative approved form indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit or made applicable to the permit by this division. The reports shall be submitted at six-month intervals, unless required more frequently, on a schedule to be established by the control authority for each permittee. Except for permittees subject to National Categorical Pretreatment Standards or requirements, a permittee who has demonstrated consistent compliance with a permit for a period of one year or more (which contains no compliance schedule) may request in writing to be excused from submitting the required reports at the required interval. Upon review and acceptance of the request, the control authority may grant a less frequent reporting interval. The reports shall state whether all requirements of the permit are being met and what progress is being made on work under compliance schedules. The report shall also contain projections of compliance for the next six months. At a minimum, the report shall also contain a dated and signed analytical report of at least one representative discharge sample taken during the period since the last report. If the control authority has sampled the permittee's effluent since the last report, the control authority's analytical report may be substituted for that of the permittee's. The analytical report shall show the concentration of each substance for which there is a specific limitation in the permit. The report shall be signed and dated by the authorized representative of the industrial user.

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- b. Permittees subject to National Categorical Pretreatment Standards or requirements shall submit compliance reports at the times and intervals specified by the federal regulations and the control authority. Compliance reports shall be submitted to the control authority no later than 90 days following the final compliance date for a standard and at six-month intervals thereafter on the schedule established by the control authority for each permittee as stated in this section. New sources shall commence reporting at the time of initial discharge into the system. The reports shall be on a form prescribed by the control authority or on an approved alternative form and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by National Categorical Pretreatment Standards and the records of each day's flow for each process unit in the industrial user's facility which is regulated by such pretreatment standards. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the control authority, provided there have been no changes to the elements composing the combined wastestream. These reports shall contain the results of sampling of the discharge and analysis of pollutants cross referenced to the related flow or production and mass as required to determine compliance with the applicable National Categorical Pretreatment Standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations (40 CFR 403) or by the control authority, whichever is more stringent. All sampling and analysis shall be performed in accordance with applicable regulations. Where 40 CFR part 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 and revisions thereto, or with any other sampling and analytical procedures approved by the EPA for these purposes. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment construction is necessary to bring the industrial user into compliance with the applicable pretreatment standards. This report shall be signed, dated and certified by an authorized representative of the industrial user or a registered professional engineer.

(10) Other requirements reasonably necessary to ensure compliance with this division.

- (c) To the extent the control authority seeks to impose restrictions in a permit which are more restrictive than established in this division, the control authority shall provide written documentation to substantiate the necessity of such greater restriction against passthrough, interference or violation of the NPDES permit.

(Comp. Ords. 1988, § 25.195(e))

Sec. 90-416. Duration.

Permits shall be issued under this subdivision for a specified time period, not to exceed five years. A permit may be issued for a lesser period of time or may be stated to expire on a specific date; however, permits shall not be issued for a period less than one year. Existing permittees shall apply for permit reissuance a minimum of 90 days prior to the expiration of existing permits on a form prescribed by the control authority. Upon timely application for reissuance of a permit in accordance with this section by a permit holder, the expired permit shall be automatically extended until modified or reissued by the control authority.

(Comp. Ords. 1988, § 25.195(f))

Sec. 90-417. Modification.

The terms and conditions of a permit under this subdivision may be subject to modification by the control authority during the term of the permit as limitations or requirements as identified in section 90-373 are amended or other just cause exists. Just cause for a permit modification includes but shall not be limited to the following:

- (1) Material or substantial changes to an industrial user's facility or operation or changes in the characteristics of the industrial user's effluent. It shall be in the industrial user's duty to request an application form and apply for a modification of the permit within 30 calendar days of the change, but the information previously submitted and unchanged need not be resubmitted by the permittee. Failure of the industrial user to so apply shall be considered a violation of this division. The control authority may also modify the permit of its own initiative based on its findings or reasonable belief of the above.
- (2) Changes in the City of Detroit's NPDES permit.
- (3) Embodiment of the provisions of a conciliation agreement, court settlement or order.
- (4) Any changes necessary to allow the City of Detroit to fulfill its roll as control authority.
- (5) An industrial user's noncompliance with portions of an existing permit.
- (6) A change of conditions within the POTW.
- (7) A finding of interference or passthrough attributable to the industrial user.
- (8) Amendments to or promulgation of National Categorical Pretreatment Standards or requirements. Permittees shall request an application form and apply to the control authority for a modified permit within 90 days after the promulgation of a new or revised National Categorical Pretreatment Standard to which the industrial user shall be subject. Information submitted pursuant to this section shall be confined to that information related to the newly promulgated or amended National Categorical Pretreatment Standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. The control authority may also initiate this action. The industrial user shall be informed of any proposed change in its permit at least 60 days prior to the proposed effective date of the change for any change initiated by the control authority unless such change is the result of any enforcement action taken pursuant to this division.

(Comp. Ords. 1988, § 25.195(g))

Sec. 90-418. Custody and transfer.

Wastewater discharge permits are issued to a specific person for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial use, different premises, or a new or changed operation without the written approval of the control authority. It shall be the permit holder's duty to notify the control authority of any such change within 30 days of the change. The control authority may revoke a permit if it determines that an unreported change has occurred. The control authority may require the application for a new or modified permit if a change takes place. Any succeeding person shall comply with the terms and conditions of any existing permit which the control authority allows to be retained.

(Comp. Ords. 1988, § 25.195(h))

Sec. 90-419. Small quantity dischargers.

- (a) Industrial users whose maximum daily discharge on any day does not contain more than the following quantities of the listed pollutants, as expressed in pounds, may on a pollutant-by-pollutant basis apply to the control authority for an exemption from the concentration limitations set forth in section 90-373(c) and (d) for each such pollutant. Industrial users granted such an exemption shall comply with the below-listed poundage limitations:

Pollutant	Daily Pound Limit
FOG	1.2
TSS	50
BOD	6
P	0.25
AS	0.0002
Cd	0.001
Cu	0.005
CN	0.003
Pb	0.007
Hg	0.00002
Ni	0.007
Ag	0.0008
Cr	0.009
Zn	0.03

- (b) Upon application by an industrial user who has obtained approval to discharge under the poundage limitations in subsection (a) of this section, the control authority may, on a pollutant-by-pollutant basis, grant an exemption from various wastewater discharge permit requirements described in this subdivision. No exemptions may be granted to industrial users subject to National Categorical Pretreatment Standards or requirements.

(Comp. Ords. 1988, § 25.195(i))

Secs. 90-420—90-450. Reserved.

ARTICLE V. CROSS CONNECTION CONTROL

Sec. 90-451. Rules adopted.

The township adopts by reference the water supply cross connection rules of the state department of environmental quality, being R325.11401 to R325.11407 of the Michigan Administrative Code, copies of which are on file with the township clerk and available for inspection by the public.

(Comp. Ords. 1988, § 25.501)

Sec. 90-452. Inspections.

The township board requires inspections to be made by the plumbing inspectors of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the plumbing inspector and as approved by the state department of environmental quality and the township board.

(Comp. Ords. 1988, § 25.502)

Sec. 90-453. Inspector; right of entry, information.

The plumbing inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the township for the purpose of inspecting the piping system 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 system on such property.

(Comp. Ords. 1988, § 25.503)

Sec. 90-454. Discontinuing service.

The township board, upon recommendation of the plumbing inspector, shall discontinue water service after reasonable notice to any property wherein any connection in violation of this article exists, and shall take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this article.

(Comp. Ords. 1988, § 25.504)

Sec. 90-455. Labeling unsafe water.

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this article and by the state and the township plumbing code. 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

(Comp. Ords. 1988, § 25.505)

Sec. 90-456. Relationship of article to plumbing code.

This article does not supercede the state and township plumbing codes but is supplementary to them.

(Comp. Ords. 1988, § 25.506)

Chapter 94 WATERWAYS⁶⁸

ARTICLE I. IN GENERAL

Sec. 94-1. Bubbling systems, mechanisms; civil infraction fine.

- (a) In this section, "bubbling system or mechanism" means any machinery, equipment, mechanism, compressor or compression system or any structural, mechanical or other system whether automatically or manually operated and which is designed, intended or functions to interrupt the natural freezing of waterways surrounding any boat, vessel, dock or seawall as a means of a wet storage system for such boat or vessel, or protection for any dock or seawall, during the winter months.
- (b) The entire perimeter of the open water area being maintained by a bubbling system and surrounding a boat, boat dock or adjacent to a seawall shall be clearly delineated by rope, fencing or buoys.
- (c) Wherever there is a fixed support on or along the open water perimeter such as a dock or seawall, a rope or fencing shall be placed at a height of that which can be reached by a small child. Where there is no fixed support, one or more of the following shall be provided and located every 150 running feet or for each boat bubbled:
 - (1) A ten-foot ladder.
 - (2) A throwable and floatable device with an attached 25-foot rope or other acceptable line which can support a 150-pound person.
 - (3) A ten-foot pike pole.
- (d) There shall be a sign displaying "DANGER" or "OPEN WATER" of a minimum size of one foot by three feet with a minimum of six-inch letters for:
 - (1) Each boat bubbled; or
 - (2) Every 150 running feet of boat docks or seawall being bubbled.
- (e) In any canal or waterway a person choosing to bubble shall operate, maintain and periodically inspect the bubbling system apparatus so as to maintain an open water radius surrounding the bubbled object.
- (f) Any private or licensed commercial marina in the township conducting such bubbling to prevent the freezing in its marina basin shall be exempt from the provisions of this section except for those portions of any such marina that are on a canal, the Clinton River, or other waterway.
- (g) The municipal civil infraction fine for a violation of this chapter is \$300.00.

(Comp. Ords. 1988, §§ 20.181—20.184; Ord. No. 303, 1-22-1996; Ord. No. 327, § 1, 5-10-1999)

⁶⁸Cross reference(s)—Buildings and building regulations, ch. 18; environment, ch. 34; floods, ch. 42; land development, ch. 54; land divisions, ch. 58; parks and recreation, ch. 66; zoning, app. A; waterfront district, app. A, § 11.00 et seq.

Sec. 94-2. Traffic regulations; misdemeanor.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Pedestrian traffic means a natural person.

Vehicle means any motor-driven vehicle, and among others, shall include automobiles, trucks, motorcycles and motorbikes.

- (b) *Prohibitions.* No unauthorized vehicle shall be permitted to park or drive within the Clinton River Spillway right-of-way property located in the township. No pedestrian traffic shall be permitted in the Clinton River Spillway right-of-way property located in the township except during daylight hours.
- (c) *Penalties for violation.* Except as otherwise provided in this section, any person found violating any of the provisions of this section shall be guilty of a misdemeanor. Any provision of this section which describes an act or omission which constitutes a civil infraction under the terms of the Michigan Vehicle Code (MCL 257.1 et seq.) shall be processed as a civil infraction and any person found to have committed a civil infraction may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with such act.

(Comp. Ords. 1988, §§ 20.353—20.355)

Secs. 94-3—94-30. Reserved.

ARTICLE II. VESSELS AND WATER SAFETY⁶⁹

DIVISION 1. GENERALLY

Sec. 94-31. Adoption of state law.

- (a) This section shall apply to all waterways within the township, including Lake St. Clair, the Clinton River, the Black Creek, and all natural and artificial canals and channels within the township, including all such waterways within the confines of the Metropolitan Beach Metropark.
- (b) The enforcement of the provisions of this section shall be under the jurisdiction of the rangers and other designated personnel at Metropolitan Beach Metropark, including beach ordinance enforcement officers, as well as any police officer, deputy sheriff, or other official authorized to enforce the general ordinances of the township.
- (c) The provisions of part 801 of the Natural Resources and Environmental Protection Act (MCL 324.80101 et seq.) and all rules and regulations promulgated pursuant to such act are adopted by reference.

(Comp. Ords. 1988, §§ 20.071(a), (b), (d), 20.073; Ord. No. 300, 7-10-1995)

⁶⁹State law reference(s)—Marine safety, MCL 324.80101 et seq.

Sec. 94-32. Mooring on Maple Hill/Elm Lane canal restricted.

- (a) All words and phrases used in this section shall be construed and have the same meanings as those words and phrases are defined in part 801 of the Natural Resources and Environmental Protection Act (MCL 324.80101 et seq.).
- (b) On the water of the Maple Hill/Elm Lane canal, a vessel shall not be moored in a manner which restricts channel width to less than 12 feet.

(Comp. Ords. 1988, §§ 20.151, 20.152)

Secs. 94-33—94-40. Reserved.

DIVISION 2. ABANDONED BOATS

Sec. 94-41. Short title.

This division shall be known as the Abandoned Boat Ordinance and may be cited as such.

(Ord. No. 334, § 1, 7-9-2001)

Sec. 94-42. Definition.

The following words, when used in this division, shall have the following meanings:

Boat shall mean a vessel for traveling in or on water or ice, including unpowered, powered by oars, paddles, sail or motor, and a raft whether rigid or inflatable.

Abandoned boat shall mean a water craft which has remained on public or private property for a period of 48 hours after a police agency or other government agency designated by the police agency has affixed a written notice to the water craft.

(Ord. No. 334, § 2, 7-9-2001)

Sec. 94-43. Regulation of docking or mooring of boats.

No person, owner or operator of any boat (as defined above) shall moor, dock or leave said boat unattended on any private or public property without the express written consent, authorization or ratification of the owner, holder, occupant, lessee, agent, or trustee of said property as outlined below:

- (a) This section shall not apply if the written consent of the property owner is provided or placed in the boat in such a manner as to be clearly visible without having to enter or inspect the interior of said boat.
- (b) This section shall not apply to properly licensed boat dealerships.

(Ord. No. 334, § 3, 7-9-2001)

Sec. 94-44. Responsibility for compliance.

The owners of a boat docked or moored and the owner's of such property upon which the boat is moored or docked, shall be responsible for compliance with the terms of this section. In any proceeding for violation of any provision of this division based upon boat ownership, the person, or persons, to whom the boat is registered, as determined from the certificate of numbers displayed on such boat, shall be presumed in evidence to be the owner of the boat. In any proceeding for violation of any provision of this division based upon property ownership, the person to whom the property is assessed as determined by the most recent tax assessment roll of the township shall be presumed in evidence to be the owner of the property.

(Ord. No. 334, § 1, 7-9-2001)

Sec. 94-45. Notice of violation.

If a boat has remained on public or private property for a period of time so that it appears to the police agency to be abandoned, the police agency shall do all of the following:

- (a) Determine if the boat has been reported stolen;
- (b) Affix a written notice to the boat. The written notice shall contain the following information:
 - 1. The date and time the notice was affixed;
 - 2. The name and address of the police agency taking the action;
 - 3. The name and badge number of the police officer affixing the notice;
 - 4. The date and time the boat may be taken into custody and stored at the owner's expense or scrapped if the boat is not removed;
 - 5. The year, make and boat identification number of the boat, if available.

(Ord. No. 334, § 5, 7-9-2001)

Sec. 94-46. Abandonment by enforcing agency.

If the boat is not removed within 48 hours after the date the notice was affixed, the boat is deemed abandoned and the police agency shall have the boat taken into custody.

(Ord. No. 334, § 1, 7-9-2001)

Sec. 94-47. Enforcement.

The provisions of this division may be enforced, including the issuance of notices and citations for violations of the provisions contained herein by such person or persons as designated by the Township and such law enforcement agencies that may, through contract or otherwise, have the responsibility to enforce the ordinances of this township.

(Ord. No. 334, § 7, 7-9-2001)

Sec. 94-48. Penalties.

Any violation of any of the provisions of this division shall constitute a misdemeanor. Each date the violation is permitted to exist or does in fact exist shall constitute a separate offense. Any person, firm or corporation that violates any provisions of this division shall be guilty of misdemeanor and upon conviction shall be subject to a fine not exceeding \$500.00 and/or 90 days in jail or both, in the discretion of the court. Property of persons found in violation of this division will be taken into custody and the person(s) responsible for the violation shall pay the cost of said towing and thereafter be subject to the rules and regulations as promulgated by the Michigan Marina and Boatyard Storage Lien Act.

(Ord. No. 334, § 1, 7-9-2001)

Secs. 94-49—94-60. Reserved.

ARTICLE III. WATERFRONT CONSTRUCTION

Sec. 94-61. Definitions.

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

Dock means all forms of dock, wharf, pier or other structure used as a means of entrance to or exit from watercraft or for use in connection with other waterfront activities.

Floating dock or pier means every kind of floating pier, dock or raft whether tied to another object, anchored or floating untied or not anchored.

Lot line means the lines bounding a lot as follows:

- (1) *Front lot line*, in the case of an interior lot, means that line separating the lot from the street; in the case of a through lot, that line separating the lot from either street.
- (2) *Rear lot line* means that lot line opposite the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot line* means any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior side lot line.

Piling means all forms of piles, spiles or stakes whether for tying or anchoring watercraft or for use in connection with other waterfront activities.

Watercraft means every kind of boat, vessel, tug, tender, however propelled, and all classes of pleasure boats, however propelled.

Waters edge means the point along a river, canal or lake where the water meets land when the water level is at an elevation of 575.0 feet above sea level at the spillway weir on the cutoff canal, or the lot line as measured in a platted subdivision.

(Comp. Ords. 1988, §§ 22.721—22.726)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 94-62. Violation declared nuisance per se; penalties.

- (a) Any construction or alteration of wharves, docks, pilings or other structures along, abutting upon, or extending into lakes, rivers, channels and canals in the township in violation of this article is declared to be a nuisance per se.
- (b) Any person who shall violate or refuse to comply with or resists the enforcement of any provisions of this article, upon conviction by a court of competent jurisdiction, shall be responsible for a municipal civil infraction fine of \$500.00.

(Comp. Ords. 1988, § 22.771)

Sec. 94-63. Appeals.

The provisions of section 18-9 of the Code of Ordinances are adopted and made part of this article the same as if such appellate procedure were stated and set forth in full in this section.

(Comp. Ords. 1988, § 22.760; Ords. No. 390, § 1, 8-28-2017)

Sec. 94-64. Purpose.

The fundamental purpose of this article is to:

- (1) Promote the public health, safety, morals and general welfare;
- (2) Encourage the use of lands and natural resources in the township in accordance with their character and adaptability;
- (3) Limit the improper use of land;
- (4) Reduce hazards to life and property;
- (5) Establish the location and size of wharves, docks and pilings which may be constructed along, abutting upon, or extending into lakes, rivers, lagoons, channels, canals, and other waterways and to control dredging on such waterways in the township;
- (6) Provide for the administration of this article, including the official whose duty it shall be to enforce the provisions of this article;
- (7) Provide penalties for the violation of this article; and
- (8) Provide for conflicts with other ordinances or regulations.

(Comp. Ords. 1988, § 22.712)

Sec. 94-65. Property owners' rights.

The provisions of this article shall be subject to the littoral and riparian rights of property owners.

(Comp. Ords. 1988, § 22.732(A))

Sec. 94-66. Building official; authority.

- (a) The duty of administering and enforcing the provisions of this article, including issuance and revocation of permits, shall rest in the township building official. He shall have the right and authority to make inspection at any time during the progress of the work, and shall have authority to order work stopped should he find it unsafe or in violation of the provisions of this article.
- (b) In all matters dealing with waterfront construction not covered by this article, the provisions of section 19.02 of the township zoning ordinance, appendix A to this Code are adopted by reference; and their provisions, where not in conflict with this article, are incorporated and made part of this section, the same as if set out in full in this section.

(Comp. Ords. 1988, §§ 22.751, 22.752; Ords. No. 390, § 2, 8-28-2017)

Sec. 94-67. Construction permits.

- (a) It shall be unlawful to erect without permit any new building or structure, or alter or repair any existing building or structure, dredging over or upon waterways in the township, including lakes, rivers, lagoons, channels, canals and other waterways in the township. Application for such permits shall be made with the building official in accordance with an application prepared by the building official and such rules and regulations as he shall require and subject to the provisions of this article and in particular this section.
- (b) Any permit issued under this article does not authorize the violation of any subdivision restriction, deed restriction or other private protective covenant as may apply to the property and such restrictions and covenants are only enforceable by the property owners subject to the provisions of this article.
- (c) No permit shall be issued pursuant to this article until the following requirements have been met by the applicant:
 - (1) All public utilities must be located and shown on the plans submitted to the building official.
 - (2) All departments of the township must approve the application for permit.
 - (3) Entrance through the waterway to the job can only be by water propulsion and not by any other propulsion such as catting or other such means.
 - (4) A liability and performance bond or policy in the estimated cost of the construction or work requested under the permit must be filed with the building official for all applications in excess of \$500.00 cost; and in the case of public utilities located on the premises or within 200 feet of the premises in the adjoining waterway, a liability bond in the amount as determined by the township board fee and performance bond schedule must be filed with the building official.
- (d) Fees for the issuance of a permit shall be fixed by the township board to cover the cost of administration and inspection.

(Comp. Ords. 1988, §§ 22.732(D), (G), 22.753; Ords. No. 390, § 3, 8-28-2017)

Sec. 94-68. Construction on Lake St. Clair.

In addition to all other requirements, all construction on Lake St. Clair shall meet with all requirements and permits for work in navigable waters as required by the United States Corps of Engineers and any other governmental agencies having jurisdiction, and subject to the following control by the township pertaining to landfills and extensions beyond the shoreline of Lake St. Clair:

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- (1) No extensions into the waters of Lake St. Clair shall be permitted until an applicant has submitted to the township board plans and specifications setting forth the extension to be constructed in detail as to effect on lake bottom formations and water flow as required in this section; and such other data as required by the board.
 - (2) Approval of the board shall be given only after the extension is studied on an individual basis by the township board through its consulting engineer, who shall be familiar with lake bottom formations, and who shall make recommendations on the type and specification of bulkhead needed.
 - (3) All extensions shall be bulkheaded before filling. Permanent circulating tubes shall be installed in accordance with the high and low water data. The circulating tubes shall provide reasonable circulation for water and surface debris at all times. Bulkheads shall be uniformly constructed with sheeting or other adequate construction as determined by the township board based on recommendations of the township's consulting engineer.
 - (4) The nature or type of fill to be used by the applicant shall be recited in its plans and specifications.
 - (5) Upon approval by the township board of the applicant's plans and specifications, a permit will be issued; and the applicant must not deviate from the plans and specifications in its construction of the extension.
 - (6) If a special condition arises or of unforeseen circumstances not governed by this article, the township board may enter into an agreement with the applicant, setting forth any additional requirements to be complied with by the applicant.
 - (7) No construction shall be commenced for a landfill or extension until the applicant or his contractor has furnished to the township a performance and/or a liability bond or policy in the estimated cost of the fill or extension project.

(Comp. Ords. 1988, § 22.732(H))

Sec. 94-69. Clearance, right-of-way for traffic.

- (a) All docks, pilings or other construction in, over or upon any waterway in the township shall be constructed so as to leave a minimum of 30 feet clearance and right-of-way for the free passage of watercraft. Such clearance or right-of-way shall measure 15 feet in a perpendicular direction from the middle of the stream where a plat is recorded, and 15 feet from the thread of the stream in all other cases, except as otherwise set forth and provided. In addition, all docks, pilings, railings or other superstructure shall extend above the FEMA 100-year flood elevation of 579.6 to a minimum elevation of 581.0.
- (b) No permanent structure shall be erected in, over or upon any waterway in the township which shall in any way interfere with or obstruct the 30-foot clearance or right-of-way. No bulkheads shall be constructed which shall extend into the waterway beyond the lot line of any lot. When a bulkhead or seawall is installed, proof must be given of the established lot line, either from existing stakes or monuments on the property, or by a survey of the property, before a permit shall be issued.

(Comp. Ords. 1988, § 22.732(B), (C))

Sec. 94-70. Construction in rivers, lagoons.

Where any canal, river or lagoon in the township is more than 90 feet but 200 feet or less in width, measured from water's edge to water's edge, no dock, piling or other construction shall exceed or project more than 30 feet in length from the water's edge toward the center of the stream. Further, no watercraft, floating dock or pier shall be parked or located so as to project more than ten feet beyond any allowed dock, piling or other construction.

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(Supp. No. 31)

Where any river or lagoon is greater than 200 feet in width as measured as provided in this section, no dock, piling or other construction shall exceed or project more than 40 feet in length from the water's edge toward the center of the stream. Still, notwithstanding anything herein, no dock shall be permitted, unless construction leaves 50 percent of the river or lagoon as navigable. For example, if the canal is 92 feet wide, a 30 foot dock would not be permitted because two 30-foot docks with a boat extended ten feet would comprise up to 80 feet leaving 12 feet available for boats to navigate. No watercraft, floating dock or pier shall be parked or located so as to project more than ten feet beyond any allowed dock, piling or other construction. All construction as provided in this section shall be subject to approval by the United States Corps of Engineers and in accord with existing regulations and permits for work in navigable waters as required by the United States Corps of Engineers.

(Comp. Ords. 1988, § 22.732(E); Ords. No. 390, § 4, 8-28-2017)

Sec. 94-71. Construction on private channels, canals, waterways.

All construction on private channels, canals and waterways shall not obstruct and shall permit access throughout the length of such channels, canals or waterways.

(Comp. Ords. 1988, § 22.732(F))

Sec. 94-72. Canals.

Any proposed canal shall have a minimum width of 50 feet, and plans for any such canal shall be approved by the township board before excavation is commenced. Canals shall be designed to provide for an excavation to an elevation of 569.0 USGS or lower.

(Comp. Ords. 1988, § 22.741)

Sec. 94-73. Boat wells.

Boat wells shall be located no closer than ten feet to a side lot line unless the well is developed in conjunction with a common well serving two lots. In the case of wells parallel to the shoreline, the end wall may angle out to the established shoreline and be within three feet of the side lot line.

(Comp. Ords. 1988, § 22.742)

Sec. 94-74. Seawalls.

Seawall construction shall be in accordance with the following requirements:

- (1) Construction shall be a minimum of two-inch tongue-and-groove pressure-treated wood, steel minimum three-sixteenths inch, concrete or other similar material. The wall shall be complete with waler, capping, tiebacks, three-fourths inch diameter, and deadman which shall be sufficient to maintain the wall on proper line after backfilling. All wood shall be pressure-treated.
- (2) All walls shall have approximately 40 percent of the length of the sheet piling in the ground to provide stability and proper toe-in. Sheet piling in canals should be of sufficient length so that canals could be excavated to elevation 569.0. This is a minimum; and any wall other than a simple bulkhead in a canal shall be designed to take into account weight or backfill, any surcharge due to parking, buildings, etc. This minimum is based on average ground conditions, and specific design should be required for any unusual conditions.

(Comp. Ords. 1988, § 22.743; Ord. No. 358, 3-25-2008; Ord. No. 375, § 1, 12-12-2011; Ord. No. 383, 11-10-2014)

APPENDIX A ZONING ORDINANCE⁷⁰

Title

An ordinance enacted under Act 110, Public Acts of 2006, as amended, governing the incorporated portions of the Charter Township of Harrison, Macomb County, Michigan, to regulate and restrict location and use of land, buildings and natural resources designating the location of, the size of, the uses that may be made of, the minimum open spaces, sanitary, safety and protective measures that shall be required for, and the maximum number of families that may be housed in dwellings, buildings and structures for trade, industry, residence and for public and semi-public or other specified uses; and to regulate and limit the height and bulk of buildings and other structures; to regulate and to determine the size of yards, courts and open spaces; to regulate and limit the density of population; and for said purposes, to divide the charter township into districts and establishing the boundaries thereof; to provide for a method for the adoption of ordinances and amendments thereto; to provide for emergency interim ordinances; to provide for the administering of ordinances and boundaries of such districts; defining certain terms used herein; providing for enforcement; establishing a board of appeals; and imposing penalties for the violation of this ordinance; to provide for the collection of fees for permits.

Preamble

Pursuant to the authority conferred by the Public Acts of the State of Michigan in such case, made and provided, and for the purpose of promoting and protecting the public health, safety, peace, morals, comfort, convenience and general welfare of the inhabitants of the Charter Township of Harrison by protecting and conserving the character and social and economic stability of the residential, commercial, industrial and other use areas; by securing the most appropriate use of land; preventing overcrowding of land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation and other public requirements, and by other means, all in accordance with the township master plan, as provided for in Act 33, Michigan Public Acts of 2008, as amended.

Now, therefore, the Charter Township of Harrison ordains:

⁷⁰Editor's note(s)—Printed herein is Ord. No. 307, as adopted by the township board of trustees on Oct. 26, 2015.

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.

Cross reference(s)—Any ordinance adopting or amending the comprehensive plan saved from repeal, § 1-12(a)(8); any ordinance pertaining to zoning, including but not limited to the basic zoning ordinance, ordinances rezoning property or amending the zoning map, and ordinances promulgating zoning text amendments saved from repeal, § 1-12(a)(15); buildings and building regulations, ch. 18; zoning for seasonal sales and solicitors, § 22-31 et seq.; environmental, ch. 34; floods, ch. 42; historical preservation, ch. 46; land development, ch. 54; land divisions, ch. 58; signs, ch. 72; telecommunications, ch. 82; waterways, ch. 94.

State law reference(s)—Zoning, MCL 125.271 et seq.

ARTICLE I. SHORT TITLE

Section 1.01. Short title.

This ordinance shall be known and may be cited as the Charter Township of Harrison Zoning Ordinance and shall be referred to herein as "this ordinance."

ARTICLE II. APPLICATION AND INTERPRETATION

Section 2.01. Application.

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

Section 2.02. Interpretation.

In interpreting and construing the respective provisions of this ordinance, they shall be interpreted and construed to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare. Wherever any provision of this ordinance imposes more stringent requirements, restrictions or limitations than are imposed or required by the provisions of any other ordinance, then the provisions of this ordinance shall govern. Whenever the provisions of any other ordinance impose more stringent requirements than are imposed or required by this ordinance, then the provisions of such ordinance shall govern. Whenever a provision of this ordinance conflicts with another provision of this ordinance, the more stringent requirement shall be imposed.

Section 2.03. Vested right (structures under construction).

Any structure for which a building permit has been issued and construction begun, may be completed and used in accordance with the plans and applications upon which said building permit was granted. Any permit for a use which would be nonconforming under this ordinance, or any amendment hereto, shall not be renewed in the event construction has not commenced before the effective date of this ordinance.

ARTICLE III. SITE PLAN REVIEW

Section 3.01. Intent.

Site plan review provides the township with an opportunity to review the proposed use and development of a site in relation to all applicable provisions of the zoning ordinance, the master plan and township planning. Site plan review also provides the township with an opportunity to review the relationship of the plan to surrounding uses, accessibility, pedestrian and vehicular circulation, off-street parking, public utilities, drainage, natural features, screening, and other relevant factors which may have an impact on the public health, safety and general welfare.

Section 3.02. Planning standards.

In reviewing all applications for site plan approval, the planning commission shall consider the plan in relation to the following standards:

- A. *Vehicular access and circulation.*
 - 1. *Access.* The location and design of driveways providing vehicular access to the site shall be arranged to promote the safety and convenience of vehicles and pedestrians and to provide access in a manner that promotes proper internal and external circulation, taking into consideration such issues as proper driveway alignment, driveway spacing and internal connectivity between sites. The planning commission shall require public streets adjacent or through a proposed development when it is necessary for the public health, safety and welfare, and/or provide continuity to the public road system. In those instances where the planning commission determines that there are an excessive number of curb-cuts in relation to abutting public roads, thereby diminishing the capacity of the road or creating excessive points of conflict, a reduction in the number of driveways shall be required.
 - 2. *Circulation.* On-site circulation shall be clearly indicated on the plan. Access lanes, maneuvering lanes, parking stalls, stacking lanes, loading/unloading bays and doors, shall be designed in a manner that promotes the general safety, convenience, and interaction of both vehicles and pedestrians. The relationship to and the impacts upon adjacent properties shall also be considered.
- B. *Relationship to surrounding property.* All site development features shall be arranged to minimize the potential for negatively impacting surrounding property. In making this determination, the planning commission shall review the plan for negative conditions, such as, but not limited to:
 - 1. Channeling excessive traffic onto local residential streets.
 - 2. The lack of adequate screening of parking, maneuvering, or service areas.
 - 3. Excessive visual pollution caused from lighting and debris.
 - 4. The building structure and use shall be generally consistent in size, scale, and intensity with the adjacent uses.
 - 5. The layout provides impediments to the access of emergency vehicles.
- C. *Relationship to natural features.* All buildings, driveways, parking lots, and site improvements shall be designed to be compatible with all natural features on-site. The site buildings and improvements shall not encroach into the physical characteristics of the site, such as wetlands, floodplains and natural drainage ways, and shall minimize the impact on environmental features, including, but not limited to, woodlands, slopes and sensitive soils. The proposed development shall not needlessly have an adverse impact on the natural environment of the site or the surrounding area. In no way shall natural drainage ways or other natural water retention bodies be altered in a manner that reduces or significantly alters the current drainage location, patterns or volumes.
- D. *Infrastructure.* The planning commission shall consider the township engineer's evaluation of the adequacy of public or private utilities proposed to serve the site, including water, sanitary sewers and stormwater retention.

Section 3.03. Review qualification.

- A. A site plan shall be submitted for review and approval by the planning commission whenever one or more of the following conditions apply:
1. Whenever a building permit is required for the erection, expansion or structural alteration of a building (other than single-family homes, one two-family structure, farm buildings or accessory structures to these residential uses).
 2. For the addition or construction of site features or activity area such as, but not limited to, fences, pools, picnic areas, storage/collection bins, dumpster enclosures, dumpsters, flag poles, lights, loading/unloading areas and similar type structures.
 3. For the construction, use or establishment of a new or additional parking or storage area.
 4. For all special land uses,
 5. For any substantial change in use or class of use when referred by the building official.
 6. The erection of, or addition to, any major utility service facilities, including towers, substations, pump stations and similar facilities.
- B. *Technical reviews.* Wherever this ordinance requires review and approval by the planning commission, such review and approval may instead occur by the technical committee in accordance with the standards of this subsection.
1. The township planning and zoning department shall submit a request for a technical change of a site plan, subdivision plat or site condominium plan to the technical committee for review and action. A technical change is a minor revision to an approved site plan which does not change the character, nature, intent or use of the original site plan. To be a technical change, a minor revision shall not include any of the following:
 - a. Addition to a building or structure of more than 500 square feet. This shall not include additional/detached buildings to the site.
 - b. Addition or change to a site that significantly impacts site vehicular circulation.
 - c. Addition or change to a site which significantly increases the intensity of use.
 - d. Addition or change to a site which increases the number of residential lots or units.
 2. The technical committee, comprised of the building official, township engineer and township planner, may waive, upon unanimous consent, the site plan submission requirement when the proposed building or site change is obviously minimal based on the standard above.
 - a. Where it is determined by the technical committee that certain requirements of this section are not necessary to the review and understanding of the site plan, the technical committee may waive the requirements.
 - b. The technical committee may approve, deny, or postpone action on any technical change. If denied, the applicant shall be notified of the reasons for such denial and directed to proceed with a full site plan submission. If approved, the plans shall be forwarded for engineering review, if applicable, or directly to the building department for building permit processing.
 - c. The planning commission is to be informed of any actions of the technical committee at its next meeting.

(Ord. No. 308.5, § 10, 4-26-2021)

Section 3.04. Submission requirements.

A required site plan shall include the entire site under the control or ownership of the applicant with all areas proposed for improvement and all unplanned areas also included. All site plans submitted for consideration shall include the following information:

- A. General site data.
 - 1. The site plan shall be prepared by and carry the seal and signature of the registered architect, landscape architect, community planner, land surveyor or professional engineer who prepared it, and shall consist of one or more sheets necessary to adequately provide the required data.
 - 2. The dimensions of all improvements and yards shall be labelled in a manner that clearly indicates the plan's compliance with the applicable zoning ordinance standards and requirements.
 - 3. Northpoint and scale should customarily be provided at one inch equals twenty feet or one inch equals thirty feet. For large-scale development, one inch equals fifty feet may be acceptable, provided all important typical areas and ordinance requirements are thoroughly detailed in clearly recognizable form and presented at the customary scale.
 - 4. Complete legal description.
 - 5. Size of the site expressed in acres.
 - 6. Location map (four inches equals one mile) showing major roads, nearby cross-streets and property lines, where necessary.
 - 7. Zoning of site and all surrounding property. If the site has split zoning, show the line between the districts.
 - 8. Proposed address, if available.
 - 9. Location of existing structures and improvements. (Indicate any structure or improvement proposed for removal.)
 - 10. Location of proposed structures and improvements.
 - 11. Yards/setbacks and critical dimensions between buildings and other site improvements.
 - 12. Existing improvements (buildings, parking, driveways, sidewalks, signs, fences, walks, etc.) within 200 feet of all property lines.
 - 13. Topography at one foot contours and grid shots at 50-foot intervals (existing and proposed).
 - 14. Benchmarks.
 - 15. Drawings dated and issued for site plan review
- B. Building plans.
 - 1. All architectural building elevations (front, sides and rear).
 - 2. Type of surface material and design of all exterior surfaces.
 - 3. Dimensioned floor plans (principal and accessory buildings).
 - 4. Decks and/or patios (dimensions, location, height and materials).
- C. Access, parking and circulation.
 - 1. Existing and proposed rights-of-way for all abutting roads.

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2. Location and dimensions of all driveways and street approaches.
 3. Indicate the type of surface (paving).
 4. Maximum occupancy of the building, as determined by the fire department, where the parking is based on such requirement.
 5. Parking spaces (location, number, dimensions, aisle dimensions and surface material).
 6. Site circulation pattern (direction of pedestrian and vehicular traffic flow if one-way or not obvious from the arrangement).
 7. Identification of all fire lanes.
 8. Sidewalks, interior walks and their connection.
 9. Carport locations and details (including architectural elevations).
- D. Environmental features.
1. Complete landscaping plan, including ground cover, bedding materials (e.g. mulch) and the location, number, names (common and botanical) and starting size of all proposed plantings prepared and sealed by a landscape architect registered in the State of Michigan.
 2. Indications of trees and shrubs shall only be used on the site plan where trees and shrubs exist, or where such vegetation will be planted prior to occupancy. All such trees and shrubs shall be labeled as to size, type and whether existing or proposed.
 3. Whenever a tree or group of trees of three-inch caliper or greater is to be removed as part of the planned improvements, its or their location shall be shown on the site plan in dotted outline and noted "to be removed."
 4. The location and types of all natural materials proposed to be included in the landscape treatment of the yard areas.
 5. Greenbelts, walls and/or berm details. (Provide at least one cross-section for each type used.)
 6. Site irrigation (sprinklers). Indicate all areas to be irrigated
 7. Treatment of all undeveloped areas (such as seeded, sodded, plantings, maintenance or other).
 8. Trash receptacles and method of screening.
 9. Site lighting details (location, height, type, intensity and shielding).
 10. Freestanding sign location. (Dimension setback from the centerline of the road or highway.)
- E. Other information.
1. Location of all site utilities.
 2. Site drainage characteristics and improvements.
 3. Park or recreation areas (show boundary and size in square feet).
 4. Fences (location and details).
 5. Statistical data shall be furnished, including: number of dwelling units; size of dwelling units (i.e., one-bedroom, two-bedrooms and three-bedrooms), if any; and the total gross acreage involved. (In the case of mobile home parks, the size and location of each mobile home site shall be shown.)

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6. Where large equipment or machinery is to be installed as part of the development, the location, type, horsepower, fuel, dimensions and other data of all such equipment and/or machinery shall be indicated.
 7. Proposed or intended phasing shall be clearly shown and described on the site plan.
- F. Where it is determined by the planning commission that certain requirements of this section are not necessary to the review and understanding of the site, the planning commission may waive the requirements. Any and all waivers shall be recorded in the commission's minutes, together with the unique circumstances and reasons for such waiver.

Section 3.05. Review procedures.

A. *Submission.* The proposed site plan shall be submitted to the planning and zoning department, or other designated representative, who shall check the submission data and transmit it to the following departments, agencies and consultants, as applicable:

1. Macomb County Department of Roads or Michigan Department of Transportation, whichever is appropriate.
2. Macomb County Public Works Commissioner.
3. Macomb County Health Department.
4. Fire department.
5. Building department.
6. Assessor's office.
7. Township engineer.
8. Township planner.
9. Planning commissioners (one for each).
10. Planning commission file.
11. L'Anse School District (residential plans).
12. Selfridge Air National Guard.

Each department, agency or professional shall provide written comments regarding the site plan for consideration of the planning commission. The planning and zoning department shall next submit the site plan with the available written comments from the various agencies and departments to the planning commission for review at the meeting at which the site plan is placed on the agenda.

B. *Planning commission review.* The site plan shall be reviewed by the planning commission with reference to the specific requirements of the ordinance, including those items listed above and other factors to be considered by the township in planning and establishing zoning districts as authorized under this ordinance. The commission shall also require review and comment from the township planner, township engineer and township attorney, where appropriate. Approval of the site plan by the planning commission shall satisfy the requirements of this zoning ordinance. It shall not, however, exempt the petitioner from compliance with other township ordinances. The approved site plan shall be part of the record of approval and subsequent development, construction, and other actions relating to the activity authorized by such site plan approval shall be consistent with the approved site plan unless a change conforming to the zoning ordinance receives the mutual agreement of the landowner and the planning commission.

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- C. *Approval period.* A site plan approval shall be valid for 12 months from the date of approval. If physical improvement of the site is not in actual progress at the expiration of the approval and diligently pursued to completion, the approval shall be null and void, unless renewed or extended by specific planning commission action. Any request for an extension shall be made in writing. If approval is not extended before expiration of the twelve-month period, then a new application and a new approval shall be required before a building permit may be issued. The planning commission may grant a maximum of four extensions for any given site plan with the total combined time period not to exceed 24 months. For site condominiums, preliminary site condominium approval and final site condominium approval shall be considered their own separate valid approval under the above-mentioned time period.
1. In reviewing a site plan extension request, the planning commission shall consider the following prior to granting the request:
 - a. The applicant has presented sufficient reasons/documentation as to why construction has not commenced;
 - b. The applicant is diligently pursuing completion of the project. Verification has been provided by the township engineer and/or building official which indicates that the project is still moving forward;
 - c. No new ordinance provisions have been adopted which would substantially alter the design of the previously approved plan;
 - d. No changes in the master plan, surrounding development patterns or economic conditions have occurred since the site plan was originally approved;
 - e. No substantial changes in the township road or sewer infrastructure have occurred that had not been taken into consideration at the time the site plan was originally approved.
- D. *Performance bonds.* To ensure compliance with any conditions imposed under the zoning ordinance, a cash deposit, certified check, irrevocable letter of credit, or surety bond acceptable to the township covering the estimated cost of improvements may be required to insure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. The township may not require the deposit of the performance guarantee until it is prepared to issue the permit. The township shall establish procedures by which a rebate of any cash deposits in reasonable proportion to the ratio of work completed on the required improvements shall be made as work progresses.
- E. *Appeals.* An applicant for a site plan approval may appeal the decision of the planning commission to the township zoning board of appeals.
- F. *Review fees.* A site plan fee shall be required to cover the cost of review by the township's engineer, planner, and other professionals and township services, in accordance with a schedule of fees as determined by resolution of the township board.
- G. *Compliance.* Any construction, development and/or activity(ies) approved by the township, by and through the site plan review process, shall be undertaken and completed in strict compliance with the approved site plan of record.

The approved site plan of record shall include any properly recorded plan(s), map(s), drawing(s), photograph(s), specification(s), documents(s), and audio/video transcription(s) which serve to describe or illustrate any specific development, construction and/or activity approved by the township, by and through the site plan review process.

Section 3.06. Regulation of condominium developments.

The intent of these requirements is to ensure that all condominium developments are developed in compliance with accepted planning and engineering standards applicable to similar forms of development, as reflected in the township's ordinances and requirements.

The following regulations shall apply to all condominium developments within Harrison Township.

1. *Submission requirements.* All site condominium subdivision and condominium plans shall be submitted for review, as required by article III of this ordinance and Section 66 of the Condominium Act, PA 59 of 1978 and shall include all submission requirements of section 3.04 and the following additional information:
 - a. A certified boundary survey of the condominium site. The survey shall be tied to two established government corners.
 - b. A plan delineating all natural and man-made features on the site, including, but not limited to, drains, ponds, lakes, streams, floodplains, wetlands and woodland areas.
 - c. The location, size, shape, area and width of all condominium units and common areas and the location of all proposed streets.
 - d. A copy of the master deed and a copy of all restrictive covenants to be applied to the project. Such deeds shall include an acceptable means of converting the project to a platted subdivision, under the provisions of Act 288 of 1967, at some future date.
 - e. A utility plan showing all sanitary sewer, water and storm drainage improvements, plus all easements granted to the township for installation, repair and maintenance of all utilities.
 - f. A street construction, paving and maintenance plan for all streets within the proposed condominium subdivision plan.
 - g. A storm drainage and storm water management plan, including all lines, swales, drains, basins, and other facilities.
2. *Review procedures.* Pursuant to authority conferred by Section 141 of the Condominium Act, PA 59 of 1978, all condominium subdivisions shall require approval by the planning commission before units may be sold or site improvements initiated. In determining whether to approve a condominium subdivision plan, the planning commission shall consult with the township attorney, planner and engineer regarding the adequacy of the submission as it relates to the Harrison Township Zoning Ordinance and requirements of the Condominium Act, as well as consistency with the master plan. The review process shall consist of the following two steps:
 - a. *Preliminary plan review.* In the preliminary review phase, the planning commission shall review the overall plan for the site, including basic road and unit configurations and the consistency of the plans, with all applicable provisions of the Harrison Township Zoning Ordinance and the master plan. Plans submitted for preliminary review shall include information specified in items a., b. and c. of the submission requirements in subsection 1. above.
 - b. *Final plan review.* Upon receipt of preliminary plan approval, the applicant shall prepare the appropriate engineering plans and apply for final review by the planning commission. Final plans shall include information as required by the submission requirements in subsections 1.a. through 1.g. above. Such plans and information shall be reviewed by the township attorney, engineer and planner. Further, such plans shall be submitted for review and comment to all applicable local, county and state agencies. Final approval shall not be granted until such time as all applicable review agencies have had an opportunity to comment on said plans.

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3. *District requirements.* The development of all condominium subdivisions shall observe the applicable yard setback and minimum floor area requirements of the zoning district within which the project is located. The density of development of the project shall be no greater and spacing no less than would be permitted if the property were a platted subdivision. Condominiums located within a planned unit development (PUD) shall be governed by the standards approved as part of the overall PUD plan.
 4. *Design standards.* All streets and roads in a condominium subdivision shall conform to the standards of the Harrison Township Subdivision Ordinance if the streets are to be dedicated to the public, or to standards and requirements of the Harrison Township Engineering Ordinance if private. Public streets shall be required, when necessary, to provide continuity to the public road system. All other improvements in condominium subdivisions shall meet the standards of the Harrison Township Subdivision Ordinance.
 5. *Utility easements.* The condominium subdivision plan shall include all necessary public utility easements granted to Harrison Township to enable the installation, repair, and maintenance of all necessary public utilities to be installed. Appropriate dedications for sanitary sewers, water mains and storm drainage improvements shall be provided.
 6. *Final acceptance.* The township shall also require all the appropriate inspections. After construction of the condominium, the developer shall follow the as-built submittal and review process established by the building department. A final certificate of occupancy and any construction bonds or letter of credit will not be released to the developer/owner until said as-built mylar has been reviewed and accepted by the township.

(Ord. No. 308.4, §§ 1, 2, 8-13-2018; Ord. No. 308.5, § 7, 4-26-2021)

Section 3.07. Development impact statement.

- A. **Statement of intent.** The purpose of the development impact statement (DIS) is to provide the township with relevant information on the anticipated impact of a proposed development on public utilities, public services, traffic, the economy, environmental conditions, and adjacent land uses. This process recognizes that many development proposals have impacts on existing site conditions and that these impacts often extend beyond the boundaries of the site. The intent of these standards is to identify and assess these impacts and, thereby, provide the township with information necessary to understand and address these impacts.
- B. **Submission requirements.** Qualifications of preparer: Name(s) and address(s) of person(s) or firm(s) responsible for the preparation of the impact statement and a brief description of their qualifications.

A development impact statement containing all the required information specified herein shall be required whenever one or more of the following conditions apply:

1. For any request for site plan review or rezoning having an area of five acres or more or for any proposal that requires special land use approval.
 2. For any proposal for residential development (site plan, subdivision or site condominium) of 50 or more units and/or resulting in a density of more than five units per acre.
- C. The commission may waive any of the DIS submission requirements if it is determined that the subject information is not necessary to conduct a review of the application. However, the traffic study may be waived only in instances where it is determined that the development will not generate a significant amount of traffic above and beyond current traffic conditions abutting the site.
 - D. Information and data required.

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1. The development impact statement shall include all applicable information as normally required for site plan review, rezoning, subdivision review, site condominium review, or special land use, as specified in the zoning ordinance and subdivision ordinance; and, in addition, the following supplemental information shall be required:
 - a. Location map at one inch equals 200 feet, indicating the location of the subject property in relation to the township's thoroughfare system.
 - b. Zoning map, indicating the subject property and the zoning of adjacent properties for a radius of one-half mile, measured from the boundaries of the site.
 - c. Land use map, indicating the subject property and adjacent land uses by type for a radius of one-half mile, measured from the boundaries of the site. An aerial photograph may be used to illustrate this information.
 - d. Site conditions of the subject property, indicating the following information. All information shall be depicted graphically on an existing conditions map and accompanied by the most recent aerial photography supplied by the Macomb County Planning Commission or by the Southeast Michigan Council of Governments (SEMCOG).
 - (1) Location and size of existing natural features, such as streams, bodies of water, floodplains, soil types and conditions, topography, ground water table, and vegetation inventory (classification of existing types by general location and numbers or density as appropriate). If the possibility of wetlands exist on-site, an official level III wetlands assessment conducted by the Michigan Department of Environmental Quality shall be conducted.
 - (2) A woodlands map identifying the location, size and type of site vegetation, as required by the Harrison Township Zoning Ordinance Sections 3.02, 3.06 and 11.10.
 - (3) Location and size of existing facilities and utilities (thoroughfares, water service, sanitary sewer, storm drain, gas lines, electric lines, etc.) on the site or available to serve the site.
 - (4) Improvements adjacent to and directly across the street, i.e., driveway approaches, passing lanes, curb-cuts, etc.
 - e. Conceptual plan, showing how the proposed development relates to the above referenced conditions.
 - f. Any application for commercial rezoning shall be accompanied by a market study demonstrating that there is sufficient demand to support the project. The market study shall take into consideration the availability of existing retail and service businesses within the trade area and retail vacancy rates, as well as stating reasons why currently vacant buildings or properties are not a viable option.
 - g. Other information, as determined by the planning commission that may be necessary to assess the impact of the proposed development.
 2. Impact assessment. The applicant shall provide information assessing the impact of the proposed development as it pertains to the following factors. The required information shall be provided in narrative and graphic formats, as appropriate.
 - a. *Land use impacts.*
 - (1) Brief description of the proposed land use.
 - (2) Hours of operation, if applicable.
 - (3) Identify whether the proposed use will create dust, noise, odor or glare that may impact abutting property.

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- (4) Project phasing plan or schedule.
 - (5) Describe how existing natural features will be preserved.
 - (6) Describe any impact on ground water quality or quantity.
- b. *Impact on public utilities.*
- (1) Describe how the site will be provided with water and sanitary sewer facilities, including the adequacy of the existing public utility system to accommodate the proposed new development.
 - (2) General calculations for water flows and water demands and how they relate to sewer line capacity.
 - (3) For sites to be served by wells and septic systems, documentation of adequacy and/or permits from the Macomb County Health Department shall be required.
 - (4) Describe the methods to be used to control storm water drainage from the site. This shall include a description of measures to control soil erosion and sedimentation during construction. Correspondence from the Macomb County Drain Commissioner stating their initial concerns and recommendation shall be attached.
- c. *Impact on public services.*
- (1) Describe the number of expected residents, employees, visitors or patrons, and the anticipated impact on public schools, police, fire and other emergency services. Particular attention should be given to the relationship of the proposed development to the municipal fire stations. Letters from the appropriate agencies shall be provided, as appropriate.
- d. *Traffic impacts.*
- (1) Description of existing traffic conditions:
 - i. Traffic counts. Existing conditions, including existing peak-hour traffic volumes and daily volumes, if applicable, on street(s) adjacent to the site. Traffic count data shall not be over two years old, except the community or road agency may permit 24-hour counts up to three years old to be increased by a factor supported by documentation or a finding that traffic has increased at a rate less than two percent annually in the past three to five years.
 - ii. Roadway characteristics shall be described and illustrated, as appropriate. Features to be addressed include land configurations, geometrics, signal timing, traffic control devices, posted speed limits, average running speeds and any sight distance limitations. Existing levels of service shall be calculated for intersections included within the study area.
 - iii. Existing driveways and potential turning movement conflicts in the vicinity of the site shall be illustrated and described.
 - iv. The existing right-of-way shall be identified, along with any planned or desired expansion of the right-of-way requested by the applicable road agency.
 - v. Approved developments within the study area shall be part of all calculations for anticipated traffic.
 - (2) Trip generation.

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- i. Forecasted trip generation of the proposed use for the a.m. (if applicable) and p.m. peak hour and average day. The forecasts shall be based on the data and procedures outlined in the most recent edition of Trip Generation, published by the Institute of Transportation Engineers (ITE). The applicant may use other commonly accepted sources of data or supplement the standard data with data from at least three similar projects in Michigan. All approved but not yet constructed developments shall be included in the forecasted trip generation for the area.
 - ii. For rezoning requests where a traffic study is required, the study should contrast the traffic impacts of typical uses permitted in the requested zoning district with uses permitted in the current zoning district. The determination of typical uses shall be made by the Planning Commission.
 - iii. Any trip reduction for pass-by trips, transit, ride sharing, other modes, internal capture rates, etc. shall be based both on ITE findings and documented survey results acceptable to the agency reviewers. The community may elect to reduce the trip reduction rates used.
 - iv. For projects intended to be developed in phases, the trip generation by phase shall be described.
 - (3) Trip distribution. The projected traffic generated shall be distributed (inbound vs. outbound, left turn vs. right turn) onto the existing street network to project turning movements at site access points and nearby intersections, where required. Projected turning movements shall be illustrated in the report.
 - (4) Impact analysis. Level of service or "capacity" analysis at all intersections significantly impacted by the proposed development shall be provided using the procedures outlined in the most recent edition of the highway capacity manual published by the transportation research board.
 - (5) Access design/access management standards. The report shall include a map and description of the location and design of proposed access (driveways or new street intersections), including any sight distance limitations, dimensions from adjacent driveways and intersections within 250 feet on either side of the main roadway, data to demonstrate that the number of driveways proposed are the fewest necessary, support that the access points will provide safe and efficient traffic operation, and be in accordance with the standards of Harrison Township and the Road Commission of Macomb County (not required for rezoning application).
 - (6) Other study items. The traffic impact study shall include:
 - i. Need for, or provision of, any additional right-of-way where planned or desired by the applicable road agency.
 - ii. Changes which should be considered to the plat or site plan layout.
 - iii. Description of any needed non-motorized facilities.
 - iv. If the use involves a drive-thru facility, the adequacy of the (queuing and/or stacking) area should be evaluated.
 - v. If a median crossover is desired, separate analysis should be provided.
 - vi. If a traffic signal is being requested, the relationship of anticipated traffic-to-traffic signal warrants in the Michigan Manual of Uniform Traffic Control

Devices. Analysis should also be provided on the impacts to traffic progression along the roadway through coordinated timing, etc.

- vii. Description of site circulation and available sight distances at site driveways.
- viii. Conflicts with pedestrian traffic within the development and along all site boundaries that require sidewalk access.

- (7) Mitigation/alternatives. The study shall outline mitigation measures and demonstrate any changes to the level of service achieved by these measures. Any alternatives or suggested phasing of improvements should be described. The mitigation measures may include items such as roadway widening, need for bypass lanes or deceleration tapers/lanes, changes to signalization, use of access management techniques, or a reduction in the proposed intensity of use. Proposed mitigation measures should be discussed with the applicable road agency. The responsibility and timing of roadway improvements shall be described.
- (8) All traffic impact studies shall be prepared by a registered Professional Engineer specializing in the preparation of traffic studies. The preparer shall have a minimum of three years of recent experience in the preparation of traffic impact analyses and provide evidence of ongoing familiarity with the highway capacity manual.

E. Evaluation standards. In reviewing development impact statements, the planning commission shall consider the information provided in relation to the following standards:

- 1. Land use impacts.
 - a. The use shall not result in a negative impact on surrounding development, taking into consideration the type and intensity of use on the basis of the potential for nuisances (glare, noise, odor, etc.).
 - b. The use is compatible with planned development patterns, as expressed in the township's adopted master plan.
- 2. Public utilities.
 - a. Public water and sanitary sewers with adequate capacity to serve the site are available, as determined by the township engineer.
 - b. For sites where public utilities are not available, documentation must be provided by the appropriate agency that the site is capable of supporting on site wastewater disposal systems and well(s).
 - c. That the drainage plan for the proposed development is adequate to handle anticipated storm water runoff, and will not cause undue runoff onto neighboring property or overloading the watercourses in the area.
 - d. That the plan provides for the proper extension of public utilities and drainage improvements as provided for in the township master plan and as determined by the township engineer.
- 3. Public services.
 - a. The Township is capable of providing police and fire protection to the proposed development on the basis of existing equipment and personnel.
 - b. Adequate recreation facilities are available to serve the anticipated residents of the development (applicable to residential projects only).
 - c. Public schools are available to serve the anticipated number of children to be generated by the proposed development (residential projects only).

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4. Economic impacts (for rezonings only).
 - a. The project will have a beneficial impact on the local economy by increasing employment opportunities and increasing and diversifying the township's tax base.
 - b. The applicant has demonstrated that a sufficient market demand exists to support the use based on a documented market study and that the use will not create vacancies for existing retail establishments within the trade area.
 5. Traffic impacts.
 - a. The proposed development has access to a public road capable of supporting the development.
 - b. The use will not increase traffic that will effectively result in a level of service of "D" or lower on the abutting road or at intersections proximate to the proposed development.
 - c. The number of driveways serving the site are the minimum necessary to accommodate anticipated traffic.
 - d. The placement and design of driveways will accommodate safe movement of traffic into and out of the site.
 - e. Adequate provisions have been made to accommodate pedestrians.
 - f. Appropriate mitigation measures have been provided to address the anticipated traffic impacts of the development.
 6. Natural resources.
 - a. That natural resources will be preserved to the maximum extent feasible, and that areas to be left undisturbed during construction shall be so indicated on the plan.
 - b. The proposed development does not encroach into floodways.
 - c. That soil conditions are suitable for excavation and site preparation and the wet or unstable soils not suitable for development will be either undisturbed or modified in an acceptable manner.
 - d. The proposed development will not cause soil erosion or sedimentation problems.
 7. Any adverse impacts that are the direct result of mitigation strategies shall also be addressed.
- F. Processing requirements.
1. A development impact statement shall accompany applications for rezoning, special land use, site plan review, tentative preliminary plat approval and preliminary condominium approval.
 2. The development impact statement, along with other applicable information required for the specific request, shall be considered by the planning commission and/or township board, as required in this Ordinance and/or the Harrison Township Land Division Ordinance.

(Ord. No. 308.4, §§ 3—5, 8-13-2018)

ARTICLE IV. BUILDING DESIGN AND MATERIALS

Section 4.01. Exterior facing materials and building design.

The planning commission shall consider the building design for an existing, proposed, or expanding use as part of its review. In addition to the use, the planning commission shall consider whether each proposed building or use is of appropriate location, size and character, is harmonious with the appropriate and orderly development

of the balance of the site, is not detrimental to the development of adjacent uses, does not create any vehicular or pedestrian hazards, and is aesthetically compatible with existing and proposed buildings and uses upon the site.

A. *Non-residential building design elements.*

1. All site plans prepared should follow the design guidelines adopted as part of the 2010 Master Plan. Buildings should be designed with a nautical theme and should utilize marine-based site amenities to add to the nautical character of the site.
2. Nautical themes shall be developed from form, orientation and base materials. The exterior of the building should contain nautical design elements, such as dormers, cupolas, residential style and sized windows, and facade breaks, which shall provide ten feet of depth variation for every 60 feet of building frontage. In addition, site amenities such as anchors, life preservers and other nautical themed elements should be incorporated into the site.
3. All buildings that front on a public street shall be oriented in such a manner that the main facade and architectural features are parallel to the street. The actual building entrance is not required to front the street.

B. *Commercial, institutional, public, and office building material requirements.*

1. Front façade: Any portion of the building or building facade that is visible from the street shall be constructed with a minimum of 75 percent fiber cement board siding. Clay brick, stone or architectural precast concrete may be permitted as a secondary treatment. Color integrated block, EIFS, factory finish seam metal or other similar façade materials may be used as an accent material for no more than ten percent of surface material. Materials that are susceptible to contact damage (e.g. EIFS) shall not be utilized in areas below eight feet from the established grade.
2. Sides and rear: Color integrated block, stone, clay brick, concrete brick, and fiber cement siding are acceptable surface materials and standards for the sides and rear of commercial and office buildings.
3. The applicant shall designate painted surfaces on their submission. Paints with long-term warranties against chipping, scaling, or similar types of deterioration shall be used.
4. All materials utilized shall be installed and finished according to the manufacturer's specifications.

C. *Industrial building material requirements.*

1. Front: The office area of the front façade shall be surfaced with clay brick or stone. If the clay brick or stone surface is not continued throughout the entire front façade, the remainder may be surfaced with factory finish seam metal only if it is eight feet above the established grade.
2. Sides and rear. Acceptable surface materials and standards for the sides and rear of industrial buildings include color integrated block, stone, clay brick, and seam metal that is eight feet above the established grade. If the sides or rear of a non-residential building are adjacent to residential zoned area, the entire building must meet the requirements for surface materials for the façade.
3. All materials proposed to be painted shall be designated as such. Only paints with long-term warranties against chipping, scaling, or similar types of deterioration shall be used.

D. *Single and two-family residential uses design criteria.*

1. Permitted surface materials include a minimum of 51 percent of clay brick, stone, wood siding, fiber cement siding, and/or vinyl siding. Any future materials matching in durability and aesthetics to the materials mentioned above, deemed acceptable and consistent with the master plan by the planning commission, may be approved.

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2. The front elevation of single-family detached dwelling units shall not re-occur in the same or a substantially similar structural form on another dwelling within the same block, without there being at least three other dwellings with a different front elevation between the repeating dwellings. Different colors or materials do not constitute different front elevations.
 3. Each dwelling shall have either a roof overhang of not less than six inches on all sides, or alternatively with roof drainage systems concentrating roof drainage at collection points along the sides of the dwelling.
 4. Each dwelling shall have at least two exterior doors, with the second one being in either the rear or side of the dwelling.
- E. *Multiple family residential uses.* Any multiple family dwelling principal or accessory building shall be constructed with a minimum of 51 percent clay brick, stone, wood siding, fiber cement siding, and/or vinyl siding.
- F. *Manufactured housing design criteria.* Plans for modular prefabricated units and similarly constructed units shall be approved by the State of Michigan Construction Code Commission as meeting the State Construction Code (Public Act 230 of 1972 and Public Act 371 of 1980, as amended) prior to the issuance of a building or occupancy permit.
1. Manufactured housing, mobile homes or trailers shall meet or exceed the requirements imposed by the United States Department of Housing and Urban Development Mobile Home Construction and Safety Standards (24 CFR 3280 and as, from time-to-time, such standards may be amended).
 2. The building official shall be furnished a certificate stating that each dwelling meets the minimum building code requirements applicable to such structure or shall include a seal attached to the unit.
 3. The foundation shall be installed per the manufacturer's set-up instructions, shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the Michigan Manufactured Housing Commission and shall have a continuous perimeter wall.
- G. *Nautical themed accessory structures.* For a proposal that has met the applicable requirements of Section 4.01.A—F., the Planning Commission may vary setback or landscaping requirements to accommodate the installation of a nautical themed accessory structure (e.g. light house, anchor, etc.).

(Ord. No. 308.4, § 6, 8-13-2018)

ARTICLE V. ACCESSORY STRUCTURES AND USES

Section 5.01. Accessory buildings in non-residential and multi-family districts.

In multiple-family, commercial, industrial or marina districts, and any other such district, accessory buildings shall only occupy any of the ground area which the principal building is permitted to cover. Accessory buildings, such as buildings for parking attendants, guard shelters, gate houses and transformer buildings, may be located in the front or side yard in nonresidential districts, upon planning commission approval. All such buildings or structures shall be architecturally and aesthetically compatible with the principal building and be located and landscaped to reduce the visual impact from surrounding properties and from public streets.

When an accessory building is intended for other than the storage of accessory light motor vehicles and incidental maintenance equipment, the accessory use shall be subject to the approval of the planning commission.

Section 5.02. Accessory buildings in single family residential districts.

A. General requirements.

1. Where an accessory building is structurally attached to a main building, it shall conform to all regulations of this ordinance applicable to the main building.
2. A maximum of two detached accessory buildings shall be permitted per site.
3. Covered boat wells shall count towards the number of detached accessory structures permitted. Exception: Covered boat wells shall not count towards the maximum allowable square footage permitted under this section. Portions of boat wells built over land shall be included in the maximum allowable square foot calculations.
4. No accessory building shall be constructed prior to the enclosure of the main building.
5. Except for buildings accessory to permitted non-residential uses, an accessory building, irrespective of location, shall be incidental to the principal permitted use and shall not involve any business, profession, trade or occupation
6. Accessory buildings intended for other than the storage of privately owned household goods and covered boat wells shall be subject to zoning board of appeals review. This shall not apply to buildings accessory to permitted non-residential uses.
7. Accessory buildings shall not be of a metal clad pole barn or similar type structure.
8. Swimming pools and play structures shall not be subject to the requirements of this section and shall not be considered an accessory structure.

B. Size and height requirements.

1. The total floor area of all accessory buildings, including attached garages, shall not exceed two-thirds of the floor area of the principal dwelling.
2. Detached accessory buildings shall not exceed 16 feet in height.
3. The height of any garage door or access opening shall not exceed 12 feet in height.

C. Setbacks and placement.

1. A detached accessory building shall be located only in a rear yard. Lots or parcels abutting water may be permitted an accessory building in the front yard between the road right-of-way and the principal structure upon a finding by the building official that is in character with the area. The accessory building, however, may not be located within the required setback for the parcel or lot.
2. When a detached accessory building or structure is located on a corner lot, the building or structure shall meet the front yard setback on all street frontages.
3. No detached accessory structure shall be located closer than ten feet to any main building. Exception: Open type structures, such as pergolas, gazebos, in-ground swimming pools and similar non-storage type structures, having a total wall area at least 60 percent open and not structurally connected to the main building.
4. No accessory building shall be located closer than four feet to any side or rear lot line. In no instance shall an accessory building be located within a dedicated easement. With respect to this section, those premises abutting a lake, river or canal shall maintain a yard setback of at least 30 feet from the ordinary high-water mark.

D. Lot coverage.

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1. Prior to approval of detached accessory buildings, the applicant shall demonstrate compliance with maximum lot coverage and maximum impervious surface allowances of the applicable zoning district.
 2. Detached accessory buildings shall not occupy more than 40 percent of any non-required rear yard.
 3. Detached accessory buildings shall not occupy more than 25 percent of a required rear yard.

(Ord. No. 308, § 1, 2-13-2017; Ord. No. 308.5, § 9, 4-26-2021)

Section 5.03. Boat mooring in residential districts.

- A. The mooring of boats at the water's edge by resident family members of single or two-family residential properties is an accessory use to that subject property.
- B. The total number of boats moored parallel to the water's edge at a property shall be determined by limiting the total length overall of the moored boats to the lot measured at the water's edge.
- C. The total number of boats moored at an angle to the water's edge shall be determined by limiting the total maximum width of the moored boat to the lot measured at the water's edge.
- D. Boats moored at the water's edge shall leave a minimum of 30 feet clearance and right-of-way for the free passage of watercraft. Such clearance or right-of-way shall measure 15 feet in a perpendicular direction from the middle of the stream where a plat is recorded and 15 feet from the thread of the stream in all other cases, except as hereinbefore set forth and provided.
- E. Boats moored at the water's edge shall be neatly arranged with adequate maneuvering space so as not to intrude beyond the side lot lines of the subject property projected into the waterway. Mooring of boats on a single or two-family residential property by other than resident family members may be permitted by the owners, provided:
 1. There is adequate room to meet the mooring standards of this subsection as described above.
 2. Two off-street, hard-surface vehicular parking spaces shall be provided, in addition to the required driveway spaces provided for the residential home, for every moored boat not utilized by the resident family members of the property. These spaces shall be in addition to those of the owner or resident on the subject property, and shall also be provided in an area in harmony with the yard landscaping of the adjacent and nearby residences.

(Ord. No. 308.4, § 9, 8-13-2018)

Section 5.04. Decks and patios.

- A. *At-grade patios.* At-grade patios may be constructed within required side and rear yards, but not in a required yard facing upon a street.
- B. *Unenclosed, uncovered access porches.* Unenclosed and uncovered access porches (i.e., one which is not roofed over) or paved terraces may project into a required front or rear yard for a distance not exceeding eight feet. Patio and porches covered or partially covered by permanent construction (awnings excepted) shall not project into any required yard space, but this shall not be interpreted to include or permit fixed canopies or awnings.
- C. *Unenclosed porch, step, stairs.* An unenclosed porch, steps or stairs may project into a required street-facing front yard for a distance not exceeding eight feet.
- D. *Decks.* Decks may be allowed to project not more than 15 feet into the required rear yard provided that the following conditions are met:

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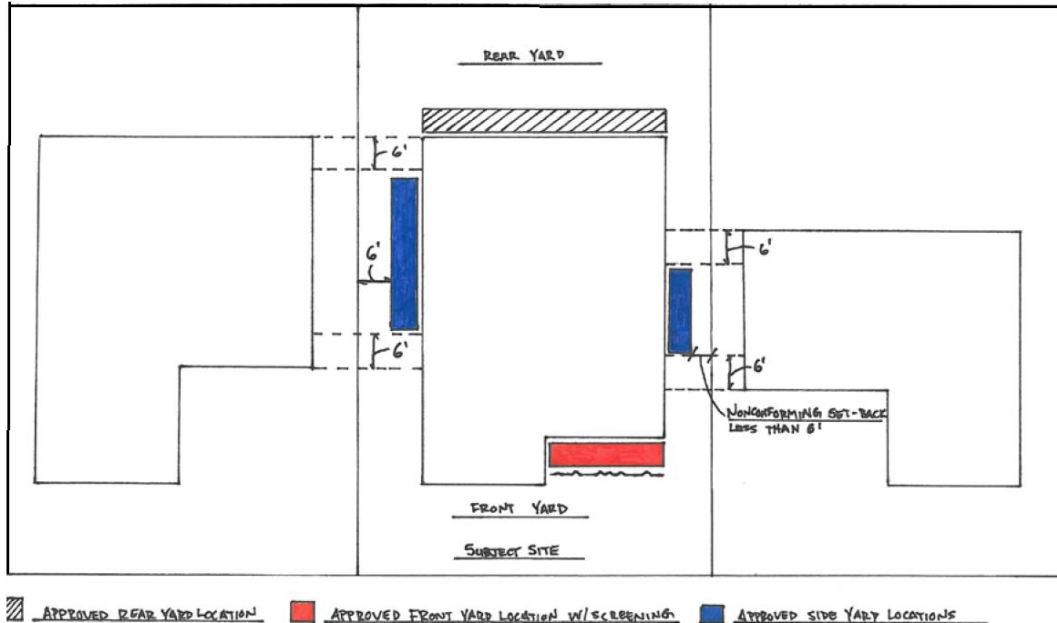
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1. The deck does not encroach into any easement.
 2. The deck is not located facing any street.
 3. The deck conforms with applicable side yard setback requirements.
 4. The deck is located not less than ten feet from any detached accessory building. This separation shall not apply to any accessory structure.
 5. The deck elevation shall be no greater than eight inches over the first floor grade elevation of the main structure. However, a deck around a pool may match the height of the pool.
 6. Any additional structures attached to the deck, such as a gazebo or pool, shall be located at least ten feet from any structure.

(Ord. No. 308, § 2, 2-13-2017)

Section 5.05. Mechanical equipment and central air conditioning.

A. Residential fixtures.

1. Central air conditioning units, generators or other similar mechanical equipment allowed in the following locations:
 - Similar, existing equipment may be replaced in the same location.
 - In the rear yard, within the extreme ends and proximate to the structure.
 - In the front yard, within the extreme ends and proximate to the structure, with screening.
 - In the side yard, if the equipment meets the required setback.
 - On non-conforming lots, mechanical equipment shall be allowed within the required yard side yard set-back.
 - In no instance shall mechanical equipment be placed in a side yard within six feet of the adjacent dwelling's extreme rear or front wall.



2. In all multiple-family developments, all central air conditioning units shall be located behind the rear walls of the structures when such location is feasible and/or practical. When a rear yard location is determined not to be feasible and/or practical by the planning commission, central air conditioning units may be located within a required or non-required side yard setback or side to side/rear building spacing requirement, as long as the existing buildings (so or planned building(s) meet all of the minimum side yard setback and/or spacing requirements of this ordinance. Regardless of the location, air conditioning units shall be screened from view and screened to mitigate any potential negative noise impacts, the appropriate screening shall be determined by the planning commission.
3. For purposes of this section, open patios and decks shall not be considered part of the structure.

B. Commercial fixtures.

1. Roof-mounted appliances, including, but not limited to, air conditioners, heating apparatus, dust collectors, filters, transformers, and any other such appliance or apparatus, shall be enclosed on all sides by view obscuring screening so as not to be visible from off the site. The design of the screening shall be approved by the planning commission as compatible with the architectural design of the building upon which it is located.
2. Ground mounted appliances shall be screened using decorative landscaping, a decorative wall or wood screening fence, whichever the planning commission determines to be most appropriate.

- C. Installation of any such equipment shall also comply with all other applicable provisions of this ordinance, as amended, and all other applicable provisions of any federal, state and local laws, ordinances and codes.

(Ord. No. 308, § 3, 2-13-2017; Ord. No. 308.4, §§ 7, 8, 8-13-2018)

ARTICLE VI. FENCING AND SCREENING

Section 6.01. Fences, walls, hedge rows, and protective barriers.

The erection, construction or alteration of any fence, wall hedge row or other type of protective barrier shall be approved by the building official as to their conforming to the requirements of the zoning district wherein they are proposed and the requirements of this section. Fence heights provided in this section shall also allow for a nominal clearance at the bottom between the ground and fence.

A. *Non-residential and multiple family residential uses.*

1. All fences, walls and similar enclosures shall require approval by the planning commission.
2. Fences shall not be located in the required front yard nor enclose required parking areas unless such is of a decorative nature.
3. Emergency access shall be granted at all times as approved by the township's fire department and water and sewer department.
4. The gates located at the entrance of a driveway shall be set back a sufficient distance to allow for an appropriately sized vehicle to access the property without impeding vehicular traffic.
5. Fences shall not exceed six feet in height unless otherwise stated elsewhere in this ordinance.
6. Prohibited elements:
 - (a) Electric current, barbed wire, spikes, razor edge, nails or any other sharp, pointed instrument of any kind on any fence shall be prohibited, except as allowed for in subsection (b) below.
 - (b) Barbed wire cradles may be placed on top of fences enclosing permitted rear yard storage in the general commercial, industrial and marina districts and public utility buildings, as deemed necessary in the interests of public safety by the planning commission.

B. *Single family residential uses.*

1. No fence shall hereafter be erected along a property line, within any side or rear yard taller than six feet in height above the mean grade along the fence line. Chain link fences in excess of four feet are not permitted.
2. Only non-obscuring decorative fencing (no chain link fence is considered to be a decorative fence) shall hereafter be located in a front yard of a lot or parcel as follows:
 - a. Three feet high in the first ten feet from the front property line;
 - b. The remaining distance in the front yard may be four feet high.
3. Side yard fences on a corner lot shall be permitted as follows:
 - a. Non-obscuring decorative fence maximum four feet high may be installed on the property line;
 - b. Privacy fence shall be set back a minimum of 15 feet from any street right-of-way.
4. Waterfront fencing located in a yard abutting water shall be permitted as follows:
 - a. Only non-obscuring decorative fence or vinyl-coated chain link fence may be installed in the first 30 feet from the sea wall or the ordinary high water mark, as applicable, at a maximum four feet high.
5. Electric current, barbed wire, spikes razor edge, or any sharp, pointed instrument of any kind on any fence shall be prohibited.

6. All fences shall have the post side facing the property address.
7. Underground or invisible pet fences for the containment of animals shall not be considered a fence under these provisions.
8. Soil erosion control fences, either in the form of synthetic materials or straw bales, are not permitted except on construction sites.
9. Fencing located in a public easement requires written permission from the entity controlling the public easement or reasonable access to satisfy the building official.
10. Non-obscuring, as used in this section, shall mean a fence with no greater than 50 percent opacity.

Section 6.02. Screening.

- A. Screening shall be required between different zoning districts and uses according to the requirements of this section of the zoning ordinance. The type of screening required in different situations is based on the following impact rankings: 1) none; 2) minor; and 3) major.
- B. Where screening is required, only one adjoining use shall be responsible for its installation, except as noted herein. This use shall be referred to as the "use providing screening." The other use shall be the "protected use." To determine the appropriate level of impact, refer to the schedule of screening requirements. The level of impact is indicated where both uses interface.
- C. Specific requirements for screening improvements are described in the following subsection and are subject to planning commission approval. The planning commission has the authority to modify these requirements when justified by the nature or intensity of the proposed development or the characteristics of the site. These requirements are in addition to specific screening requirements set forth elsewhere in this ordinance.

Section 6.03. Screening alternatives for uses.

The planning commission may waive the following screening requirements for a portion of the site where the building setback does not provide adequate space to install a required greenbelt or the planning commission may vary the following planting requirements when an alternative method of screening is proposed that adequately mitigates any potential negative impacts. Property zoned V-1 or V-1A village districts shall not be subject to the screening requirements of this section.

A. *Schedule of screening requirements.*

Use Providing Screening	Protected Zoning District or Use ⁽¹⁾				
	Single-Family	Multiple/MHC	Office	Industrial	Marina
Single-Family and Two-Family	n/a	n/a	n/a	n/a	n/a
Multiple and Manufactured Home	Major	Minor	Minor	Minor	Minor
Commercial/Office	Major	Major	Minor	Minor	Minor
Marina	Major	Major	Major	Minor	Minor
Industrial	Major	Major	Minor	Minor	Minor

⁽¹⁾ In instances where a "protected use" is developed adjacent to and after the use which is intended to provide the screening, the "protected use" shall provide the required screening.

- B. *Minor.* The purpose of screening in this situation is to soften the impact of one land use on another. An interrupted or open screen is required, which creates an impression of space separation without necessarily eliminating visual contact. Screening intended to satisfy these objectives shall conform to the following minimum standards:
1. Ten-foot wide greenbelt.
 2. Six- to eight-foot high evergreens and/or two and one-half-inch caliper deciduous trees planted at intervals, not exceeding 35 feet on center.
 3. Shrubs and ground cover or mulches so as to cover the ground at the time of planting. All such plantings shall meet the height and spacing requirements specified herein.
- C. *Major.* The intent of the screening requirements where major impacts are anticipated is to block the view of obtrusive or undesirable visual elements, exclude all contact between such uses, and create a strong impression of spatial separation. Screening in these situations shall conform to the following minimum standards:
1. Six-foot high decorative masonry wall. The wall shall be placed on the property line with a ten-foot wide landscaped greenbelt provided between the wall and the building, parking lot or loading area. Such greenbelt shall be planted with two and one-half-inch deciduous trees for each 30 feet of wall length. The remainder of the greenbelt shall be planted with grass, ground cover, or other acceptable landscape materials as determined to be appropriate by the planning commission.
 2. In lieu of the wall, the planning commission may allow the development of a six-foot high fence, with a 15-foot wide landscaped greenbelt, meeting the requirements of this section, or a 24-foot wide greenbelt with a three-foot high landscaped earthen berm planted with two staggered rows of six- to eight-foot high evergreens planted at intervals not exceeding ten feet on center. Shrubs, a minimum of 30 inches in height, or other ground cover and mulches so as to cover the ground upon planting shall be required.

(Ord. No. 308.2, § 3, 2-26-2018)

Section 6.04. Other screening specifications.

- A. *Walls.* Whenever a wall is used in conjunction with, or in lieu of, the previously mentioned screening requirements, it shall be constructed according to the following minimum specifications:
1. Walls shall be constructed of reinforced protective face brick with bollards, or similar decorative building material acceptable to the Planning Commission. The color of facing or brick shall be compatible with brick used on the site and shall be durable, weather resistant and easy to maintain. Masonry units may be integrally colored at the factory, but shall not be stained on-site.
 2. Walls shall be placed on the lot line and shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this ordinance and/or as may be approved by the planning commission for the purposes of public safety. Where walls are pierced, the openings shall be so spaced as to maintain the overall obscuring character required and shall not reduce the minimum height requirement.

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3. The foundation of any wall shall be constructed to meet the requirements of the applicable Harrison Township Building Codes and Engineering Ordinance. Masonry walls shall have a durable cap meeting the requirements of the Harrison Township Building Department.
 4. No such wall shall be painted, nor shall it be constructed of exposed concrete block, cinder block or wood products.
 5. Unless otherwise expressly directed by the provisions of this ordinance, all protective walls or greenbelts shall be provided when required along and immediately adjoining the zoning district boundary line and/or property line, and shall be installed so as to lie wholly on the land of the applicant seeking site plan approval. In instances where drains, trees or other obstacles preclude such location, the planning commission shall determine the most appropriate alternative location.
 6. All walls or greenbelts required by this ordinance shall be completely installed prior to the issuance of an occupancy permit for the use of the premises, except as provided hereinafter.
 7. In any case where the development of the land and/or buildings has been fully completed and an occupancy permit would otherwise be issued, and the completed installation of the wall, greenbelt and/or landscaping required is prevented by inclement weather or acts of nature beyond the control of the owner, the owner may receive an extension of no more than six months subject to the requirements of this ordinance. A performance guarantee, as specified by this ordinance may also be required.
 8. Maintenance of the wall, or any other substituted screening device, shall be the responsibility of the property owner on whose property such wall or screen is located.
 9. The planning commission may vary the required height of the wall above the maximum height of six feet in instances where the height of the wall would be less than six on the side of the property being screened due to grade changes.

B. *Berms.*

1. Berms shall be designed to be consistent with architectural character of the building(s) to be located on the site and shall consist of landscaped earth mounds possessing a maximum slope ratio of four feet horizontal to one foot vertical, except where retaining walls are used. Side slopes shall be designed and planted with sod or hydro seeded to prevent erosion.
2. In those instances where a berm is included as part of a greenbelt, a detailed drawing and cross-section of the proposed berm shall be provided as part of the landscape plan.

C. *Pressure treated or vinyl fencing.* Whenever pressure-treated or vinyl fencing is permitted in conjunction with the screening requirements permitted by this section, it shall conform to the fencing requirements of this article.

Section 6.05. Screening requirements in the V-1 or V-1A village districts.

When a development within the village abuts a property zoned for single-family use, screening shall be provided consistent with the following regulations. These methods of screening and locations for screening may be modified by the planning commission in instances where opportunities for tree preservation exist.

1. A six-foot high decorative brick wall shall be constructed on the property line. An eight-foot wide greenbelt between the parking lot and the wall may be required by the commission. The planning commission may require a decorative fence or other sound deadening material in lieu of the wall.
2. One evergreen shall be planted in a linear fashion adjacent to the decorative wall for each 20 feet of said wall.

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3. One spreading shrub shall be planted at the base of the decorative wall for each five feet of said wall.



(Ord. No. 308.2, § 4, 2-26-2018)

ARTICLE VII. LANDSCAPING AND ENVIRONMENT

Section 7.01. Intent.

The intent of the environmental provisions is to preserve the quality and character of the township's environment by regulating man-made development and by preserving existing environmental amenities. The requirements of this section are designed to achieve the following objectives:

1. Uphold the township's right and duty to protect its natural resources and amenities, as established within the state constitution and the enabling legislature.
2. To enhance the visual quality of the township, while preserving and/or enhancing each individual property's economic value.
3. To protect adjacent property owners, persons passing by, and the Township from activities and/or negative impacts created by development.
 - a. Reduce or eliminate glare into and from adjacent sites and activities.
 - b. Reduce or eliminate debris, dust and other pollutants from the air.
 - c. Control noise and provide acoustical modification into and from adjacent sites.
 - d. Control the direction and velocity of surface water runoff and minimize soil erosion.
 - e. Minimize visibility of undesirable elements contained within the site.
4. Recognizing the above-cited benefits of the natural environment, it is important to integrate these features into development to improve the community's environmental qualities and to enhance the visual character of the built environment.

Section 7.02. Landscape.

A. *General landscape requirements.*

1. Whenever any yard (front, side or rear) is not designated for building, off-street parking, loading and unloading, storage or other purpose within the terms and requirements of a given zoning district, it shall be landscaped with either approved natural materials or living plant materials which shall be maintained in an aesthetically pleasing condition.

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2. All landscaping shall consist either of natural materials or living plant materials unless approved by the planning commission. All landscaped areas shall be protected from the encroachment of vehicles by curbing or other suitable device approved by the planning commission. The installation of sprinklers shall be required to ensure the maintenance of all landscaped areas.
 3. Existing significant trees, tree stands, natural vegetation and wildlife habitat shall be integrated into the site landscape plan to the maximum extent possible and shall meet the standards of this section.
 4. Undeveloped portions and subsequent phases of the site shall be seeded, mowed and maintained.
 5. The planning commission may approve constructed features of other materials such as masonry walls or brick, stone and cobblestone pavement as a supplement or substitute, upon a showing by the applicant that general plantings will not prosper at the intended location.
 6. Landscaping shall be planted, landscape elements shall be installed, and earth moving or grading performed in a sound workmanlike manner and according to accepted good planting and grading procedures, with the quality of plant materials and grading as hereinafter described. Copy of current acceptable standards is available from the township building department.
 7. The owner of property required to be landscaped by this section shall maintain such landscaping in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris. All plant materials shall be continuously maintained in a sound, weed-free, healthy and vigorous growing condition and shall be kept free of plant diseases and insect pests. All unhealthy and dead material shall be replaced within one year or the next appropriate planting period, whichever comes first.
 8. Plant and grass materials shall be of acceptable varieties and species, free of pests and diseases, hardy in Macomb County, and shall conform to standards of the American Association of Nurserymen and the Charter Township of Harrison, and shall have passed any inspections required under State Regulations. Standards shall be in written form and made available by the building department.
 9. Approved ground cover used in lieu of grass, in whole or in part, shall be planted in such a manner as to present a finished appearance and reasonably complete coverage after one complete growing season, with at least three plants per square foot.
 10. Grass areas shall be planted in species normally grown as permanent lawns in Macomb County. Grass may be plugged, sprigged, hydroseeded, seeded or sodded, except that rolled sod, erosion reducing net or suitable mulch shall be used in swales or other areas subject to erosion. Grass, sod and seed shall be clean and free of weeds and noxious pests or diseases.
- B. *Design objectives.* The following design objectives and criteria shall be considered in the evaluation of landscape plans:
1. Ample variety and quantity of ornamental plants, trees and shrubs should be provided. A few dominant types are usually chosen with subordinate types interspersed for accent. Repeating some types creates unity, but no types should be overused. Variety should be achieved with respect to seasonal changes, species selected, texture, color and size at maturity.
 2. Landscaping should be encouraged that will serve the functions of enhancing the visual environment, ensuring public safety, moderating the microclimate and minimizing nuisances.
 3. Landscaping should serve to integrate the project with the site, with a particular sensitivity to the natural topography, drainage and existing native vegetation. It should enhance the architecture of surrounding structures, when possible, by being of similar scale.
 4. Preservation of the existing landscape material and landforms is mandatory, particularly where mature trees are a part of the site to the standards of this ordinance.

5. Landscaping should be used to break up large expanses of pavement and provide visual variety.
6. Local soil, water, and other climatic conditions should be considered when choosing landscape materials to create optimum conditions for their survival and to ensure that they will thrive with a minimum amount of maintenance.
7. Landscaping should be protected from vehicular and pedestrian encroachment. Raised planting surfaces and the use of curbs are ways of achieving this objective.
8. Species that are a public nuisance or that cause litter should be avoided. When landscaping is to be installed in areas that children will frequent, trees and bushes with sharp needles shall be prohibited.
9. The aesthetic and functional aspects of the proposed landscaping, both at installation and at maturity, shall be a paramount consideration in review and approval by the planning commission.

C. *Plants and materials.*

1. All plant materials used shall be placed in fertile soil with good surface drainage and shall be given reasonable maintenance necessary to ensure their healthy existence and survival. All natural materials shall be maintained, refurbished or replaced, as necessary, to ensure a positive aesthetic quality.
2. Portions of the site not used for parking, driveways and buildings shall be provided with landscaping and lawn or acceptable ground cover, approved by the planning commission, and so maintained in attractive condition.

D. *Prohibited materials.* Where a landscape plan is required, the following plant materials are specifically prohibited:

Plant Material	
1.	Bittersweet
2.	Black Walnut
3.	Boxelder
4.	Catalpa
5.	Chinese or Siberian Elm
6.	Chokecherry
7.	Common Buckthorn
8.	Common Periwinkle
9.	Common Privet
10.	Cottonwood
11.	Creeping Bellflower
12.	Creeping Charlie
13.	Crown Vetch
14.	Dame's Rocket
15.	European Mountain Ash
16.	Flowering Rush
17.	Goutweed
18.	Green and White Ash
19.	Hawkweed
20.	Horse Chestnut
21.	Japanese or Common Barberry
22.	Japanese or Tatrian Honeysuckle
23.	Leafy Spurge
24.	Maiden Grass

25.	Mulberry
26.	Norway Maple
27.	Oxeye Daisy
28.	Porcelain Berry
29.	Purple Loosestrife
30.	Ribes (Gooseberry)
31.	Siberan Pearshrub
32.	Soapwort
33.	Soft maple (silver)
34.	Tree of Heaven
35.	Willow
36.	Winter Creeper, European or Winged Euonymus
37.	Yellow Flag
38.	All thorned trees and shrubs

E. *Plant material species and size requirements.*

- All proposed landscaped plantings shall meet the minimum size requirements specified in the plant material size table listed below:

	Minimum Allowable Size							
	Height				Caliper			
	6' 3" 2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"	2" 1 1/2" 1 1/8" 1" 3/4" 3/8"
Evergreens:								
Pine								
Spruce								
Fir								
Hemlock								
Narrow Evergreen Trees:								
Red Cedar								
Arborvitae								
Street Trees:								
Ginko Biloba (male only)								
Sweet, Sour or Black Gum								
Pin Oak								
Hackberry								
Large Deciduous Trees:								
American Beech								
Red or Sugar Maple								
Linden (Basswood)								
Red, White or Burr Oak								
Tulip Tree								
Kentucky Coffee Tree								
Hackberry								

Shagbark Hickory								
Tamarack								
Small Deciduous Trees:								
Redbud								
Flowering Dogwood								
Witch Hazel								
Red Mulberry								
American Hazelnut								
Large Evergreen Shrubs:								
Hicks or Upright Yew								
Spreading Yew								
Pfitzer or Savin Juniper								
Mugho Pine								
Small Evergreen Shrubs:								
Brown's, Ward's Sebio Yews								
Dwarf Spreading Juniper								
Dwarf Mugho Pine								
Euonymous Varieties								
Large Deciduous Shrubs:								
Honeysuckle								
Lilac								
Sumac								
Buckthorn								
Pyracantha								
Weigela								
Flowering Quince								
Barberry								
Cotoneaster								
Sargent Crabapple								
Dogwood (Red Osier and Grey)								
Euonymous Varieties								
Viburnum Varieties								
Boxwood								
Small Deciduous Shrubs:								
Dwarf Winged								
Regal Privet								
Fragrant Sumac								
Lavender								
Cotoneaster (Rockspray)								

Section 7.03. Parking lot and frontage landscaping.

The intent of these requirements is to enhance the aesthetic appeal of the township; to promote public safety; to moderate heat, wind and other local climatic effects produced by parking lots; and to minimize nuisances, particularly noise and glare.

- A. *Parking lot greenbelt requirement.* All parking areas in non-residential zoning districts shall be setback a minimum of ten feet from the right-of-way or road easement of all abutting roadways. The ten-foot setback area shall be landscaped in a manner consistent with the intent of this article.
- B. *Interior parking lot landscaping.*
 - 1. All unpaved areas between a commercial or office building and a facing street shall be landscaped and maintained to include grass and/or placement of shrubbery.
 - 2. All off-street parking areas shall incorporate and provide curbed tree planting spaces to be laid out square and constructed to provide not less than 126 square feet of land area for each tree planting.
 - a. Curbed, landscaped islands shall be placed at the ends of all parking space groupings to separate the parking spaces from the maneuvering lanes and to provide for safe traffic flow. These planting areas shall not be less than seven feet in width.
 - 3. Trees shall be planted throughout the parking area. Trees shall be a minimum of two and one-half-inch caliper at the time of planting and shall be provided at a ratio of one tree for each ten parking spaces, or fraction thereof. These trees shall not be counted towards street frontage tree requirements. Trees identified as large or small deciduous trees in the "plant material species" section of this ordinance shall be utilized to satisfy the requirements of this section.
 - 4. In the V-1 or V-1A village districts, the planning commission may, at its discretion, approve alternative landscape plantings at the perimeter of parking lots where landscaping within parking lots would be impractical due to the size of the parking lot or detrimental to safe and efficient traffic flow, or would create an unreasonable burden for maintenance and snowplowing.
- C. *Frontage landscaping.*
 - 1. Large deciduous street trees shall be provided within every zoning district. The trees shall be spaced evenly in a linear fashion along all road rights-of-way.
 - 2. One tree shall be planted for each 35 feet of road frontage and shall be planted five feet outside of the road right-of-way.
 - 3. The planning commission may approve plantings within the road right-of-way in instances where setbacks or other similar circumstances prevent the applicant from planting said trees outside of the public right-of-way.
 - 4. The trees shall be a minimum of two and one-half-inch caliper at the time of planting. These trees may not be counted towards parking lot tree requirements.
 - 5. In the case of single-family residential development one street tree shall be required per lot or for every 30 feet of road frontage, whichever is greater.

(Ord. No. 308.2, § 5, 2-26-2018)

Section 7.04. Preservation of wooded and shrubbed areas.

- A. No more than 60 percent of the total number of trees may be cleared or destroyed on any one site. The remaining 40 percent of the treed area should be maintained as permanent open space or otherwise incorporated into the development. The developer shall prepare a tree inventory, which indicates the size and species of all trees five inches in caliper or greater, measured at a height of five feet from the established grade. From the tree inventory, a tree preservation plan shall be developed which indicates the following:
1. Which trees will remain and which will be removed.
 2. Specifications on the method of protection for the trees which will remain during construction phases. The owner or person developing the site shall erect and maintain suitable barriers (snow fencing or cyclone fencing) during the entire development process.
 3. Grade changes or other work adjacent to remaining trees which would affect it adversely, with specifications on how the grade, drainage, and aeration will be maintained around the tree.
 4. If over 60 percent of the trees will be removed, the plan must state how many trees in excess of 60 percent are to be removed. This number, multiplied by two, shall be the total number of trees which shall be provided/replaced on the site plan. Trees which are required by this Ordinance for the purposes of screening, parking lot landscaping or other required landscaping shall not be counted as replacement trees.
 5. Replacement trees shall be a minimum of three inches in caliper for deciduous trees, or eight feet in height for evergreen trees.

Section 7.05. Natural resource protection.

- A. *Natural resource greenbelt.* The township recognizes the fragility and benefits of certain natural features within the township such as wetlands, marshes, bogs, streams, inland lakes, ponds, and drains. These features help regulate storm water drainage, water quality, help control erosion and sediment disposition, as well as provide for wildlife and plant habitat. In an effort to help preserve these environmental features and the benefits in which they provide, the Township shall require natural resource buffers or greenbelts around natural features located on site. These buffers will help ensure that no damage, impairment, or other intrusion occurs to the natural habitat and that contaminants or pollutants from daily operations do not degrade or destroy these sensitive areas.
1. A 25-foot undisturbed greenbelt shall be preserved around the boundary of any state regulated wetland and all other flagged wetlands which are intended to remain on site, and from the ordinary high water mark of any inland lake or pond, streams, creeks or drains (improved or unimproved). These areas shall be conspicuously noted on the site plan and before any land clearing activities are commenced, the developer shall erect and maintain a suitable barrier between such environmental feature greenbelt and lands which are intended to be cleared. In residential development, the required greenbelt shall not be part of a lot.
 - a. There shall be no construction, removal, or deposit of any structures or soils, including dredging, filling, or land balancing within a required natural resource greenbelt, unless approval from the MDEQ has been granted.
 - b. These requirements may be modified by the regulating state or county agency.

Section 7.06. Performance standards.

It is the intent of this subsection to regulate all uses except research and manufacturing and require that each permitted use shall be a good neighbor to adjoining properties by control of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc. The performance standards set forth in the following subsection shall be complied with, and any use which fails to comply with the standards shall be in violation of this ordinance and be subject to penalties as accorded by law. The sum of the effects of concurrent operations on two or more lots measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this subsection by single or mutual changes in operational levels, scheduling of operations and other adjustments is permitted. In case of conflict among these standards and federal and state regulations, the most restrictive standard or regulation shall apply.

1. *Noise.* Noise shall not exceed 65 decibels [db(A)] equivalent daytime and 60 decibels [db(A)] equivalent nighttime, as measured at any site line. In no case shall the maximum noise level exceed 60 db(A).
2. *Odors.* Odors from any use shall not be discernible at the property line to a greater degree than odors from plants for the manufacture of electronic equipment. The values given in Table III (Odor Thresholds) in the latest revision of Chapter 5, "Physiological Effects," in the "Air Pollution Abatement Manual," by the Manufacturing Chemists' Association, Inc., Washington, D.C., copyright 1951, shall be used as standard in case of doubt concerning the character of odors emitted. In such case, the smallest value given in Table III shall be the maximum odor permitted.
3. *Glare.* Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.
4. *Vibration.* Vibration shall not be discernible at any property line to the human sense of feeling.
5. *Smoke.* Emission of smoke on the site shall be controlled so that a nuisance will not result. Emission of smoke shall not exceed the number 1 standard as established by the Ringlemann Chart.
6. *Gases.* Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive.
7. *Electrical radiation.* Electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation.
8. *Utilities underground.* All lines for telephone, electric, television and other similar services distributed by wire or cable shall be placed underground entirely throughout the development area, except for major thoroughfare right-of-way, and such conduits or cables shall be placed within private easements provided to such service companies by the developer or within dedicated public ways. Overhead lines may be permitted by not less than six affirmative votes of the township planning commission at the time of final approval where it is determined that overhead lines will not constitute a detriment to the health, safety, general welfare or area design. All such facilities placed in dedicated public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards of construction approved by the Michigan Public Service Commission. All underground utility installations which traverse privately owned property shall be protected by easements granted to the appropriate authority by the applicant.
9. *Air-borne matter general.* There shall not be discharged from any source whatsoever such quantities of air contaminants or other materials 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.
10. *Storage of hazardous substances.*

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- a. *Applicability.* These provisions apply to all business, manufacturing and marina facilities which use, store or generate hazardous substances in quantities greater than 100 kilograms per month (equal to about 25 gallons or 220 pounds).
 - b. *Above-ground storage.*
 - (1) Primary containment of hazardous substances shall be product-tight.
 - (2) Secondary containment of hazardous substances shall be provided for all facilities, subject to site plan review. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
 - (3) Outdoor storage of hazardous substances is prohibited except in product-tight containers which are protected from weather, leakage, accidental damage and vandalism. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance, including an allowance for the expected accumulation of precipitation.
 - (4) At a minimum, state and federal agency requirements for storage, leak detection, record-keeping, spill prevention, emergency response, transport and disposal shall be met.
 - c. *Below-ground storage.*
 - (1) At a minimum, state and township regulations for the installation, inspection, maintenance of a leak detection system, inventory and record-keeping, emergency response and closure shall be met.
 - (2) All underground storage tanks which have been out-of-service for nine months or longer shall be removed from the site before a building permit is issued. This requirement may be adjusted by the fire chief in situations where a clear timetable for the safe use of the underground tank is established.
11. *Plan review and approval.* Site plans for facilities with hazardous substances shall be reviewed by the fire chief or his/her designee prior to the approval by the planning commission.

ARTICLE VIII. SITE LIGHTING

Section 8.01. Photometrics.

- A. Lighting in all use districts shall conform to the following requirements as to type, location, intensity and method of shielding.
 - 1. All outdoor lighting shall be shielded downward or below horizontal with cut-off luminaries (maximum of 85 degrees from vertical) to reduce glare and shall be so arranged as to reflect lights away from all adjacent residential districts or adjacent residences, as well as public rights-of-way.
 - 2. The height of any lighting fixture, including the base, measured from the established grade shall not exceed 25 feet, or the height of the building, whichever is less.
 - 3. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use. There shall be no flashing, oscillating, moving or intermittent type of lighting or illumination. In addition, there shall be no bare bulb illumination of any kind exposed to public view. Open neon is prohibited, except that the commission may permit open neon lighting when it is determined that such

lighting is solely for architectural enhancement purposes, serves no advertising purposes and is in character with the surrounding area.

4. A ground level illumination plan (in footcandles) which demonstrates compliance with the standards of this ordinance may be required for each site or development, as determined necessary by the planning commission.
5. Light poles shall be located within parking islands or at the boundary of the parking lot area, whenever feasible and practical. In both instances, the light pole must be set back from the curb a minimum of two and one-half feet to ensure proper vehicular overhang clearance.
6. Light fixtures mounted on canopies shall be installed so that the lens cover is recessed flush with the bottom of the surface (ceiling) of the canopy and/or shielded by the fixture or the edge of the canopy. The intensity of all other outdoor lighting in all use districts shall be limited to the following minimum and maximum average amounts:

Schedule of Illumination

(In footcandles measured at the surface)

Use	Average Illumination Level (Foot Candles)*
Residential, church, school, and child care facility	1.5
Non-residential	4.0

* The light intensity at ground level shall not exceed one-half foot-candle at the property line adjacent to residentially zoned or used property and one foot-candle at the property line adjacent to all other uses.

(Ord. No. 308.5, § 36, 4-26-2021)

ARTICLE IX. PARKING

Section 9.01. Intent.

The off-street parking and loading requirements of this ordinance are established to prevent congestion on public streets by providing clearly defined parking areas that are separated from roadways; to remove the hazard to pedestrians of emerging between parked vehicles onto a public street; to facilitate proper storm-water runoff; to prevent the generation of dust into the area; and to make clear the availability and arrangement of spaces to all users.

Section 9.02. General parking requirements.

It shall be the duty of both the owner and occupant of any premises to provide off-street parking spaces as required in this article. Such off-street parking areas shall be laid out, constructed and maintained in accordance with the following standards and regulations:

- A. Whenever a use or an activity requiring off-street parking is created, enlarged or increased in activity or intensity, off-street parking spaces shall be provided on site and maintained as required by this ordinance.
- B. The amount of required off-street parking for new uses of buildings, additions to existing buildings, new uses of land and accessory buildings shall be determined in accordance with the regulations in effect at the time the new use or addition was proposed, and the space so required shall be shown on the site plan and shall be irrevocably reserved for such use. No such designated parking area shall be

changed to any other use unless and until equal facilities are properly approved and provided elsewhere on the site.

- C. Off-street parking existing at the effective date of this ordinance in conjunction with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- D. Nothing in this section shall be construed to prevent the collective provisions of off street parking facilities for two or more buildings or uses on separate sites, provided that, collectively, such parking shall not be less than the sum of requirements for the various uses computed separately. The provision for shared parking shall not be construed to allow for development without parking located reasonably proximate to the development it is intended to serve. Parking shall be reasonably distributed to fulfill the parking needs of each use being served and be irrevocably dedicated to each use.
- E. Where the owners of two buildings desire to utilize common off-street parking facilities, the planning commission may permit such dual function provided that the following conditions have been met:
 - 1. The peak business hours of the two buildings or uses in no way overlap. In the event that there is a change of uses that no longer meets the criteria established for shared parking, the required number of spaces as provided below shall be installed.
 - 2. The common parking lot meets the off-street parking requirements of the larger building or more intensive use, whichever is greater, plus 15 percent.
 - 3. The common parking lot meets all of the locational requirements of this Ordinance with respect to each building or use.
- F. Off-street parking facilities required herein shall be located within 300 feet of the permitted use it is intended to serve, such distance to be measured along lines of public access to the property between the nearest point of the parking facility and the building to be served, provided that the said off-street parking facility shall not be separated from the building to be served by any major or secondary thoroughfare so designated by the Charter Township of Harrison Master Plan, or by physical barriers such as a river, an unenclosed stormdrain, a canal, an unpierced wall or similar physical barrier or public improvement. All parking located off-site shall be reviewed and approved by the planning commission.
 - 1. Valet-only parking may be provided at any location within 1,000 feet of the site, subject to planning commission approval and the following conditions:
 - (a) The proposed parking area is not located in an area that maintains poor corner clearance visibility or any other type of roadway design that would result in a danger to workers utilizing the lot or motorists passing by;
 - (b) The parking area is open to employees only. Patrons utilizing the primary site are not permitted access to the proposed parking area;
 - (c) There are reasonable pedestrian connections between the proposed parking area and the primary site to ensure that workers walking between properties will not be required to walk within the roadway;
- G. Required off-street parking may not be enclosed with a gate that would permit it to be closed to either employees or patrons or public safety vehicles.
- H. When units or measurements determining the number of required parking spaces result in the requirement of a fractional space, any fraction shall require one parking space.
- I. For the purpose of determining off-street parking requirements for all uses, floor area shall mean 100 percent of the gross floor area, as measured from the interior of all exterior walls. For those buildings

which feature unique interior natural features, such as atriums and landscaped areas, the floor area occupied by such areas may be deducted from the gross floor area used to calculate parking requirements.

- J. On the same premises with every building, structure or part thereof erected and occupied for the purpose of serving customers in their automobiles by means of a service window, washing bay or similar arrangement, there shall be provided a minimum of six off-street waiting spaces for each service window or service bay.
 - 1. The lane arrangement/number of lanes that provide access to such service window(s) and/or bays shall be subject to planning commission approval based on the layout of the parking lot/maneuvering lanes, the proposed use of the service window/bays and any concerns set forth by the fire department.
 - 2. Waiting space requirements for eating establishments shall be counted beginning at the menu board. All spaces between the menu board and the service window shall not count towards the waiting space requirement.
 - 3. Awaiting space shall be 21 feet long by ten feet wide.
- K. Whenever drive-through or vehicle stacking lanes are provided, such lanes shall be so located so as not to impede pedestrian or vehicular circulation on the site or on abutting sites, nor shall any drive-through lane cross a vehicle maneuvering lane or aisle.
- L. The amount of required off-street parking space for new uses of buildings, additions thereto and additions to existing buildings as specified above shall be determined in accordance with this ordinance; and the space so required shall be shown on the site plan and shall be irrevocably reserved for such use.
- M. Off-street parking areas for single-family or two-family dwellings shall be provided within a garage, carport or on a paved surface parking strip, apron or driveway, or combination thereof, subject to the following:
 - 1. Off-street parking areas shall be located on the premises they are intended to serve.
 - 2. Off-street parking areas may be located in any yard, but shall be subject to the maximum impervious surface limitation for the zoning district in which it is located.
 - 3. All access to enclosed or unenclosed parking shall be by means of an approved paved driveway, constructed of asphalt, concrete, pervious concrete, pavers, porous pavers, or other similar hard-surface materials (not gravel) not conducive to the growth of weeds, the width of which shall be at least ten feet, which shall extend as a continuous uninterrupted pavement from the garage, carport or combination thereof, or from an unenclosed parking strip or apron, to a street or alley.
 - 4. Off-street parking shall not be allowed on lawns or other non-paved areas.
 - 5. A minimum three foot wide lawn or landscape strip shall be required between the edge of off-street parking area pavement and all lot lines to provide adequate room for drainage, snow storage and privacy screening.
- N. Within the R1, R1-A, R1-B, R1-C and R1-D districts, a recreation vehicle may be parked or stored outdoors subject to the requirements herein. This subsection shall not apply to the parking of recreation vehicles within a completely enclosed building or for temporary loading or unloading for less than a 24-hour period in any seven-day week.
 - 1. Only those recreation vehicles which are owned by the property owner or resident of the property, and which are properly plated and registered, may be parked or stored.

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2. No more than three recreation vehicle units may be parked or stored on any lot, where:
 - Any recreation vehicle, and/or recreation vehicle with its associated utility trailer, and/or an empty trailer, less than 14 feet in overall length shall be deemed equivalent to one-half unit;
 - Any recreation vehicle, and/or recreation vehicle with its associated utility trailer, and/or an empty trailer, between 14 feet and 40 feet in overall length shall be deemed equivalent to one unit;
 - Any recreation vehicle, and/or recreation vehicle with its associated utility trailer, and/or an empty trailer, greater than 40 feet in overall length shall be deemed equivalent to two units.
 3. No recreation vehicle shall at any time be used for living or housekeeping purposes.
 4. A recreation vehicle stored outside shall be in a condition for the safe and effective performance of its intended function.
 5. In addition to the above general requirements, the following lot and yard requirements shall apply.
 - a. On vacant lots, recreation vehicles shall be:
 - (1) Parked or stored not closer than ten feet from any side lot line.
 - (2) Parked or stored not closer than 30 feet from any street right-of-way or ordinary high-water mark.
 - b. Within a side or rear yard, recreation vehicles shall be:
 - (1) Parked or stored not closer than four feet from any side or rear lot line.
 - c. Within a front yard adjacent to a street, no more than one recreation vehicle unit may be parked or stored, provided it shall be parked or stored:
 - (1) Not closer than ten feet from the front lot line.
 - (2) Not closer than four feet from any side lot line.
 - (3) On an approved paved driveway, parking strip or apron, constructed of asphalt, concrete, pervious concrete, pavers, porous pavers, or other similar hard-surface materials (not gravel), the length and width of which shall be at least equal to the size of the recreation vehicle.
 - (4) In a manner which does not obstruct pedestrian or vehicular maneuvering or visibility.
 - d. Within a yard abutting a lake, river or canal, no recreation vehicle may be allowed within 30 feet of the water; boats and personal watercraft are excepted from this provision.
 - O. Within the MHC, RM-1, RM-2 and HMR districts where recreation vehicles are permitted, a secured storage area for such vehicles shall be provided and buffered from adjacent uses. No unlicensed motor vehicle of any type shall be parked within the development at any time, except within a covered building or the enclosed storage area. In the manufactured housing community district, no motorized recreation vehicles or boats shall be parked on individual home sites. All group off-street parking lots shall be adequately lighted during hours of darkness with no more than one-half footcandle of illumination.

(Ord. No. 308.5, § 27, 4-26-2021)

Section 9.03. Minimum number of off-street parking spaces.

The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule. For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord to the most similar use, as determined by the Planning Commission.

A. *Residential.*

1. Single- and two-family dwellings. Two spaces for each dwelling unit.
2. Multiple-family residential dwellings shall have two paved off-street parking spaces for each one-bedroom dwelling unit. For each additional bedroom per unit, one-half of an additional parking space shall be provided. Multiple-family dwelling units in the V-1 or V-1A village districts shall require one and one-half paved off-street parking spaces per each dwelling unit.

In addition to the above parking requirements, a multiple family development with greater than ten units shall provide one additional space per unit in a designated visitor parking area. Visitor parking areas shall be distributed evenly throughout the development.

3. Housing for the elderly. Two spaces for each three dwelling units, and one for each employee. Should the dwelling units revert to general occupancy, then two spaces per unit shall be provided. The location of this reserved parking area shall be shown on the site plan at the time of the original approval.
4. Manufactured homes. Two spaces per unit, plus one space for every three manufactured home sites for visitor parking. Visitor parking shall be located within 300 feet of the manufactured home sites they are intended to serve.
5. Community buildings (multiple-family and manufactured housing community). One space for each four persons allowed within the maximum occupancy load, as determined by the fire department.

B. *Institutional.*

1. Auditoriums (incidental places of worship, schools and hospitals): One space for each three seats; plus one for each two employees. If no seats, one for each 50 square feet of floor area.
2. Churches, temples, and other places of worship: One space for each three seats or six feet of pew in the main worship area; plus spaces for any residential uses, as determined in accordance with the parking requirements established for residential uses. Additional spaces for accessory facilities, such as social halls, schools, etc., may be required by the planning commission.
3. Convalescent homes: One space for each two beds; plus one for each employee.
4. Elementary and junior high schools: Ten spaces, plus one for each employee. Additional spaces for accessory facilities and uses may be required by the planning commission.
5. Hospitals: One space per bed; plus one space per employee additional spaces shall be required for accessory uses based on their individual requirements. Parking for emergency facilities shall be provided on the basis of one space per 100 square feet of floor area of the emergency room, patient treatment areas and waiting areas.
6. Libraries/Museums: One space for every 500 square feet of gross floor space.
7. Municipal offices: One space for each 200 square feet of gross floor area.

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8. Child care, nursery school, and daycare facilities: One space for each employee plus one space for each four students on the premises at any time. Adequate, but not fewer than five, stacking spaces shall be provided for pick-up and drop-off.
 9. Private clubs and lodges: One space for each three members allowed within the maximum occupancy load, as determined by the fire department, plus one per employee.
 10. Senior high schools and colleges: One space for each employee plus one for each three students; plus the requirements of the auditorium. Additional spaces for accessory facilities and uses may be required by the planning commission.

C. *Recreation.*

1. Bowling alleys: Three spaces per lane. Additional spaces for accessory facilities and uses may be required by the planning commission.
2. Dance halls, arcades, rinks, indoor archery/shooting galleries, pool halls, and exhibition centers: One space per three persons allowed at maximum occupancy load, as determined by the fire department
3. Miniature golf, driving ranges, and executive golf courses: One space for each miniature golf or executive golf hole; one (1) space per each driving range tee; plus one space per employee. Additional spaces for accessory facilities and uses may be required by the planning commission.
4. Private parks: One space for each two individual members.
5. Public golf courses: Six spaces for each golf hole; plus one per employee. Additional spaces for accessory facilities and uses may be required by the planning commission.
6. Public recreation: One space for every two users at maximum capacity; plus one space for each employee.
7. Stadiums, sports arenas, and similar places of assembly: One space for each three seats or 60 inches of benches.
8. Racquet/tennis and exercise clubs: One space for each two persons allowed within the maximum occupancy, as determined by the fire department. Additional spaces for accessory facilities and uses may be required by the planning commission.

D. *Offices.*

1. Banks: One space for each 200 square feet of floor area.
2. Medical office or clinic (including veterinary uses): One space for each 150 square feet of floor area.
3. Professional or business office: One space for each 250 square feet of floor area.

E. *Commercial.*

1. Banquet halls: One space for each two persons allowed within the maximum occupancy as determined by the fire department.
2. Beauty salon or barber shop: Three spaces for the first two chairs, plus one and one-half spaces for each additional chair; or one space for each 75 feet of floor area, whichever is less.
3. Dry cleaners: One space per each two employees, with a minimum of five spaces.
4. Funeral Homes: One space for each fifty square feet of assembly, parlor, and reception areas,

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5. Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician or similar trade, shoe repair and other similar uses: One space for each 800 square feet of usable floor area, and one additional space for each two employees working in processing areas.
 6. Laundromat: One space for each two machines.
 7. Hotel, motel, or other commercial lodging: One space for each occupancy unit, plus one space for each employee. Additional spaces for accessory facilities and uses may be required by the planning commission.
 8. Open air businesses: One space for each 1,000 square feet of lot area used for retail sales, services and uses.
 9. Retail: One space for each 250 square feet.
 10. Restaurants/Lounges (excluding fast-food or carry-out establishments): One space for each 100 square feet of floor area, or one space for each two persons allowed within maximum occupancy, as determined by the fire marshal, whichever is greater. Each boat dockage reserved exclusively for patrons may be substituted for one automobile space, however, in no case shall boat dockage exceed 50 percent of the total parking required.
 11. Restaurants — Fast-food, carry-out, and drive-ins: One space for each two employees, plus one space for each two seats intended for patrons within the restaurant building and one space for each 20 square feet of building floor area available in the order-waiting area.

F. *Industrial.*

1. Manufacturing, wholesale, or warehousing: One space per 2,000 square feet of gross floor area.
2. Self storage: Two spaces for the residential caretaker's unit, plus one space per 50 square feet of floor area used for office purposes.

G. *Marinas, boat clubs, boat liveries and boat launching facilities.*

1. Boat wells, boat slips, boat docking: One space for each boat berthed or stored during the wet storage season (May through September). In boat launching areas, adequate space shall also be provided for all boat trailers. There shall be provided two spaces for each boat well owned by private individuals. In addition, each marina shall provide, and maintain at all times, a clear and unobstructed fire lane between the adjacent public road and the water.
2. Land stored/shored boats: One space shall be provided for each ten boats during the dry season (October through April). During the dry season, land stored boats may utilize required wet season required parking areas (excepting the amount of spaces and maneuvering aisles necessary to meet the dry season required parking) provided such areas and storage methods meet all safety and other ordinance requirements.
3. Rack storage, in-and-out stack storage: Three-quarters space for each boat stored.
4. Boat sales: Where boat sales are involved, the commercial standards for open air businesses shall also apply.
5. Boat rental or charter businesses: Three spaces for each boat available for rent or charter.
6. Other commercial uses: Other commercial use of the site shall provide parking spaces based on the specified commercial standards. Parking of boats may be credited against required off street parking when dedicated exclusively for transient use.

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7. Waterfront marina zoning: A portion of the parking lot in the WM district may be used for the storage of boats during the dry storage season, provided, however, that in no instance shall the number of parking spaces be less than three-quarters space for each boat stored (in and out or stack storage) at the marina; parking of boats may be credited against required off street parking when dedicated exclusively for transient use.

H. *Automobile related uses.*

1. Self-service open car wash: Two exterior waiting spaces at entry, plus one exterior drying spaces for each bay.
2. Self-service enclosed car wash: Where all washing and drying operations are designed to take place within the building, four waiting spaces shall be provided for each bay. A properly drained 50-foot long drying lane shall also be provided at the exit of each wash.
3. High speed commercial car wash: One space for each employee, plus 20 exterior stacking spaces at entry. A properly drained 50-foot long drying lane shall also be provided at the exit of each wash.
4. Service stations (gasoline, retail, and/or repair) and auto repair services: One space at each pump,, three spaces for each service bay; one per employee; plus one per each 200 square feet of retail floor area. Wrecked vehicles shall not be stored outside.
5. Quick oil changes: Two spaces per bay; plus one space per employee at the peak shift; one space per 200 square feet of floor area used for retail sales.
6. Vehicle sales establishments: One space for each 300 square feet of sales area; one for each 200 square feet of office area; and three for each service bay.

(Ord. No. 308.2, § 6, 2-26-2018; Ord. No. 308.5, §§ 28, 37, 4-26-2021)

Section 9.04. Parking standards in the V-1 or V-1A village districts.

A. *Village district parking standards.*

1. Parking within the front yard shall not be permitted.
2. The planning commission may allow parking within a side yard if the applicant can demonstrate that unique physical characteristics of the property prevent the location of parking at the rear of the site.
3. One three-foot high decorative brick wall shall be constructed between parking areas located in the side yard and abutting public right-of-ways.
4. Maneuvering lanes and access drives shall be a minimum of 20 feet in width.
5. A connecting access drive and/or joint access agreement shall be provided to adjacent properties to provide for a contiguous parking system.
6. Non-residential uses located in the V-1 village district may be permitted a 25 percent reduction in the required amount of parking, as determined in section 9.03.
7. See section 14.21.J. for special parking provisions within the V-1A village district: downtown waterfront.

(Ord. No. 308.2, § 7, 2-26-2018)

Section 9.05. Parking space layout standards and construction.

A. Wherever the off-street parking requirements in section 9.02 above require the construction of an off-street parking facility, such off-street parking lot shall be laid out, constructed and maintained in accordance with the following standards and regulations:

1. No parking lot shall be constructed unless and until a permit therefore is issued by the building department. Applications for a permit shall be submitted as per the requirements of site plan review (article III).
2. Plans for the layout of an off-street parking lot shall have dimensions consistent with the following standards:
 - a. Ninety-degree pattern: Parking spaces and maneuvering lanes shall be provided based on one of the following alternatives:

Space Width	Space Length	Maneuvering Width	Two-Tiered Parking and Maneuvering Lane
10 feet	20 feet	20 feet	60 feet

- b. Sixty-degree pattern: Fifty-eight feet for two tiers of spaces, and one aisle/maneuvering lane, with minimum aisle width being 20 feet.
 - c. Forty-Five-degree pattern: Fifty-six feet with two tiers of parking spaces, plus one aisle/maneuvering lane of at least 20 feet in width.
 - d. All other drives and maneuvering lanes not indicated above shall have a minimum width of 24 feet.
 - e. Parking spaces to accommodate vehicles with trailers, boats and recreational vehicles shall be at least ten by 40 feet.
 - f. All parking lot stalls shall be striped and maintained.
 - g. Handicapped spaces shall be furnished as required by state law.
 - h. Parallel parking shall not be permitted.
- B. All parking spaces shall be provided with adequate access by means of maneuvering lanes. Spaces shall not be designed to permit backing directly onto a street.
- C. The entire parking area, including parking spaces, maneuvering lanes and drives required under this section, shall be paved with asphaltic or concrete surfacing in accordance with specifications of the township engineering ordinance. The parking area shall be surfaced prior to the issuance of the certificate of occupancy for the building or buildings which it serves, or cash deposit acceptable to the Charter Township of Harrison in an amount equal to 125 percent of the township engineer's approved estimate of cost of the improvement. Any improvements for which a cash deposit has been posted shall be installed by the end of the construction season following the posting.
- D. Off-street parking areas shall be drained to dispose of all surface water accumulated in the parking area in such a way as to prevent drainage of water onto adjacent property or toward buildings, and drainage plans shall meet the specifications of the township engineering ordinance.
- E. In any area where front-end parking abuts a curbed landscaped area at least five feet in width or a raised sidewalk having a minimum width of at least seven feet, the minimum parking stall depth of 20 feet (as otherwise specified herein) may be decreased by up to two feet in depth in order to allow for a vehicle to

overhang such landscaped area or such sidewalk. In no case shall the parking stall depth be decreased to allow a vehicle to overhang a required parking setback or property line.

- F. Ingress and egress to a parking lot for non-residential purposes shall not be provided across land zoned for one-family or two-family residential purposes. All such entrances and exits shall also be located at least 25 feet from any property zoned for one-family residential use.
- G. Parking lot lighting shall meet the requirements of article VIII.
- H. The surface of the parking lot area, shall be maintained and kept free from weeds, rubbish, refuse and debris.
- I. All parking serving other than one or two-family dwellings shall be side-by-side. Tandem parking is prohibited; except where a multiple-family unit has its own separate two-car garage, their separate approach apron can be used for visitor parking. Tandem parking to a depth of three cars may be permitted in vehicle storage and inventory areas provided such areas are under the control of employees and are not accessible by the general public. Any parking or vehicle circulation areas accessible to the public shall meet the size standards specified in this section.
- J. Except as otherwise provided in this article, required off-street parking space shall be for the use of occupants, employees, visitors, customers, clients and patrons. Off-street parking shall not be used for other than parking purposes or allowed to become unusable, except for temporary repairs. The storage of vehicles or merchandise in any off-street parking space is prohibited, except as permitted in conjunction with the principal or accessory use and sale of motor vehicles.
- K. Adequate ingress and egress to the parking lot by means of clearly limited and defined paved drives shall be provided for all vehicles. All parking areas shall be provided with an entrance and exit from the abutting public thoroughfare. Such entrance and exit may be combined as one, which shall be 30 feet in width.
- L. Curbs, meeting the construction standards of the township engineering ordinance, are required. Bumper blocks are prohibited.
- M. A minimum setback of ten feet shall be provided between the parking lot and the adjoining property line. The front yard setback between the road and the parking lot shall be landscaped.
- N. All parking lots shall be screened as per the requirements of article 6.
- O. It shall be unlawful for any person to leave, park or store any motor vehicle or to permit any motor vehicle to be left, parked or stored in a parking lot as permitted in this subsection for a period of longer than 18 hours. It shall also be unlawful to park or permit to be parked any motor vehicle in such parking area between the hours of 12:00 midnight and 6:00 a.m. the following morning, unless the business maintaining such parking area remains open after midnight, in which case said lot shall be closed and all parked cars removed within 30 minutes after said business has closed. The parking of vehicles accessory to the principal use of the site is exempt from this provision.
- P. The use of any outdoor loud, noise-producing device or public address system shall be prohibited.
- Q. Required yards may be used for off-street parking provided adequate access to the rear of the building for firefighting and emergency equipment is available.

Section 9.06. Parking structure development standards.

- A. It is intended that the provision of parking within structures or buildings shall serve to increase the value and convenience of related development and to enhance, rather than detract from, the appearance of the overall development. It is further intended that the provision of such facilities shall not negatively impact the

safety and security of the public. All parking structures shall observe the layout, construction and maintenance requirements of section 9.05.

- B. Parking structures shall be physically integrated into the overall design and functioning of the site. The exterior treatment of the parking structure element of a building complex shall be substantially the same in appearance to that of the main building element, and shall further be designed so that all architectural and vehicular lighting is shielded or screened from view from adjacent properties.

Section 9.07. Off-street loading and unloading.

- A. The number, size and location of off-street loading and unloading area shall be provided whenever it is determined by the planning commission that the nature of the building or use is such that loading areas would be necessary.
1. Loading and unloading space, when required, shall be an area ten feet by 50 feet, with 15-foot height clearance, and shall meet the following requirements:
 - a. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot maneuvering lane or aisle. When required, loading and unloading areas shall be designated and defined.
 - b. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
 - c. Unless otherwise specified, loading and unloading areas shall be provided only in rear yards. Side yard loading may be permitted by the planning commission when it is determined that such space and loading facilities would not interfere with parking and circulation, either vehicular or pedestrian, or with abutting uses.
 - d. No part of any loading and unloading area shall be closer than 30 feet to a residential zoning district.
 - e. All loading and unloading areas shall be surfaced, drained, and otherwise developed in accordance with the provisions applicable to off-street parking areas.
 - f. Every use involving the receipt or shipment of materials or merchandise by trucks or trailers shall provide space for standing, so that loading and unloading services will not take place off the public streets, alleys and rights-of-way. Loading and unloading spaces shall be provided in such a manner that backing in from a public street shall not be facilitated.

ARTICLE X. ACCESS MANAGEMENT AND TRAFFIC

Section 10.01. Access management standards.

- A. *Non-residential driveways.*
1. *General standard.* Driveways shall be located so as to limit undue interference with the free movement of traffic, to provide the required sight distance, and to provide the most favorable driveway grade.
 2. *Improvements confined to applicant's property.* Driveways, including the radii, but not including right-turn lanes and tapers, shall be located entirely within the applicant's right-of-way frontage. The right-

of-way frontage is determined by projecting the lot lines to the edge of the pavement of the road. The encroachment of curbs and driveway radii on adjacent property, as in the case of shared driveways, may be allowed upon written certification of adjoining property owners, the township, and the applicable review agency (Road Commission of Macomb County or Michigan Department of Transportation) when it has been determined that such encroachment is necessary to preserve safe road conditions.

3. *Distance to intersection.* No non-residential driveway approach shall be located closer than two hundred and fifty (250) feet from an intersection of a major road, either adjacent to the site or on the opposite side of the road. This setback shall also apply to entrance and exit ramps. This distance shall be measured from the proposed right-of-way line of the intersecting street. This requirement shall apply to roads and railroads. For sites with insufficient street frontage to meet this requirement, the planning commission may require the construction of the driveway along a side street, a shared driveway along the property line farthest from the intersection, or a service drive.
4. *Minimum spacing between driveways.* The minimum spacing between two commercial driveways shall be based upon posted speed limits of the fronting road. The minimum spacings listed below shall be measured from centerline to centerline of each throat.

Posted Speed Limit (MPH)	Minimum Driveway Spacing (In Feet)
25	130
30	150
35	200
40	250
45	300
50 and Higher	350

In the event that a particular parcel or parcels lack sufficient arterial frontage to maintain the spacing requirements referenced above, the planning commission may allow for a reduction of the standards listed above. Any such reductions shall be based on a traffic impact study. The planning commission may require additional driveway spacing based on the recommendations of the township engineer and where it is determined that the additional spacing will promote improved access and continuity of developments recommended by the Harrison Township Master Plan. The adjacent land owners may also agree to establish a common driveway. In such case, the midpoint should be the property line between the two (2) parcels. A joint easement agreement must be entered into prior to an access permit being granted.

5. *Driveway offsets.* To reduce left-turn conflicts, new driveways along non-boulevard roads shall be aligned with those across the roadway, where possible. If alignment is not possible, driveways should be offset a minimum of 150 feet from those on the opposite side roadway. Longer offsets may be required depending on the expected left-turn volumes of the driveway.
6. *Number of driveways.* The number of commercial driveways serving a parcel shall be the minimum necessary to provide access for passenger cars and trucks, delivery vehicles and emergency vehicles, while preserving traffic operations and safety along the public roadway. Not more than one driveway may be provided for each separately owned parcel with less than 300 feet of road frontage. This access may be an individual driveway, shared driveway or via a service drive. For the purposes of this Ordinance, a one-way-in/one-way-out drive shall be considered the same as one driveway. The Township may permit one additional driveway for parcels with a continuous road frontage of at least 300 feet or for a corner lot which maintains frontage on two roads.

Additional drives beyond what is permitted in the above text may be permitted only after special land use approval. In allowing for the second driveway, the planning commission shall determine that the additional driveway is justified without compromising traffic operations along the public street, based upon a traffic impact study as described herein.

7. *Driveway design.* All commercial driveways shall be designed accordingly to the standards of the Road Commission of Macomb County or the Michigan Department of Transportation, as appropriate. For high traffic generators, or for commercial driveways along roadways experiencing or expected to experience congestion, the planning commission may require two egress lanes.
8. *Boulevard entrances.* Where a boulevard entrance is desired by the applicant or the planning commission, a fully curbed island shall separate the ingress and egress lanes. The radii forming the edges of the island shall be designed to accommodate the largest vehicles 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 of the public right-of-way. Such landscaping shall be tolerant of roadway conditions.
9. *Setbacks.* Driveway pavement shall be set back at least ten feet from the adjoining property line to help control storm water runoff. Driveways designed to be shared may encroach into the required setback. A greater setback may be required by the township engineer if necessary for drainage purposes.

Section 10.02. Joint access easement.

The planning commission may require an access easement to provide for vehicular access to existing or contemplated adjacent parking lots to minimize the need for driveways to each facility and thereby decreasing hazards to vehicular traffic. In such instances, a reciprocal use agreement shall be signed by each owner.

Section 10.03. Access across residential property.

Entrance and exit of a parking lot, loading area, or non-residential use, shall not be permitted across or upon land zoned as residential unless the planning commission finds that there are special circumstances which indicate that there will be a substantial improvement in traffic safety by reducing the number of driveways to a thoroughfare.

Access drives may be permitted within a required front yard or side yard so as to provide access to rear yards and/or accessory or attached structures. Any walk, driveway or other pavement servicing a like function may be permitted as an accessory structure in a required yard.

Section 10.04. Corner clearance.

No fence, wall, shrubbery, sign or other obstruction to vision above a height of two feet from the established grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines or driveway by a straight line drawn between said right-of-way lines/driveway at a distance along each line of 20 feet from their point of intersection.

Section 10.05. Vacated right-of-way.

Whenever any street, alley or other public way within the township shall be vacated, it shall be classified in the same zone district as the property to which it is attached.

ARTICLE XI. GENERAL PROVISIONS

Section 11.01. Approval of plats.

No proposed plat of a new or redesigned subdivision shall hereafter be approved by either the township board or the planning commission, unless the lots within such plat equal or exceed the minimum size and width requirements set forth in the various districts of this ordinance, except as provided in the township's subdivision regulations. Such plat shall fully conform with the statutes of the State of Michigan, as amended, and the subdivision regulations of the Charter Township of Harrison.

Section 11.02. Building grades.

- A. The existing established grade shall be used to determine the grade around a new building when a new building is constructed. The yard around the new building shall be graded to meet existing grades and shall not permit run-off of surface water to flow onto adjacent property.
- B. If necessary, drain systems will be installed to provide water run-off solutions from new buildings or existing buildings onto existing areas at the new building owner's expense. The building official shall approve final grades.
- C. A registered engineer or land surveyor shall submit a signed and sealed "certificate of grading and location of building" before final grades are approved.

Section 11.03. Buildings to be moved.

Any building or structure which has been wholly or partially erected on any premises, located either within or outside of this township, shall not be moved to and placed upon any other premises in this township until a permit for such removal shall have been secured under the administration and enforcement portion of this ordinance. Any such building or structure shall fully conform to all the provisions of this ordinance in the same manner as a new building or structure.

Section 11.04. Essential services.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the township, it being the intention hereof to exempt such essential services which primarily serve the Charter Township of Harrison from the application of this ordinance.

Section 11.05. Excavation or holes.

The construction, maintenance or existence within the township of any unprotected, unbarricaded, open or dangerous excavations, holes, pits or wells, which constitute or are reasonably likely to constitute a danger or menace to the public health, safety or welfare, are hereby prohibited; provided, however, this section shall not prevent any excavation under a permit issued, pursuant to this ordinance, where such excavations are properly protected and warning signs posted in such manner as may be approved by the building official, pursuant to a valid building permit which is being diligently pursued. In no case shall such excavation or hole be allowed to exist beyond 90 days. This section shall not apply to drains created or existing by authority of the state, county, township or other governmental agency.

Section 11.06. Garage sales.

- A. A person or group may conduct an individual or collective garage sale, rummage sale or similar activity within Harrison Township, provided the sale or similar activity shall not be conducted for a period of more than nine consecutive days.
- B. No person shall be allowed more than two such sales within any twelve-month period. In no instance shall more than two garage sales or similar activity be held in any one location within any twelve-month period.
- C. All such sales or similar activity shall not be conducted within ten feet from the street lot line of the premises.
- D. Overnight outside storage of goods or merchandise offered at said garage sale or similar activity is hereby prohibited.
- E. No signs advertising a garage sale or similar activity shall be placed upon public property except upon the consent of the land owner.
 - 1. In this case, two signs advertising a garage sale or similar activity are permitted to be placed upon private property and shall be removed within 24 hours of the conclusion of said garage sale or similar activity.

Section 11.07. Height limitations.

- A. No building shall be erected, converted, enlarged, reconstructed or altered to exceed the height limit hereinafter established for the district in which the building is located, except penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans, or similar equipment required to operate and maintain the building.
- B. Architectural features, such as fire or parapet walls, skylights, towers, steeples, stage lofts and screens, flagpoles, chimneys, smoke stacks, individual domestic radio and television aerials and wireless masts, water tanks, or similar structures, excluding light poles, may be erected above the limits provided for each zoning district, provided that the feature:
 - 1. Does not exceed 15 feet above the height limits of the zoning district.
 - 2. Is no greater than ten percent of the roof area of the building.
 - 3. Is not used for any residential purpose other than a use incidental to the main use of the building.

Section 11.08. Outdoor storage and merchandising.

- A. *Merchandising.*
 - 1. Unless permitted as a temporary use, no person or business shall use the following areas for displaying goods for sale, nor leave any goods, boxes, vehicles or any other article for a longer period than transportation into or out of another vehicle or business/residence:
 - a. Any sidewalk or that space between the sidewalk and curb or road, planted strips, park or sidewalk.
 - b. Any parking area, or any area of a road right-of-way.
 - 2. Open air business and uses with permitted outdoor space for display and sales:
 - a. Shall not be allowed until approved by the planning commission.

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- b. Such uses shall be paved and constructed to the same standards of construction as a parking lot, or provided with a suitable surface acceptable to the planning commission.

B. *Outdoor storage/display lots.*

- 1. When permitted in a particular zoning district, an outdoor storage use shall be enclosed by an approved masonry wall or obscuring fence, as approved by the planning commission.
 - a. Such wall or fence shall not be less than four feet six inches in height and may, depending upon land usage, be required to be up to ten feet in height, and shall be subject further to the requirements of article VI.
 - b. A chain link fence or a landscaped earth mound (berm), both with intense evergreen shrub planting, may be permitted by the planning commission.
 - c. The planning commission may require vertical decorative or redwood pickets be installed in the fence where, in its judgment, it will better serve to obscure the open storage.
 - d. Open storage areas shall be hard-surfaced with suitable approved material and drained to meet township engineering requirements.

(Ord. No. 308.4, § 10, 8-13-2018)

Section 11.09. Prohibited occupancy.

In no case shall a travel trailer, motor home, automobile chassis, tent or portable building be considered a dwelling. Mobile homes shall not be used as dwellings, excepting when located in and as part of a mobile home park or when located in zoning districts set forth in this ordinance. All travel trailers, motor homes and mobile homes parked or stored on lands not approved for such use as herein set forth shall not be connected to sanitary facilities and shall not be occupied.

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 purpose of this ordinance and shall comply with the provisions thereof relative to dwellings in the residential district.

Section 11.10. Residential open space developments.

- A. Residential open space developments, as defined by the regulations of this section, shall be considered a permitted use in the R1-A, R1-B and R1-C single-family zoning districts. In no circumstance shall multiple-family residential development (attached units) of any type be permitted in a residential open space development.
- B. Intent. The intent of this section of the zoning ordinance is to provide a preferable alternative to conventional single-family development regulations. All residential open space developments shall promote the following objectives:
 - 1. Maintain the township's remaining open space and rural setting.
 - 2. Preserve the township's natural resources, including woodlands, wetlands, topography, floodplains and similar natural assets.
 - 3. Preserve open space and productive agricultural land.
 - 4. Achieve a balance between open space and growth and agriculture.
 - 5. Encourage a creative approach to the development of parcels exhibiting unusual characteristics and/or land use relationships.

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6. Provide alternatives to conventional residential developments.
- C. Submission and preservation requirements.
1. All natural assets and cultural/historic features on the site must be identified on the plan. Such assets shall include natural stands of trees, wetlands, floodplains, topography, bodies of water (i.e. streams, rivers), land which serves as a natural habitat for wildlife, or other natural assets which should be preserved. Regulated natural features such as, but not limited to, wetlands and floodplains must be identified through documentation from the appropriate federal, state and/or local authorities. Cultural and historic features may include farmhouses, stone fence lines and buildings of historic value. Residential open space developments shall preserve all of the above amenities to the extent feasible and desirable to the township.
 2. A detailed map of the parcel identifying soil conditions as represented in the soil conservation service's "Soil Survey Macomb County, Michigan" shall be provided.
 3. All open space developments shall include an improved trail way system throughout the residential open space development and common open space areas.
- D. Density.
1. The maximum number of units allowed shall be determined by the submission of a "yield plan". The yield plan shall be provided by the developer and shall be a feasible development under the requirement standards of the specified zoning district with regard to lot width, lot area, width-to-depth ratios, setbacks, frontage, and other applicable provisions of such district. The yield plan shall meet all applicable requirements of the State Land Division Act and all applicable township ordinances. The yield plan shall also meet all requirements of the Charter Township of Harrison Subdivision Control Ordinance and Zoning Ordinance, as applicable to the type of development. In no case, regardless of the yield plan, shall the density of an open space residential development exceed three units per acre.
 2. The planning commission shall award the applicant a development bonus with regard to the number of residential units permitted within an open space development. Such bonus shall be a five percent increase in the number of residential units permitted in the development. Where a resultant fraction occurs with the five percent calculation, an additional lot shall be granted.
- E. Open space requirements. Common open space shall be defined as follows: All areas within the open space development, not individually owned or part of a limited common area, which are designed and intended to preserve open land resources for the common use and enjoyment of the residents of the entire development for any of the following uses: recreation, forest land and/or open space conservation, prairies, and meadows. The common open space requirements shall not be met by land uses such as rights-of-way or easements designated for road or utility purposes, areas within lots, detention/retention ponds, golf courses or other commercial recreational uses, or land area dedicated as limited commons.
1. A minimum of fifty percent of the development shall be set aside for common open space, as defined below. The open space shall be irrevocably reserved for common open space as required in this section.
 2. The developer may, at his election, offer to deed such land to Harrison Township for public playgrounds, parks, recreation areas or open space subject to township acceptance of such property. The failure of the Township to accept such property shall not relieve the developer from the requirements of the open space requirements. The township shall not be exempt from providing an irrevocable agreement to maintain the property as park or open space in perpetuity.
 3. A minimum of 50 percent of all dwelling units within the development shall abut the dedicated common open space.

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4. Trail ways shall be located throughout the common open space and shall link the internal sidewalk/walking path system of the housing development with the open space areas. Such trail ways shall be a minimum of six feet in width and constructed of asphalt in upland areas and pressure treated wood plank decking (or similar durable material) in wetland areas. All materials and associated installation shall meet all applicable township engineering standards.
 5. A minimum of one access point to the common open space, being a minimum of 50 feet in width, shall be provided for each 12 households. These access points shall link the common open space to the trail ways and sidewalks, and the remainder of the development.
 6. All dwelling units shall have side, rear, or alley entry garages, or other configurations not opening directly to the street; except that the planning commission may approve dwelling units with garages that face the road if such garage is set back a minimum of five feet from the front plane of the living quarters of the dwelling.
 7. The development shall include a minimum of a 210-foot roadway setback-buffer measured from the road centerline along any regional, major, or secondary road with a right-of-way of 120-feet or less.
 8. A minimum buffer width of 30 feet shall be provided between any subdivision or condominium lot and streams, lakes, ponds or wetlands and similar man-made features such as detention/retention basins.
 9. Non-agricultural upland open fields shall be planted with native prairie grass or similar types of ground cover. In addition, ten deciduous trees shall be planted for each one acre of open field. No more than 50 percent of such trees shall be conifer trees. Deciduous trees shall be a minimum size of two-inch caliper, and conifer trees shall be a minimum of six feet in height. Such trees shall be planted and maintained within the open field area and be native to Michigan.
- F. Utilities. All utilities shall be placed underground when feasible. The applicant shall provide adequate sanitary sewage treatment, water supply and storm water drainage systems to serve the development. Evidence shall be submitted indicating that all such systems have received preliminary approval from appropriate county or state authorities. The township shall have sole authority for final approval of any utility system. In the absence of a township utility system, all utilities to serve the site shall be constructed and maintained by the applicant and any successors. A maintenance agreement, approved by the township, shall be required.
- G. Roads. Roadways shall conform to the Charter Township of Harrison and Road Commission of Macomb County standards.
- H. Street trees. The entrance and roadways shall be landscaped and planted with street trees, to create an attractive vista. Such trees shall be planted no more than thirty (30') foot on center and shall be located outside of the road right-of-way and utility easements. The trees shall meet the size and species requirements of this Ordinance.
- I. Pedestrian circulation. Sufficient right-of-way width shall be provided so that sidewalks may be installed on both sides of all streets. A five-foot wide concrete sidewalk shall be located one foot from the property line (within the street right-of-way). This requirement may be waived by the planning commission when an acceptable and more imaginative solution to pedestrian circulation is proposed by the applicant.
- J. Setbacks. The following building setbacks shall be required:
1. All structures shall meet the setback requirements for the zoning district in which they are located. Side yard setbacks may be reduced to five feet on each side. In no case shall a building or structure be located closer than ten feet from another building or structure.
 2. Rear yard setbacks may be reduced to 20 feet for lots with rear yards which abut common open space or alleys. All other lots shall meet the rear yard setback of the zoning district for the site.

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3. No lot, property line or building site shall be located within an exterior roadway setback-buffer.
- K. Fencing. The use of perimeter fencing around building sites is prohibited except as permitted herein. Rear yards and side yards may be enclosed with picket-type, wrought iron, or other similar decorative fencing. Such fences shall not exceed 48 inches in height. In no case shall view obscuring fences, privacy fences, chain-link fences or other similar wire fences be permitted on a site. Fences are prohibited in the front yard or street-side (front) yard. Fence restrictions shall be included in the master deed or deed restrictions, as applicable.
- L. Dedication of common open space and/or development rights. The dedicated common open space shall be set aside in an irrevocable conveyance that is acceptable to the township attorney and approved by the township board, such as the following:
1. A conservation easement as established by the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L. 399.251).
 2. Master deed as established by the State of Michigan Condominium Act, Act 59 Public Act of 1978, as amended.

The above conveyance shall indicate all proposed uses of the dedicated common open space, which shall also be shown on the approved open space community. The township attorney shall review the conveyance and assure the township that such lands shall remain as common open space for perpetuity. The conveyance shall also detail a maintenance schedule and funding for operation, maintenance and insurance for all common areas, facilities, projects and programs of the open space community, and shall include methods of payments and collection. The homeowner or condominium association shall be responsible for maintenance of all common open space areas. At the time the property is turned over to the association it shall be clean and free of debris.

Open space deeded to the township shall remain in use as open space/park land for perpetuity. The township attorney shall prepare an irrevocable conveyance to assure such.

- M. Unless otherwise provided for in this ordinance, all other applicable zoning ordinance provisions shall apply.

Section 11.11. Sidewalks and pathways.

- A. An eight-foot-wide asphalt pathway shall be required across the frontage of all properties abutting regional and major roadways, as defined in the township master plan. Pathways shall be constructed in the proposed right-of-way, one foot from the outermost edge. Developments abutting any other roadway classification shall be required to install a five-foot wide concrete sidewalk. The planning commission may waive or modify this requirement where it is determined that the required pathway or sidewalk would not serve a public purpose, based on existing conditions and pedestrian circulation needs at the site or in the vicinity.
- B. For any development, an on-site sidewalk shall be required as a means of connecting the principal building with the road frontage sidewalk. The planning commission shall determine if a proposed sidewalk system has provided an adequate connection between the site and the road frontage.

(Ord. No. 308.5, § 30, 4-26-2021)

Section 11.12. Storage, dumping and/or collection of waste, junk, refuse and other similar materials.

- A. No site shall be used for the storage, accumulation, dumping and/or collection of waste, junk, refuse and other similar materials, except upon approval by the planning commission in compliance with article XVII of this ordinance or as otherwise permitted under this ordinance in any district. The owner or occupant of all land, structures and/or every part thereof shall have the duty to maintain same in a clean and sanitary

condition, free from any accumulation of dirt, filth, rubbish, garbage and vermin, and the duty not to act or omit to act so as to create or permit the existence of a nuisance as defined in this ordinance. This duty shall extend to any area of land between the site line and adjoining streets and curbs.

1. The depositing of dirt, sand or earth materials that substantially change the finished grade may be permitted in any district in accordance with the following requirements:
 - a. Any finish grade to be established shall be approved by the township engineer.
 - b. The finish grade shall be graded not later than 60 days after depositing on the land, in a manner so as to prevent the collection of water and which will leave the ground surface in a condition suitable for other permitted uses within the district in which the site is located.

(Ord. No. 308.4, § 11, 8-13-2018)

Section 11.13. Temporary dwellings.

Any and all basement dwellings, garage dwellings and/or other temporary residential dwellings which have been erected and occupied are hereby declared to be unlawful for residence purposes and shall be vacated or altered so as to immediately comply with the provisions of this ordinance; provided, however, the zoning board of appeals may extend such period for not more than one year upon written application therefor by the occupant and proof of undue hardship.

Section 11.14. Temporary structures, tents and uses.

- A. Temporary structures and tents. The planning commission may permit, upon proper application, temporary structures or tents subject to the following:
 1. All tents, canopies and similar temporary accessory structures which will be erected for more than 21 days on an annual or seasonal basis shall require a special land use approval from the planning commission.
 2. A special land use approval by the planning commission may be granted for a specified period not to exceed five years. The Planning Commission may require compliance reviews on an annual basis, or such other times after due notice for good cause shown. As part of a compliance review, the Planning Commission may revoke the special land use approval based on evidence that the structure or use is not properly maintained, has caused safety issues, or has become a nuisance either on or off the site with regard to circulation, light, noise and other nuisance issues.
 - a. After the expiration of the initial approval period established by the planning commission, the applicant shall be required to obtain a new special land use approval.
 - b. Any substantial amendment, as deemed substantial by the township, to an original special land use approval shall require a new special land use approval. A change which impacts the use of the site by patrons or an expansion of the proposed use shall be considered a substantial change.
 3. Exemptions. All seasonal temporary structures, including tents and canopies, and which are regulated by the township's seasonal sales and solicitors ordinance or special events ordinance are exempt from this section. Also exempt are tents and canopies erected on residential lots for a period not to exceed seven days. These exempt structures are not required to appear before the planning commission for a temporary structure permit.
 4. General provisions. The planning commission, in granting permits for temporary structures, tents or uses, shall do so under the following conditions:

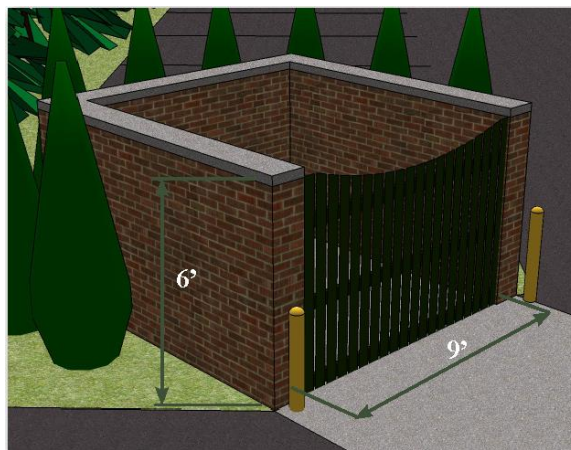
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- a. The proposed temporary structure or use shall conform to all regulations and township ordinances relative to structures permitted in the particular zoning district wherein the proposed temporary structure would be located.
 - b. The granting of a temporary structure permit shall be granted in writing, stipulating all conditions as to time for construction and removal and nature of the proposed structure.
 - c. No temporary structure permit shall be granted without the applicant having filed with the township building department a bond in an amount to be determined by the approving body, which amount shall be set forth in the written grant of the temporary structure permit, which amount shall be sufficient to secure removal of said structure upon the expiration of the permit.
 - d. Any temporary structure permit granted shall not be valid unless and until a building permit for the proposed structure is obtained by the applicant. Any erection or construction of the temporary building shall be started and proceed to completion in accordance with the terms of the building permit.
 - e. Any temporary structure must be located upon private property and not encroach upon lands not owned or leased by applicant.
 - f. If applicant is the lessee of the land upon which a temporary structure is desired, the applicant must provide a letter of understanding from the owner of the property providing the owner's concurrence for the temporary structure, and provide the owner's name address and phone number as well as a copy of the most recent rent or lease payment check signed by the applicant.
 - g. Any temporary structure utilizing electrical power of any nature must be inspected and approved by the fire chief prior to final occupancy of the temporary structure.
 - h. Applicant shall provide to the township a hold harmless agreement for the erection and maintenance of the temporary structure.
 - i. The erection, construction, completion, use and maintenances of any temporary structure shall, at all times, be in full compliance with all state statutes, public health regulations and township ordinances.
5. Emergency permits. The township supervisor with the concurrence of two township board members shall have the authority to issue an applicant an emergency temporary structure permit valid for a period of time not to exceed the number of days until the next available planning commission meeting in order for the applicant to appear before the planning commission for final temporary structure approval. Prior to the issuance of an emergency temporary structure permit, the supervisor shall require the building official, the fire chief, township planner and any other professional deemed necessary to inspect the property and application for approval in order to ensure that the proposed temporary structure conforms to all regulations and township ordinances relative to structures permitted in the particular zoning district wherein the proposed temporary structure(s) would be located.
 6. Temporary uses. The planning commission may also permit, upon proper application, temporary uses. Seasonal uses regulated by the township's seasonal use ordinance are exempt from this section. Such granting of a temporary use shall be regulated by the approval process under section 11.14(A). Any approvals shall be subject to the following conditions:
 - a. The granting of the temporary use shall be in writing, stipulating all conditions as to time, nature of development permitted and arrangements for removing the use at the termination of said temporary permit.
 - b. The granting of the temporary use shall in no way constitute a change in the basic uses permitted in the zoning district nor on the property wherein the temporary use is permitted.

- c. The use shall be in harmony with the general character of the zoning district.
 - d. All setback, land coverage, lighting, off-street parking and other requirements are to be considered in order to protect the public health, safety, peace and general welfare of the inhabitants of the township. All such requirements shall be established and made at the discretion of the planning commission.
 - e. No temporary use permit shall be granted without first giving notice to owners of the adjacent property of the time and place of a public hearing to be held on the application for a temporary use permit. All notices shall be in writing and shall be made by first class mail and by publication in a general newspaper at least 15 days prior to the hearing date.
7. The planning commission may revoke a permit or approval for any temporary structure, or temporary use for any violation of the terms of the permit or grant of such temporary structure or temporary use.

(Ord. No. 308.4, §§ 12—14, 8-13-2018)

Section 11.15. Trash receptacle standards.

- A. Trash receptacles are required for all uses other than single and two-family residential.
- B. Enclosure. All outdoor waste receptacles, including grease barrels, are required to be enclosed on three sides and screened. The fourth side shall consist of a gate made of steel framing with wood facing. If the waste receptacle houses a dumpster, it shall have an enclosing lid or cover.
- C. Materials. The enclosing screening around the three sides shall be constructed of brick or decorative color integrated block wall, consistent with the building materials of the main building. In addition, steel or concrete bollards shall be installed to assist in the positioning of dumpster and to protect the enclosure.
- D. Size. The waste receptacle base shall be at least nine feet by six feet in area, constructed on six inches of reinforced concrete pavement.
 - 1. The base of reinforced concrete pavement shall extend six feet beyond the front of the waste receptacle pad or gate to support the front axle of a refuse vehicle.
 - 2. The enclosure wall shall have a minimum height of six feet or one foot above the height of the waste receptacle, whichever is greater.
 - 3. The enclosure shall have at least three feet of space on each side of the waste receptacle.



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- E. Placement, All trash receptacles shall be placed at a minimum of 15 feet away from the main building for fire safety purposes.
 - 1. Front yard. Waste receptacles and enclosures shall not be placed in the front yard.
 - 2. Rear and side yards. Waste receptacles and enclosures shall be located in the rear or side yard but not closer than three feet from the rear or side lot line.
 - 3. Residential use adjacent. Waste receptacles and enclosures shall be placed a minimum of 20 feet from an adjacent residential use.
 - F. Access. Waste receptacles shall be easily accessed by refuse vehicles without the potential damage to automobiles parked in a close vicinity. They should be positioned in such a way to not interfere with the normal movement of vehicle traffic on the site.

Section 11.16. Uses with locational restrictions to avoid secondary effects.

- A. Purpose. In the development and execution of this ordinance, it is recognized that certain uses as a result of their nature have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances having a deleterious effect upon the use and enjoyment of adjacent areas. Special regulation of these uses is necessary to assure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. In connection with the adoption of this ordinance, council has received information, including information associating blight and increased crime with sexually-oriented businesses, including studies in the City of Detroit, Michigan, in the early 1970s, the City of St. Paul, Minnesota in 1978, the City of Phoenix, Arizona in 1979, the City of Minneapolis, Minnesota in 1980, the City of Austin, Texas in the early 1980s, the City of Indianapolis, Indiana in 1987, Oklahoma City, 1986, 1992, the City of Los Angeles, California in 1984, Adams County, Colorado in 1988, the report of the Minnesota Attorney General issued in 1989, Times Square, New York 1974, Dallas, Texas 1994, 1997, and Newport News, Virginia 1996. In connection with the adoption of this Ordinance, Council has received further information that certain types of skid-row businesses have through studies in the City of Detroit been found to have deleterious effect upon the use and enjoyment of adjacent areas, including information associating blight.
- B. Sexually-oriented business. It has been demonstrated that the establishment of sexually-oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods have a deleterious effect on both businesses and residential segments of the neighborhood, causing blight, downgrading property values, and in some instances crime increasing in the vicinity. The orderly planning, development and preservation of neighborhoods residential uses should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood.
 - 1. Sexually-oriented businesses defined herein shall only be permitted in the IND (industrial) zoning district, subject to the following requirements and conditions:
 - a. Such uses shall be permitted only in the IND (industrial) zoning district provided no portion of the property upon which such business is situated is within 800 feet of any of the following:
 - (1) A residentially-zoned district;
 - (2) Property upon which a residential use exists;
 - (3) A church;
 - (4) A school;
 - (5) Pool or billiard hall;
 - (6) Coin-operated amusement centers;

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- (7) Roller skating rinks or ice rinks;
 - (8) Night clubs or dance halls permitting the congregation of persons under 21; or
 - (9) Any public park.

The method of measurement shall utilize the two property edges closest to each other, measured with a direct line.

- b. This distance prohibition may be waived by the township board after recommendation from the Harrison Township Planning Commission upon presentation of a valid petition requesting waiver that is signed by 51 percent, or more, of each of the following categories:
 - (1) Persons owning property within 300 feet of the proposed location;
 - (2) Persons residing with or occupying any dwelling unit within 300 feet of the proposed location;
 - (3) Persons or entities operating any of the uses described in subsection a.(1)—(9) within 300 feet of the proposed location.
 - C. Pawnbroker. It has been demonstrated that the establishment of pawnbrokers in business districts which are immediately adjacent to and serve residential neighborhoods have a deleterious effect on both business and residential segments of the neighborhood causing blight. Such prohibition fails to avoid the deleterious effects of blight and devaluation to both business and residential property values resulting from the establishment of these businesses in a business district which is immediately adjacent to and serves residential neighborhoods. The orderly planning, development and preservation of neighborhoods should be encouraged and fostered by properties and persons which comprise the business and residential segments of each neighborhood.
 - 1. Pawnbrokers, as defined herein shall only be permitted in the IND (industrial) zoning district, subject to the following requirements and conditions:
 - a. Such use shall be permitted only in the IND (industrial) district provided no portion of the property upon which such business is situated is within 800 feet of any of the following:
 - (1) A residentially-zoned district;
 - (2) Property upon which a residential use exists;
 - (3) A church;
 - (4) A school;
 - (5) Pool or billiard hall;
 - (6) Coin-operated amusement centers;
 - (7) Roller skating rinks or ice rinks;
 - (8) Night clubs or dance halls permitting the congregation of persons under 21; or
 - (9) Any public park.
- The method of measurement shall utilize the two property edges closest to each other, measured with a direct line.
- b. This distance prohibition may be waived by the township board after recommendation from the Harrison Township Planning Commission upon presentation of a valid petition requesting waiver that is signed by 51 percent, or more, of each of the following categories:
 - (1) Persons owning property within 300 feet of the proposed location;

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- (2) Persons residing with or occupying any dwelling unit within 300 feet of the proposed location; and
 - (3) Persons or entities operating any of the uses described in subsection C.1.a.(1)—(9) within 300 feet of the proposed location.
- D. The provisions of this section shall not apply to hospitals, nursing homes, medical clinics or the offices of a medical professional who is licensed to practice massage therapy in the State of Michigan, or who is permitted to practice under the auspices of an associate or an establishment duly licensed in the State of Michigan, clergyman, certified member of the American Massage and Therapy Association or certified member of the International Myomassethics Federation.

Section 11.17. Utility approval.

Except as provided elsewhere in this ordinance, the erection, construction, alteration, maintenance, addition, reconstruction or replacement by public utilities of underground, surface or overhead distribution of gas, electricity, communications (except transmitting or receiving towers), steam or water transmission or distributing systems, collection, supply or disposal system, including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, and other similar equipment and accessories in connection therewith shall require township board approval pursuant to Article VII, Section 29, of the 1963 Michigan Constitution, after review and recommendation by the planning commission based on the special land use standards of this ordinance and other applicable ordinances of the township.

Section 11.18. Wind energy conversion systems (WECS).

A. *Definitions.*

1. *Wind energy conversion systems* (hereinafter referred to as *WECS*): Any device that converts wind energy to mechanical or electrical energy.
2. *Wind rotor*: The blades plus hub to which the blades are attached used to capture wind for purposes of energy conversion.
3. *Tower height*: The height of the actual tower, plus one-half the rotor diameter on horizontal axis installations, and on vertical axis installations, the distance from the base of the tower to the top of the unit.
4. *Survival wind speed*: The maximum wind speed a WECS in automatic, unattended operation (not necessarily producing power) can sustain without damage to structural components or loss of the ability to function normally.

B. *Applicable zones.* WECS may be permitted in any zoning district subject to special land use approval requirements with the following exception:

1. *Building mounted WECS.* One wind energy conversion system (WECS) shall be considered a permitted use and shall only require a permit from the Building Department, when the following requirements have been met:
 - a. The WECS is mounted to the roof of a structure, and;
 - b. The WECS shall be a vertical axis wind turbine. Horizontal axis WECS with a propeller blade shall be specifically prohibited on top of a structure, and;
 - c. The vertical axis wind turbine shall not exceed a height of more than 15 feet above the maximum permitted height in the zoning district in which it is located.

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- d. A building mounted WECS shall be setback from the property line a distance equal to one foot for every foot in height of the structure.
 - e. A roof mounted WECS shall be setback a minimum distance of 30 feet from the front façade of the structure.
- C. *Applicability of ordinance.* The standards that follow shall apply to systems intended for the provision of the electrical or mechanical power needs of the owner/operator of the system; also, such a system shall be for one main building and its accessory buildings only. For systems intended for uses other than the above, planning commission approval shall be required. Said approval shall cover the location of the system (shown on a survey of the property) on the site, the noise generated by the system, assurances as to the safety features of the system, and compliance with all applicable state and federal statutes and regulations. Planning commission approval shall specifically be required for arrays of more than one wind energy conversion system and for systems wherein one wind energy conversion system is intended to provide the electric power for more than one main building.
- D. *Standards for and regulation of WECS.*
1. *Construction:* Tower construction shall be in accordance with the latest edition of the Michigan Building Code, and any future amendments and/or revisions to it.
 2. *Electric-magnetic interference (EMI):* Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio frequency energy which would cause harmful interference with radio and/or television broadcasting or reception, and shall comply with the provisions of Title 47, Chapter 1, Part 15 of the Federal Code of Regulations and subsequent revisions governing said emissions.
 3. *Setbacks:* The structural design shall be signed and sealed by a professional engineer, registered in the State of Michigan, certifying that the structural design complies with all of the standards set forth for safety and stability in all applicable codes then in effect in the State of Michigan and all sections referred to herein above. The minimum setbacks for such towers from all abutting streets or adjacent property shall be a distance equal to one and one-half times the height of the tower, except that no tower shall be located within the front yard.
 - (a) The WECS shall be located a sufficient distance from any overhead utility lines, excluding service drops, such that a structural failure of any portion of the WECS or its supporting structure will not cause any portion of it to fall within five feet of utility lines.
 4. *Maximum height:* The maximum height permitted as a special land use shall be 150 feet, unless otherwise prohibited by any state or federal statutes or regulations.
 5. *Minimum blade height:* The minimum distance between the ground and any protruding blades utilized on a WECS shall be 15 feet, as measured at the lowest point of the arc of the blades.
 6. *Labeling requirements:* A minimum of one sign shall be posted near ground level on the tower structure warning of high voltage. In addition, the following information shall be posted on a label or labels on the generator or alternator of the WECS.
 - (a) The maximum power output of the system and the wind speed at which it is achieved.
 - (b) Nominal voltage and maximum current.
 - (c) Manufacturer's name and address, serial number and model number.
 - (d) Maximum survival wind speed and the emergency and normal shut down procedures.
 7. *Utility company notification:* The Detroit Edison Company shall be notified in writing of any proposed interface with that company's grid prior to installing such interface and shall conform with any

legislated requirements governing installations of WECS so as to comply with the utility tariff specifications.

8. *Safety:* The WECS' manufacturers shall document that the WECS model has been tested and certified by Underwriter's Laboratory, or other such applicable independent accrediting agency, and that when installed in accordance with recommended specifications shall have a maximum survival wind speed of not less than 80 miles per hour.
9. *Noise:* The maximum level of noise to be generated by a WECS shall be 50 decibels, as measured on the dBA scale, measured at each property line at any time.

E. *Submission requirements.*

1. For WECS that require building department review only, the following information shall be submitted with any application:
 - a. Name of property owner, address and parcel number.
 - b. A plot plan or mortgage survey showing the proposed location of the WECS.
 - c. Detailed specifications of the WECS proposed, including the type, model number, dimensions of tower and rotor, and noise generated from the unit.
 - d. Other relevant information as may be reasonably requested.
2. For all other WECS applications, site plan approval and special land use approval shall be required from the planning commission. In addition to providing the information outlined above, all applicable submission requirements of the zoning ordinance shall be included.

F. *Miscellaneous.*

1. The temporary use of an anemometer for three months or less shall be exempt from the requirements of this ordinance. Any proposed anemometer that occupies a site for greater than three months shall not be considered exempt and shall be subject to all requirements of this ordinance.
2. All electric line/utility wires shall be buried under ground except in agriculture zoning district.
3. No tower shall be permitted to maintain lighting of any kind.
4. Guy wires shall not be permitted as part of any proposed WECS.
5. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed 140 square feet in area nor 12 feet in height, and must be located at least the number of feet equal to the height of the tower from any property line. When a building is necessary for storage of cells or related mechanical equipment, the building may not exceed 140 square feet in area nor eight feet in height, and must be located at least the number of feet equal to the height of the tower from any property line.
6. The tower and generating unit shall be kept in good repair and sound condition. Upon abandonment of use, the tower and related structure shall be dismantled and removed from the property within 60 days.
7. Shadow flicker. The WECS shall be designed in such a manner as to minimize shadow flicker on a roadway and any existing structure. The planning commission may require the applicant to conduct an analysis of potential shadow flicker at occupied structures if it deems such an analysis necessary. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall identify problem areas where shadow flicker may affect the occupants of the structures and describe measures that shall be taken to eliminate or mitigate the problems.

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- a. If necessary to prevent shadow flicker from crossing occupied structures, the wind turbine generator may be programmed to stop rotating during times when the wind turbine generator shadow crosses these structures. The wind turbine generator operator may obtain written agreements which allow shadow flicker to cross an occupied structure.
 8. Any mechanical equipment associated with and necessary for operation, including a building for batteries and storage cells shall be enclosed with a six-foot fence. The supporting tower shall also be enclosed with a six-foot fence unless the base of the tower is not climbable for a distance of 12 feet.
 9. Decommissioning. An operator shall remove any and all parts associated with a WECS within six months once the device has become inoperable. The applicant shall submit a plan describing the intended disposition of the WECS at the end of its useful life, and, if the property is not owned by the applicant, shall describe any agreement with the landowner regarding equipment removal upon termination of the lease.

Section 11.19. Reserved.

Editor's note(s)—Ord. No. 402, § 2, adopted Aug. 23, 2021, repealed § 11.19, which pertained to medical marijuana uses and derived from Ord. No. 308.3, § 1, adopted April 9, 2018.

Section 11.20. Solar energy systems.

The purpose and intent of these regulations is to allow and promote the use of renewable energy as an alternative energy source, and to provide location, installation, construction, and operation regulations for small scale solar energy systems as an accessory use subject to reasonable conditions that will protect the public health, safety and welfare. Small scale solar energy systems, as defined in this ordinance, may be allowed as an accessory use in all districts, subject to the following provisions. Large-scale solar energy systems, as defined in this ordinance, are prohibited.

A. *In general.*

1. Building integrated, roof-mounted, or wall-mounted solar energy systems, as defined in this ordinance, shall require technical review and approval in accordance with section 3.03.B., subject to applicable building code requirements and the requirements of this section.
2. The following solar energy systems shall require special land use approval from the planning commission in accordance with article XVII:

- a. Ground mounted solar energy systems, as defined in this ordinance.
- b. Any small-scale solar energy system with a power output exceeding 150 kilowatts.

A site plan shall be submitted concurrently with the special conditional use application which includes the required information per section 3.04 and any other supporting statements, evidence, data, information and exhibits necessary to demonstrate compliance with the requirements of this section.

B. *Roof-mounted systems.*

1. Roof-mounted systems shall be designed to be in harmony with the architectural style of the building to which it is attached, and not obviously appearing as a separate mechanical structure that appends or appears to interrupt the uniform surface of a roof.
2. Roof-mounted systems on an angled roof shall appear to be flush mounted.

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3. The highest point of the roof-mounted system shall not exceed the highest point of the roof to which it is attached. For installations on a flat roof, the highest point of the system shall be permitted to extend up to six feet above the roof to which it is attached; however, it shall be so located or architecturally concealed by a parapet wall or screen so that the system is not visible from abutting rights-of-way or private road easements.
 4. For non-residential uses, no roof-mounted system shall be installed in a manner that would cause the shedding of ice or snow from the roof onto a stoop, porch, deck, stairwell, or pedestrian travel area.
- C. *Wall-mounted systems.*
1. Wall-mounted systems are permitted to face any rear or side yard.
 2. Wall-mounted systems shall be designed to be in harmony with the architectural style of the building to which it is attached and not obviously appearing as a separate mechanical structure that appends or appears to interrupt the design character of the wall to which it is attached.
- D. *Ground-mounted systems.*
1. Ground mounted systems may only be located on lots of at least 16,000 square feet in size.
 2. For residentially zoned parcels, ground mounted systems shall not exceed 1,000 square feet in area utilized for solar panels and electrical equipment. For all other zoning districts, ground mounted systems shall not exceed 5,000 square feet in area utilized for solar panels and electrical equipment.
 3. Ground-mounted systems cannot be constructed in any required setback area. Greenbelts, landscape screening and/or fencing shall be required to screen the ground-mounted system from adjoining properties and roadways.
 4. Ground-mounted systems shall be accessory to a principal use and located on the same lot as the principal use. Locating ground-mounted systems within a general common element or other similarly shared space held in common ownership is expressly prohibited.
 5. All exterior electrical lines shall be buried below the surface of the ground.
 6. Photovoltaic panels, devices and support structures shall be restricted to a maximum height of six feet when orientated at a maximum tilt as measured from the existing grade.
 7. The surface area beneath any solar panel or array of panels shall be continually maintained and the pervious surface condition of such land shall remain unbuilt.

(Ord. No. 308.5, § 34, 4-26-2021)

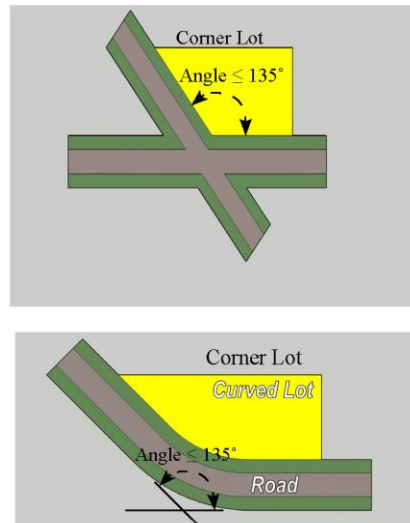
ARTICLE XII. YARDS, SETBACKS AND LOTS

Section 12.00. Lot.

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

Lot, corner: A lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. Such lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of

this ordinance if the arc is of less radius than 50 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight street line extended, form an interior angle of less than 135 degrees.



Lot coverage: The part or percent of the lot occupied by buildings or structures, including accessory buildings, structures, and other impervious surfaces.

Lot depth: The horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

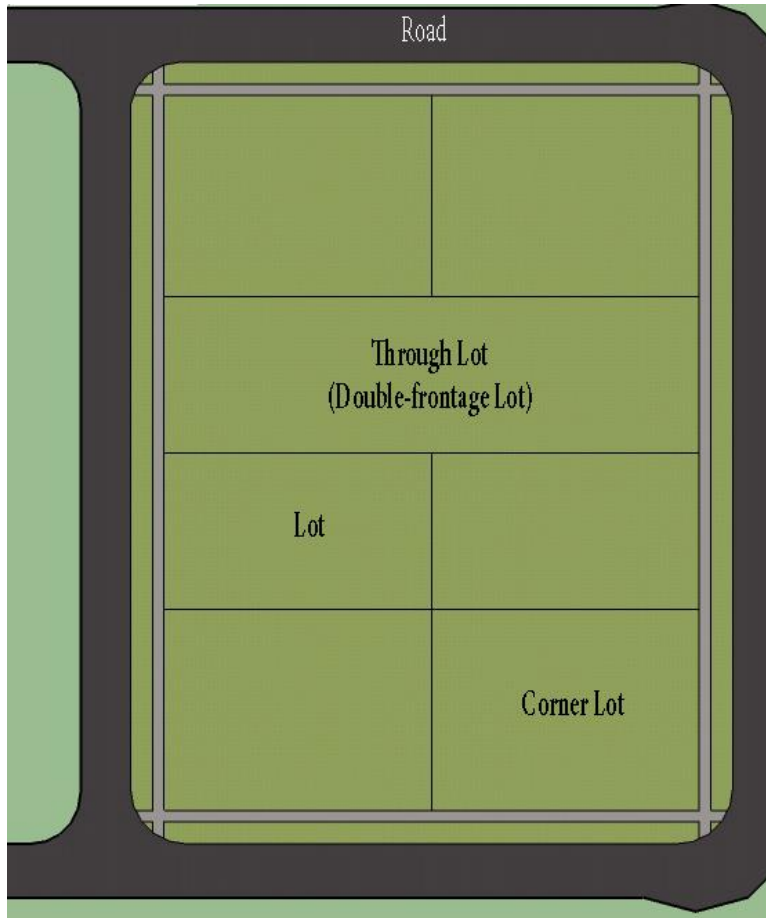
Lot lines: The lines bounding a lot as defined herein:

- **Front lot line.** In the case of an interior lot, is that line separating said lot from the street. In the case of a through lot, is the line separating said lot from either street.
- **Rear lot line.** That lot line opposite the front lot line.
- **Side lot line.** Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line.

Lot, through (double-frontage lot): A lot other than a corner lot with frontage on more than one street other than an alley.

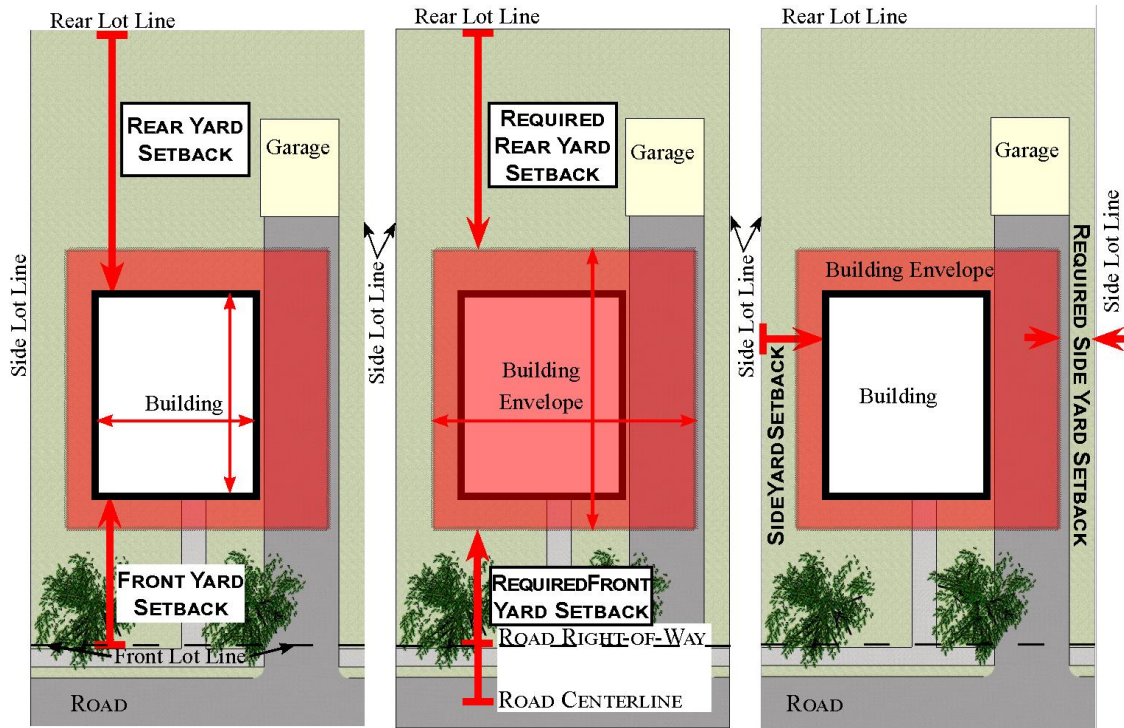
Lot width: The horizontal straight line distance between the side lot lines, measured between the two points where the front setback line intersects the side lot lines if the side property lines are not parallel, the width of the lot shall be the length of a line at right angles to the axis of the lot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

Lot type diagram:



(Ord. No. 308.5, § 4, 4-26-2021)

Section 12.01. Setback.



Building envelope (buildable area). The space remaining on a parcel of land after compliance with the minimum required setbacks and the minimum open space requirements of this ordinance.

Build-to line. The line at which construction of a building façade is to occur on a lot. A build to line runs parallel to, and is measured from, the front lot line and is established to create an even building facade line on the street. This established building line shall be maintained for a minimum of seventy-five percent of the building frontage.

Setback. The minimum horizontal distance between the subject lot line, centerline of the right-of-way, or centerline of the private street and the building, excluding only steps.

Section 12.02. Yard.



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

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

Section 12.03. Water.

- A. Residential Lots Abutting Water: Residential lots and/or parcels abutting water shall maintain a yard equal to the front yard setback on all areas of a lot abutting water. Such area shall be maintained as an open yard, and consistent with sections 5.02 and 6.01. This provision shall only apply to structures 48 inches in height or taller.

Section 12.04. Frontage.

Every dwelling or principal building shall be located on a parcel that has frontage, meeting the lot width requirement of this Ordinance, on an improved public or an existing private street, road or highway.

Section 12.05. Location of a structure in an easement.

- A. No structure, building or constructed improvement other than a fence, walk or parking lot, may be erected in a public easement.

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- B. No grading or regrading shall be conducted on a parcel of land within an easement without approval of the regulating authority.

Section 12.06. Yard use.

The portion of a site on the street side of any dwelling shall be used only for landscaping, driveways and parking spaces located within such driveways, and other accessory structures as provided in this Ordinance.

Section 12.07. Measuring setback requirements.

The measurement for determining front, rear and side setback requirements shall be made from the nearest point of the applicable site line to the nearest point of the exterior wall of the principal building or structure. In the case of water front lots, the setback shall be measured from the nearest point of the applicable ordinary high water mark or seawall (as applicable) to the nearest point of the exterior wall of the principal building or structure.

Section 12.08. Multiple road frontages.

The placement of all buildings on corner lots and lots having frontage on two or more streets shall observe the required front yard setback from all abutting streets.

Section 12.09. Projections into yards.

Architectural features, such as, but not limited to, window sills, cornices, eaves, bay windows (not including vertical projections), may extend or project into a required side yard not more than two inches for each one foot of width of such required side yard, and may extend or project into a required front or rear yard not more than three feet.

Section 12.10. Front yard setback modifications.

Where actual street rights-of-way are inconsistent with the proposed rights-of-way designated in the Master Plan, the effective setback from the center line of the right of way shall be equal to the average setback for existing buildings in the area, as determined by the Building Official (or Planning Commission for multiple-family residential and non-residential buildings, structures and uses), after consultation with the Township Planner and Engineer. In all cases, a petitioner may seek a setback determination from the Zoning Board of Appeals, if they are not satisfied with the determined setback.

(Ord. No. 308, § 4, 2-13-2017)

ARTICLE XIII. SWIMMING POOLS, SPAS AND HOT TUBS

Section 13.01. Swimming pools, spas, and hot tubs.

- A. Outdoor swimming pools, spas, and hot tubs with a depth exceeding 24 inches permanently or temporarily placed in, on or above the ground shall be permitted as an accessory structure in all zoning districts subject to the following:
1. Swimming pools, spas and hot tubs shall be prohibited in any front yard and/or front yard setback, or within any easement or right-of-way.

-
- 2. There shall be a minimum distance of not less than six feet between adjoining lot lines or alley right-of-way and outside wall of the swimming pool, spa or hot tub.
 - 3. There shall be a distance of not less than ten feet between the outside wall of a swimming pool and any principal building on the same lot. This requirement shall not apply to spas or hot tubs.
- B. A distance of at least five feet horizontally must be maintained from a permanent pool to any sanitary sewer line or lead; and from any underground water, electrical, telephone, gas or other public utilities, except for parts of the swimming pool system.
 - C. Construction, alteration or relocation of swimming pools, spas, and hot tubs shall be subject to the provisions herein for new pools.
 - D. Pools on waterfront lots:
 - 1. Above ground pools on a waterfront lot shall maintain the 30-foot open yard setback from the ordinary high water mark or sea wall (not to include boat well cut-ins), if applicable.
 - 2. Fences surrounding any pool shall meet the applicable requirements of section 6.01.
 - E. In no case shall a pool, spa or hot tub be considered impervious surface.
- (Ord. No. 308.4, § 15, 8-13-2018)

ARTICLE XIV. ZONING DISTRICTS

Section 14.01. Zoning map.

The Zoning Map of Harrison Township, which together with all explanatory matters thereon, is hereby adopted by reference and declared to be a part of this ordinance.

Regardless of the existence of purported copies of the zoning map which may from time-to-time be made or published, the zoning map, which shall be located in the office of the township clerk, shall be the final authority as to the current status of zoning in Harrison Township.

In the event that the zoning map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the township board may, by resolution, adopt a new zoning map. The new zoning map may correct drafting or other errors or omissions in the prior zoning map, but in no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof.

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

The V-1A zoning district as set forth in the V-1-A zoning district map is hereby incorporated as an amendment to the Charter Township of Harrison Official Zoning Map zoning adopted on [February 26, 2018].

(Ord. No. 308.2, § 1, 2-26-2018)

Section 14.02. Zoning districts.

For the purpose of this ordinance, Harrison Township is hereby divided into the following districts:

R1	Single family residential
R1-A	Single-family residential

R1-B	Single-family residential
R1-C	Single-family residential
R1-D	Single-family residential
MHC	Manufactured housing community residential
RM-1	Multiple-family residential
RM-2	Multiple-family residential
HMR	High and mid-rise residential
LC	Local commercial
GC	General commercial
V-1	Village district
V1-A	Village district: downtown waterfront
RW	Residential waterfront mixed use
WF	Waterfront district
IND	Industrial

(Ord. No. 308.2, § 8, 2-26-2018)

Section 14.03. District boundaries.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- A. Unless shown otherwise, the boundaries of the districts are lot lines; the centerlines of streets, alleys, roads or such lines extended; railroad right-of-way lines; and the Harrison Township limits. Dimensions shown are to the center of the adjacent road or street.
- B. Where, due to the scale, lack of detail or illegibility of the zoning map for this ordinance, there is any uncertainty or contradiction as to the location of any district boundaries shown thereon, interpretation concerning the exact location of district boundary lines shall be determined, upon written application or upon its own motion, by the zoning board of appeals. The zoning board of appeals, in arriving at a decision on these matters, shall apply the following standards:
 - 1. The district boundaries, as set forth in this section, shall first be considered with reference to section 14.03.A. above.
 - 2. Where a district boundary divides a site, the location of any such boundary, unless the same is indicated by dimensions shown on the said map, shall be determined by the use of the map scale shown thereon.
 - 3. If, after the application of the foregoing standards, uncertainty, contradiction or dispute remains as to the exact location of a district boundary, the zoning board of appeals shall determine and fix the location of said boundary line as all of the facts and circumstances shall reasonably require.

Section 14.04. District regulations.

- A. No structure or land shall be used, occupied, erected, constructed, move or altered, except in conformity with the regulations specified for that zoning district. Unless a use is permitted in a particular zoning district, it shall be prohibited in that zoning district.
- B. Except as otherwise provided, regulations governing land and building use, minimum lot size, lot area per dwelling unit, building height, building placement, required yards and other pertinent factors are hereby established as stated in the detailed provisions for each of the zoning districts. In each zoning district, a

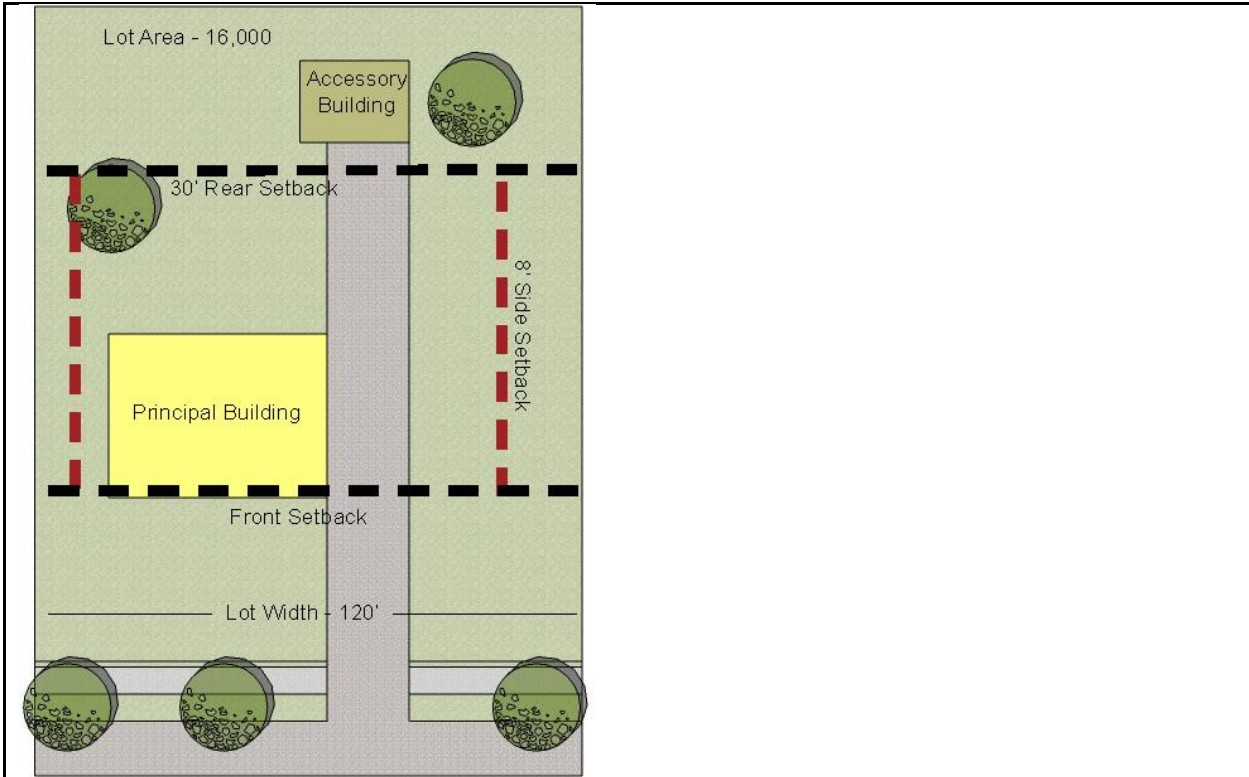
"permitted use" shall be a use of land or buildings subject to the minimum requirements specified for such use in the zoning district in which such use is located, plus applicable requirements found elsewhere in this ordinance. A special land use or planned unit development shall be use(s) of land or buildings which may be permitted in that district only after following special procedures designed to ensure site and use compatibility with existing or proposed surrounding land uses. In evaluating and deciding each application for such permission, the planning commission shall apply the standards contained in article XV of this ordinance and any special conditions imposed for that use.

Section 14.05. Zoning of vacated areas.

Whenever any street, alley or other public way within Harrison Township shall have been vacated by official government action, and when the lands within the boundaries thereof attach to and become a part of the land adjoining such street, alley or other public way, such lands formerly within such vacated street, alley or public way shall automatically and without further governmental action thenceforth acquire and be subject to the same zoning regulations as are applicable to the lands to which same shall attach, and the same shall be used for that same use as is permitted under this ordinance for such adjoining lands.

Section 14.06. R1 single family residential.

R1 Single Family Residential	
<i>Lot</i>	
Min. Lot Area	16,000 square feet
Min. Lot Width	120' (130' for corner lot)
Max. Lot Coverage	30%
Max. Impervious Surface	40%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (least side/total of two)	6'/14'
Min. Rear Setback	30'
Min. Living Area (sq. ft.)	1,200/1,200
1½ Story	940/1,340
Two Story	750/1,500
<i>Accessory Structure</i>	
Location	Side or rear yard
Front Setback	Not permitted in front yard
Min. Side Setback	4'
Min. Rear Setback	4'
<i>Structures</i>	
<i>Max. Number of Structures</i>	
Primary	1
Accessory	2 detached
<i>Max. Structure Heights</i>	
Primary	3 stories/30'
Accessory	16'
<i>Parking</i>	
Min. Spaces Required	2
Configuration	Shall be located in garage or on driveway



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:

Road Type	Min. Front Yard Setback
Regional (204' ROW)	137'
Major	90'
Collector	73'
Local	60'

- A. *Intent.* The single family districts are established to provide principally for single family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of single family dwellings and to prohibit the use of the land which would substantially interfere with the development of single family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.
- B. *Permitted uses.*

1	Single family dwelling
2	Accessory buildings and structures
3	Reserved
4	Family day care (1–6 children)
5	Home occupation-Type 1 (section 17.26A.)
6	Parks
7	Public schools
8	Township facilities

- C. *Special land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

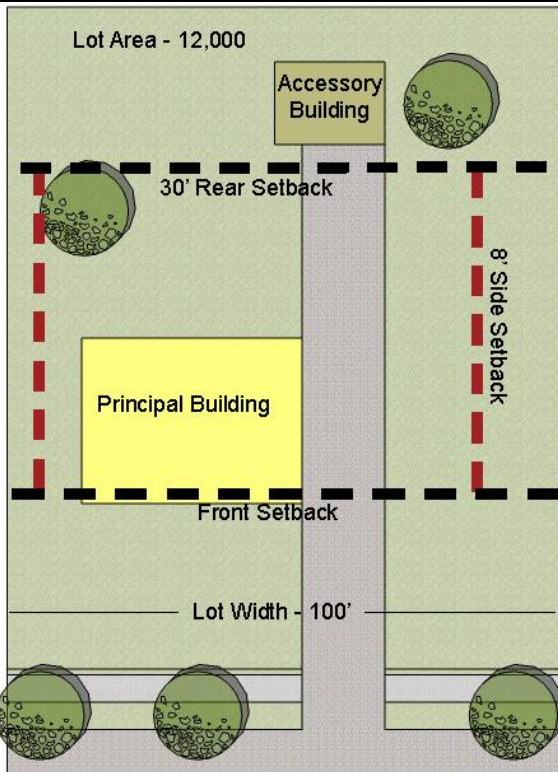
1	Cemeteries (section 17.14)
2	Funeral homes (section 17.21)
3	Golf course (section 17.24)
4	Group day care (7—12 adults or children) (section 17.25)
5	Home occupations - Type II (section 17.26B)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs and fraternal organizations (section 17.34)
9	Public utility buildings

(Ord. No. 308.3, §§ 2, 3, 4-9-2018; Ord. No. 308.4, §§ 16, 17, 8-13-2018; Ord. No. 308.5, § 11, 4-26-2021)

Section 14.07. R1-A single family residential.

R1-A Single Family Residential	
<i>Lot</i>	
Min. Lot Area	12,000 square feet
Min. Lot Width	100' (110' for corner lot)
Max. Lot Coverage	30%
Max. Impervious Surface	40%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (least side/total of two)	6'/14'
Min. Rear Setback	30'
Min. Living Area (sq. ft.)	1,200/1,200
1½ Story	940/1,340
Two Story	750/1,500
<i>Accessory Structure</i>	
Location	Side or rear yard
Front Setback	Not permitted in front yard
Min. Side Setback	4'
Min. Rear Setback	4'
<i>Structures</i>	
<i>Max. Number of Structures</i>	
Primary	1
Accessory	2 detached
<i>Max. Structure Heights</i>	
Primary	2.5 stories/30'
Accessory	16'
<i>Parking</i>	

Min. Spaces Required	2
Configuration	Shall be located in garage or on driveway



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Min. Front Yard Setback
Regional (204' ROW)	137'
Major	90'
Collector	73'
Local	60'

- A. *Intent.* The single family districts are established to provide principally for single family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of single family dwellings and to prohibit the use of the land which would substantially interfere with the development of single family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.
- B. *Permitted uses.*

1	Single family dwelling
2	Accessory buildings and structures
3	Reserved
4	Family day care (1—6 children)
5	Home occupation-Type 1 (section 17.26A.)

6	Parks
7	Public schools
8	Township facilities

C. *Special land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Cemeteries (section 17.14)
2	Funeral homes (section 17.21)
3	Golf course (section 17.24)
4	Group day care (7—12 adults or children) (section 17.25)
5	Home occupations - Type II (section 17.26B)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs and fraternal organizations (section 17.34)
9	Public utility buildings

(Ord. No. 308.3, §§ 4, 5, 4-9-2018; Ord. No. 308.4, §§ 18, 19, 8-13-2018; Ord. No. 308.5, § 12, 4-26-2021)

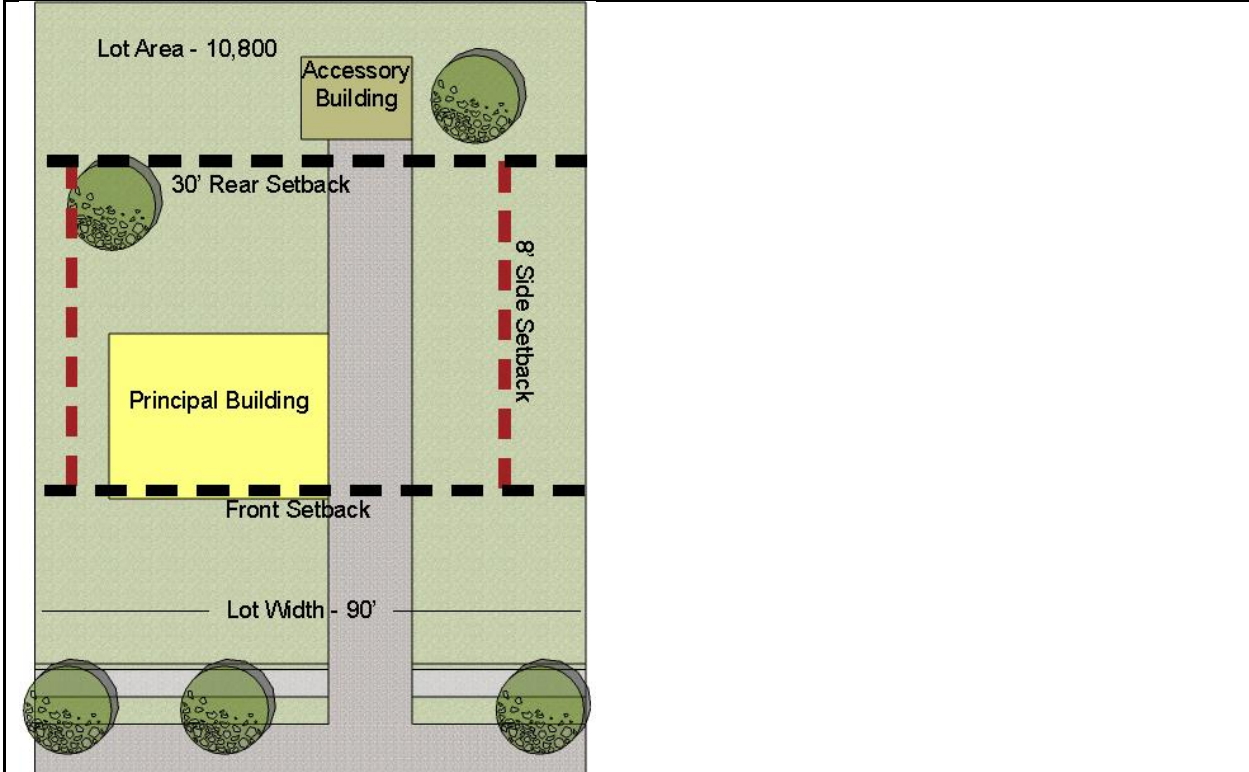
Section 14.08. R1-B single family residential.

R1-B Single Family Residential	
<i>Lot</i>	
Min. Lot Area	10,800 square feet
Min. Lot Width	90' (100' for corner lot)
Max. Lot Coverage	30%
Max. Impervious Surface	40%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (least side/total of two)	6'/14'
Min. Rear Setback	30'
Min. Living Area (sq. ft.)	1,200/1,200
1½ Story	940/1,340
Two Story	750/1,500
<i>Accessory Structure</i>	
Location	Side or rear yard
Front Setback	Not permitted in front yard
Min. Side Setback	4'
Min. Rear Setback	4'
<i>Structures</i>	
<i>Max. Number of Structures</i>	
Primary	1
Accessory	2
<i>Max. Structure Heights</i>	

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Primary	2.5 stories/30 feet
Accessory	16'
Parking	
Min. Spaces Required	2
Configuration	Shall be located in garage or on driveway



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Min. Front Yard Setback
Regional (204' ROW)	137'
Major	90'
Collector	73'
Local	60'

- A. *Intent.* The single family districts are established to provide principally for single family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of single family dwellings and to prohibit the use of the land which would substantially interfere with the development of single family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.
- B. *Permitted use.*

1	Single family dwelling
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2	Accessory buildings and structures
3	Family day care (1–6 children)
4	Home occupation-Type 1 (section 17.26A.)
5	Parks
6	Public schools
7	Township facilities

C. *Special land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

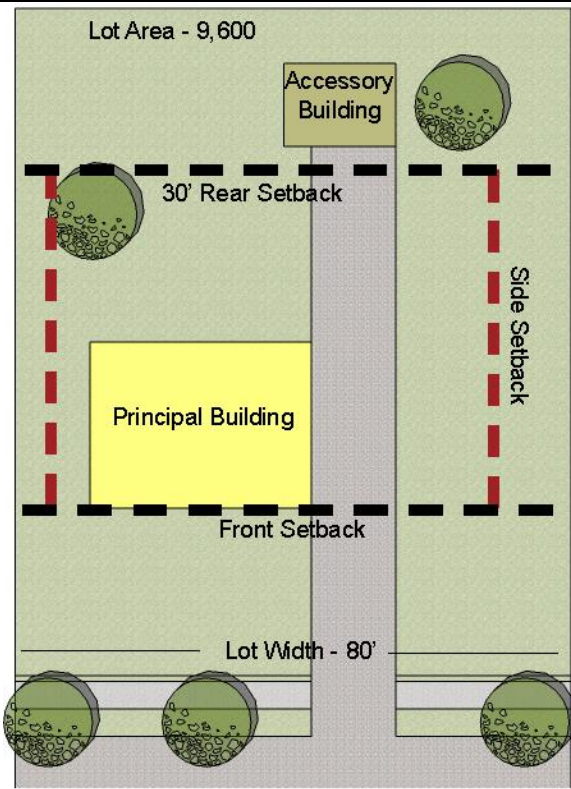
1	Cemeteries (section 17.14)
2	Funeral homes (section 17.21)
3	Golf course (section 17.24)
4	Group day care (7–12 adults or children) (section 17.25)
5	Home occupations - Type II (section 17.26B)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs and fraternal organizations (section 17.34)
9	Public utility buildings

(Ord. No. 308.3, §§ 6, 7, 4-9-2018; Ord. No. 308.4, §§ 20, 21, 8-13-2018; Ord. No. 308.5, § 13, 4-26-2021)

Section 14.09. R1-C single family residential.

R1-C Single Family Residential	
<i>Lot</i>	
Min. Lot Area	9,600 square feet
Min. Lot Width	80' (90' for corner lot)
Max. Lot Coverage	30%
Max. Impervious Surface	45%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (least side/total of two)	6'/14'
Min. Rear Setback	30'
Min. Living Area (sq. ft.)	1,200/1,200
1½ Story	900/1,350
Two Story	750/1,450
<i>Accessory Structure</i>	
Location	Side or rear yard
Front Setback	Not permitted in front yard
Min. Side Setback	4'
Min. Rear Setback	4'
<i>Structures</i>	
<i>Max. Number of Structures</i>	

Primary	1
Accessory	2
Max. Structure Heights	
Primary	2.5 stories/30 feet
Accessory	16'
Parking	
Min. Spaces Required	2
Configuration	Shall be located in garage or on driveway



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
 However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Min. Front Yard Setback
Regional (204' ROW)	132'
Major	90'
Collector	73'
Local	60'

- A. *Intent.* The single family districts are established to provide principally for single family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of single family dwellings and to prohibit the use of the land which would substantially interfere with the development of single family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.

B. *Permitted use.*

1	Single family dwelling
2	Accessory buildings and structures
3	Family day care (1–6 children)
4	Home occupation - Type 1 (section 17.26A.)
5	Parks
6	Public schools
7	Township facilities

C. *Special land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

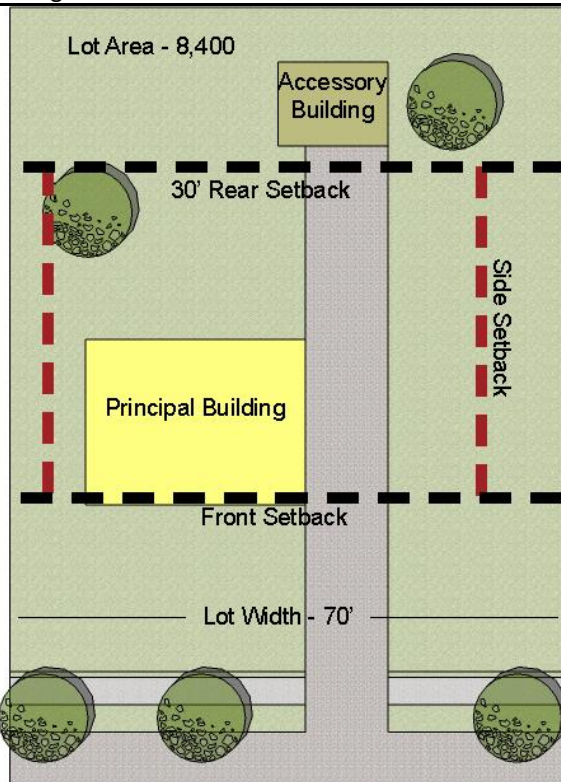
1	Cemeteries (section 17.14)
2	Funeral homes (section 17.21)
3	Golf course (section 17.24)
4	Group day care (7–12 adults or children) (section 17.25)
5	Home occupations - Type II (section 17.26B)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs and fraternal organizations (section 17.34)
9	Public utility buildings
10	Two-family dwellings (section 17.40)

(Ord. No. 308.3, §§ 8, 9, 4-9-2018; Ord. No. 308.4, §§ 22, 23, 8-13-2018; Ord. No. 308.5, § 14, 4-26-2021)

Section 14.10. R1-D single family residential.

R1-D Single Family Residential	
<i>Lot</i>	
Min. Lot Area	8,400 square feet
Min. Lot Width	70' (80' for corner lot)
Max. Lot Coverage	35%
Max. Impervious Surface*	50%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (least side/total of two)	6'/14'
Min. Rear Setback	30'
Min. Living Area (sq. ft.)	1,000/1,000
1½ Story	875/1,250
Two Story	750/1,400
<i>Accessory Structure</i>	
Location	Side or rear yard
Front Setback	Not permitted in front yard
Min. Side Setback	4'

Min. Rear Setback	4'
Structures	
<i>Max. Number of Structures</i>	
Primary	1
Accessory	2
<i>Max. Structure Heights</i>	
Primary	2.5 stories/35 feet
Accessory	16'
Parking	
Min. Spaces Required	2
Configuration	Shall be located in garage or on driveway



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
 However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Min. Front Yard Setback
Regional (204' ROW)	132'
Major	90'
Collector	73'
Local	60'

* The impervious surface ratio for nonconforming lots may be increased one percent for each one percent of reduced lot size. For example: A 7,500 square foot lot would require an impervious surface area of 8,400 (required lot size) - 7,500 s.f. = 900 square feet. 900 divided by 8,400 = 10.7% rounded = 11%. The impervious surface ratio required is 50% + 11% = 61%.

In no case shall the impervious surface ratio exceed 75 percent. Swimming pools shall not be considered impervious surface.

- A. *Intent.* The single family districts are established to provide principally for single family dwellings at varying densities. The specific interest of these districts is to encourage the construction and continued use of single family dwellings and to prohibit the use of the land which would substantially interfere with the development of single family dwellings and to discourage any land use which, because of its character and size, would create requirements and costs for public services substantially in excess of those at the specified densities and to discourage any land use which would generate excessive traffic on local streets.

B. *Permitted use.*

1	Single family dwelling
2	Accessory buildings and structures
3	Family day care (1–6 children)
4	Home occupation - Type 1 (section 17.26A.)
5	Parks
6	Public schools
7	Township facilities

- C. *Special land uses.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

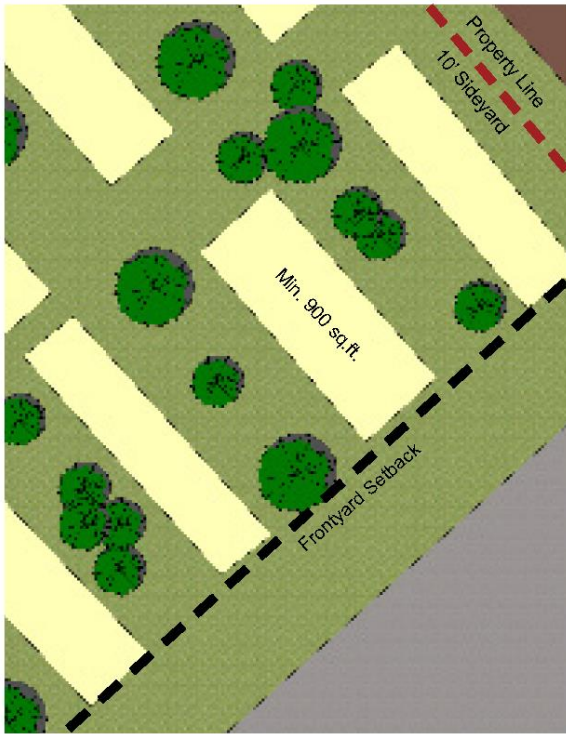
1	Cemeteries (section 17.14)
2	Funeral homes (section 17.21)
3	Golf course (section 17.24)
4	Group day care (7–12 adults or children) (section 17.25)
5	Home occupations - Type II (section 17.26B)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs and fraternal organizations (section 17.34)
9	Public utility buildings
10	Two-family dwellings (section 17.40)

(Ord. No. 308.3, §§ 10, 11, 4-9-2018; Ord. No. 308.4, §§ 24, 25, 8-13-2018; Ord. No. 308.5, § 15, 4-26-2021)

Section 14.11. MHC manufactured housing community.

MHC Manufactured Housing Community	
<i>Lot</i>	
Min. Lot Area	10,000 sq. ft.
Min. Lot Width	80'
Max. Lot Coverage	40%
Max. Impervious Surface	50%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback (each side)	10'
Min. Rear Setback	35'

Min. Living Area (sq. ft.)	900 sq. ft.
<i>Accessory Structure</i>	
Planning commission approval required for a community accessory structure in a manufactured housing community development.	
<i>Other Requirements</i>	
Fire hydrants of a size and a pressure to be used by the Harrison Township Fire Department shall be placed within a manufactured housing community so that no portion of the manufactured home shall be less than 300 feet from a fire hydrant measured along the roadway or parking area.	
<i>Max. Structure Heights</i>	
Primary	2 stories/30'
<i>Parking</i>	
Min. Spaces Required	2, plus 1 for every 3 manufactured housing sites for visitor parking



Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
 However, in no case shall any building be located closer than 30 feet from the front property line.

<i>Road Type</i>	<i>Min. Front Yard Setback</i>
Regional (204' ROW)	132'
Major	90'
Collector	73'
Local	60'

A. *Intent.* The manufactured housing community district is a residential district. The rules are those set forth by the manufactured housing commission, except for the regulations herein designed to provide adequate space and land use separation in harmony with the township's other zoning districts.

B. *Permitted use.*

1	Manufactured housing communities
2	All principal uses permitted and as regulated in the R1-D single family residential district
3	Accessory buildings and structures
4	Family day care (1–6 children)
5	Home occupation - Type 1 (section 17.26A)
6	Township facilities
7	Parks

C. *Special land use approval.*

1	Special land uses of the R1-D zoning district
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(Ord. No. 308, § 5, 2-13-2017; Ord. No. 308.3, § 12, 4-9-2018; Ord. No. 308.4, § 26, 8-13-2018; Ord. No. 308.5, § 16, 4-26-2021)

Section 14.12. RM-1 multiple family residential.

RM-1 Multiple Family Residential	
<i>Lot</i>	
Min. Lot Area	10,000 square feet
Min. Lot Width	120' frontage
<i>Building</i>	
<i>Perimeter Setbacks from Adjacent Property Lines</i>	
Min. Front Setback	See table below*
Min. Side Setback	40'
Min. Rear Setback	50'
<i>Min. Living Area</i>	
Efficiency Unit	500 square feet
1-Bedroom Unit	600 square feet
2-Bedroom Unit	750 square feet
3 or More Bedroom Unit	850 sq. ft. plus 200 for every additional bedroom beyond 3
<i>Building Length</i>	
No multiple family building shall exceed 150' in length	
<i>Max. Structure Height</i>	
Primary	3 stories/32 feet
<i>Density (Minimum gross site area in square feet, per dwelling unit for each dwelling unit)</i>	
<i>Number of Bedrooms</i>	<i>Site Area per Unit</i>
1-Bedroom	5,800
2-Bedroom	6,200
3-Bedroom	6,600

Units with more than 3 bedrooms shall provide an additional 1,000 square feet of site area for each additional bedroom.

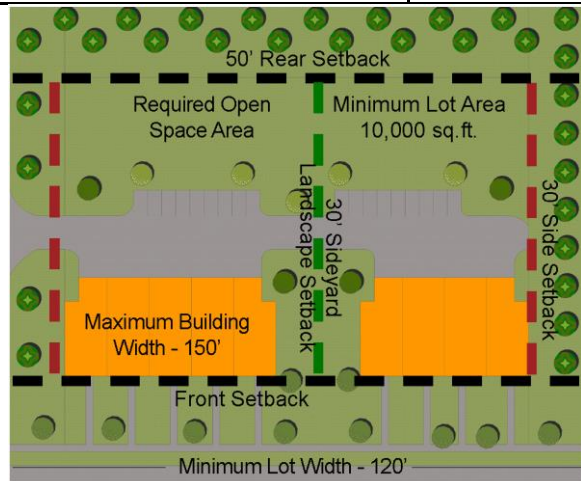
Multiple family development plans which include a den, library or other similar type room shall be counted as a bedroom.

Each development shall be limited to 10% efficiency units.

Min. Required Open Space per Unit

Well defined and improved recreation areas and facilities shall be provided. The minimum number of square feet of recreation area shall be provided in addition to all required setbacks and spacing between buildings. Open space shall be provided on a per unit basis according to the following table:

<i>Bedrooms</i>	<i>Open Space Requirement</i>
1 bedroom	400
2 bedrooms	500
3 bedrooms	750
4 bedrooms	1,000



Min. Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 40 feet from the front property line.

<i>Road Type</i>	<i>Front Yard Setback</i>	
	<i>Building</i>	<i>Parking</i>
Regional (204' ROW)	142'	122'
Major	110'	90'
Collector	83'	63'
Local	70'	55'

Min. Landscape Setbacks must be provided adjacent to, and surrounding each building on the following basis:

<i>Side of Building</i>	
Front	30-foot landscaped area
Sides	30-foot landscaped area
Rear	50-foot landscaped area

Landscaped setbacks for one building shall not be utilized to satisfy the landscape setback requirement of another building. Such landscape setback shall be exclusive to the building it surrounds.

Buildings which include attached garages may utilize a portion of the required landscape setback to permit a parking apron and paved access to a garage. However, pavement shall not surround more than 40 percent of the overall perimeter of the building.

<i>Parking</i>	
Min. Spaces Required	See section 9.03

- A. *Intent.* The RM-1 district is intended to provide for the development of multiple-family dwelling units, including apartments, townhomes, and attached condominiums. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods.
- B. *Permitted use.*

1	Single family dwelling as regulated by the R1-D zoning district
2	Two-family dwelling
3	Multiple family dwelling
4	Home occupations - Type I (section 17.26A)
5	Township facilities
6	Parks
7	Accessory buildings and structures
8	Boat basins and boat slips accessory to a multiple family development with the number of slips not to exceed the number of units within the development

- C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Bed and breakfasts (section 17.07)
2	Convalescent, nursing homes, and hospices (section 17.18)
3	Group day care (7-12 children or adults) (section 17.25)
4	Home occupations - Type II (section 17.26B)
5	Housing for the elderly and senior citizen housing (section 17.27)
6	Places of worship (section 17.34)
7	Planned unit development (section 17.33)

(Ord. No. 308.3, §§ 13, 14, 4-9-2018; Ord. No. 308.4, §§ 27, 28, 8-13-2018; Ord. No. 308.5, §§ 2, 17, 4-26-2021)

Section 14.13. RM-2 multiple family residential.

RM-2 Multiple Family Residential	
<i>Lot</i>	
Min. Lot Area	10,000 square feet
Min. Lot Width	120' frontage
<i>Building</i>	
<i>Perimeter Setbacks from Adjacent Property Lines</i>	
Min. Front Setback	See table below*
Min. Side Setback	30'
Min. Rear Setback	30'
<i>Min. Living Area</i>	<i>Minimum Square Footage</i>
Efficiency Unit	450 square feet
1-Bedroom Unit	550 square feet
2-Bedroom Unit	700 square feet

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3 or More Bedroom Unit	800 sq. ft. plus 200 for every additional bedroom beyond 3
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Building Length

No multiple family building shall exceed 150' in length

Max. Structure Height

Primary 3 stories/32 feet

Density (Minimum gross site area in square feet, per dwelling unit provided)

Number of Bedrooms	Site Area per Unit
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1-Bedroom	4,200
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2-Bedroom	4,600
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3-Bedroom	5,000
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Units with more than 3 bedrooms shall provide an additional 800 square feet of site area for each additional bedroom.

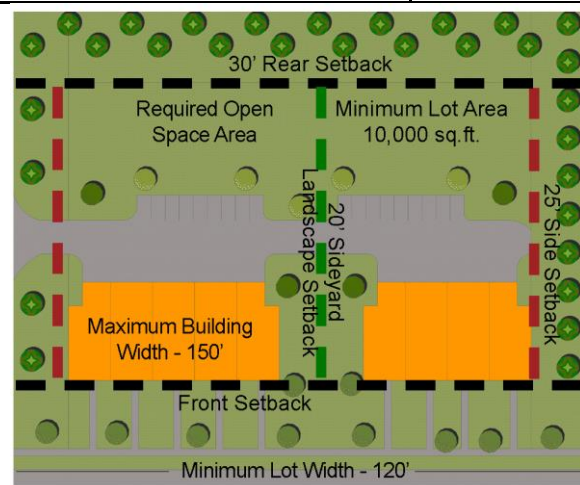
Multiple family development plans which include a den, library or other similar type room shall be counted as a bedroom.

Each development shall be limited to 10% efficiency units.

Min. Required Open Space per Unit

Well defined and improved recreation areas and facilities shall be provided. The minimum number of square feet of recreation area shall be provided in addition to all required setbacks and spacing between buildings. Open space shall be provided on a per unit basis according to the following table:

Bedrooms	Open Space Requirement
1 bedroom	300 square feet
2 bedrooms	400 square feet
3 bedrooms	600 square feet
4 bedrooms	800 square feet



Min. Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows: However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Front Yard Setback	
	Building	Parking
Regional (204' ROW)	122'	102'
Major	90'	70'
Collector	73'	53'

Local	60'	45'
<i>Min. Landscape Setbacks</i> must be provided adjacent to, and surrounding each building on the following basis:		
<i>Side of Building</i>		
Front	20-foot landscaped area	
Sides	20-foot landscaped area	
Rear	30-foot landscaped area	
Landscaped setbacks for one building shall not be utilized to satisfy the landscape setback requirement of another building. Such landscape setback shall be exclusive to the building it surrounds		
Buildings which include attached garages may utilize a portion of the required landscape setback to permit a parking apron and paved access to a garage. However, pavement shall not surround more than 40% of the overall perimeter of the building.		
<i>Parking</i>		
Min. Spaces Required	See section 9.03	

A. *Intent.* The RM-2 district is intended to provide for the development of multiple-family dwelling units, including apartments, townhomes, and attached condominiums. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods.

B. *Permitted use.*

1	Single family dwelling as regulated by the R1-D zoning district
2	Two-family dwelling
3	Multiple family dwelling
4	Home occupations - Type I (section 17.26A)
5	Township facilities
6	Parks
7	Accessory buildings and structures
8	Boat basins and boat slips accessory to a multiple family development with the number of slips not to exceed 110 percent of the number of units within the development

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Bed and breakfasts (section 17.07)
2	Convalescent, nursing homes, and hospices (section 17.18)
3	Group day care (7—12 children or adults) (section 17.25)
4	Home occupations - Type II (section 17.26B)
5	Housing for the elderly and senior citizen housing (section 17.27)
6	Places of worship (section 17.34)
7	Planned unit development (section 17.33)

(Ord. No. 308.3, §§ 15, 16, 4-9-2018; Ord. No. 308.4, §§ 29—31, 8-13-2018; Ord. No. 308.5, §§ 3, 18, 4-26-2021)

Section 14.14. HMR high and mid-rise residential district.

HMR High and Mid-Rise Residential
<i>Lot</i>

Min. Lot Area	43,560 square feet
Min. Lot Width	150' frontage

Building

Perimeter Setbacks from Adjacent Property Lines

Min. Front Setback	See table below*
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Min. Side and Rear Yard Setbacks shall be equal to the total height of the proposed building, but in no circumstance shall they be less than 50 feet.

Floor-to-Area Ratio

The structures on any lot shall have a total floor area not exceeding 50% of the lot area.

<i>Min. Living Area</i>	<i>Minimum Square Footage</i>
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Efficiency Unit	450 square feet
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1-Bedroom Unit	550 square feet
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2-Bedroom Unit	700 square feet
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3- or More Bedroom Unit	800 sq. ft. plus 200 for every additional bedroom beyond 3
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Each development shall be limited to 10% efficiency units.

Building Length

No multiple family building shall exceed 150' in length

Maximum Structure Height

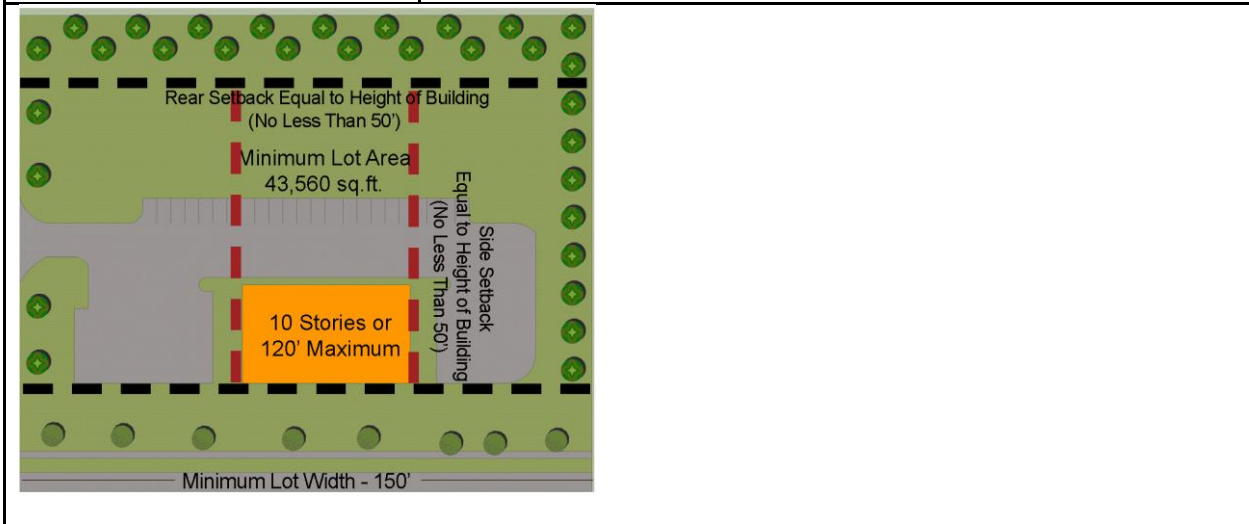
Primary	10 stories/120 feet
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Any proposed development where the structures do not exceed three stories in height shall be regulated by all terms of the RM-2 zoning district

Min. Required Open Space per Unit

Well defined and improved recreation areas and facilities shall be provided. The minimum number of square feet of recreation area shall be provided in addition to all required setbacks and spacing between buildings. Open space shall be provided on a per unit basis according to the following table:

<i>Bedrooms</i>	<i>Open Space Requirement</i>
1- and 2-Bedroom Units	250 square feet
3- and 4-Bedroom Units	500 square feet



Min. Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 40 feet from the front property line.

Road Type	Front Yard Setback	
	Building	Parking
Regional (204' ROW)	142'	122'
Major	110'	90'
Collector	83'	63'
Local	80'	65'
<i>Min. Landscape Setbacks</i> must be provided adjacent to, and surrounding each building on the following basis:		
<i>Side of Building</i>		
All Sides of Building	40-foot landscaped area	
Landscaped setbacks for one building shall not be utilized to satisfy the landscape setback requirement of another building. Such landscape setback shall be exclusive to the building it surrounds.		
Buildings which include attached garages may utilize a portion of the required landscape setback to permit a parking apron and paved access to a garage. However, pavement shall not surround more than 40% of the overall perimeter of the building.		
<i>Parking</i>		
Min. Spaces Required	See section 9.03	

A. *Intent.* The HMR District is intended to provide for the development of multiple-family dwelling units, including apartments, townhomes, and attached condominiums. The provisions that regulate this land use district should provide for the development of high density residential neighborhoods.

B. *Permitted use.*

1	Permitted uses of the RM-2 zoning district
2	Buildings 3 stories or less shall be regulated by the provisions of the RM-2 zoning district
3	High and mid-rise buildings shall be limited to residential use only
4	Boat basins and boat slips accessory to a multiple family development with the number of slips not to exceed 110 percent of the number of units within the development

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Special land uses of the RM-2 zoning district
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(Ord. No. 308.4, § 32, 8-13-2018; Ord. No. 308.5, § 19, 4-26-2021)

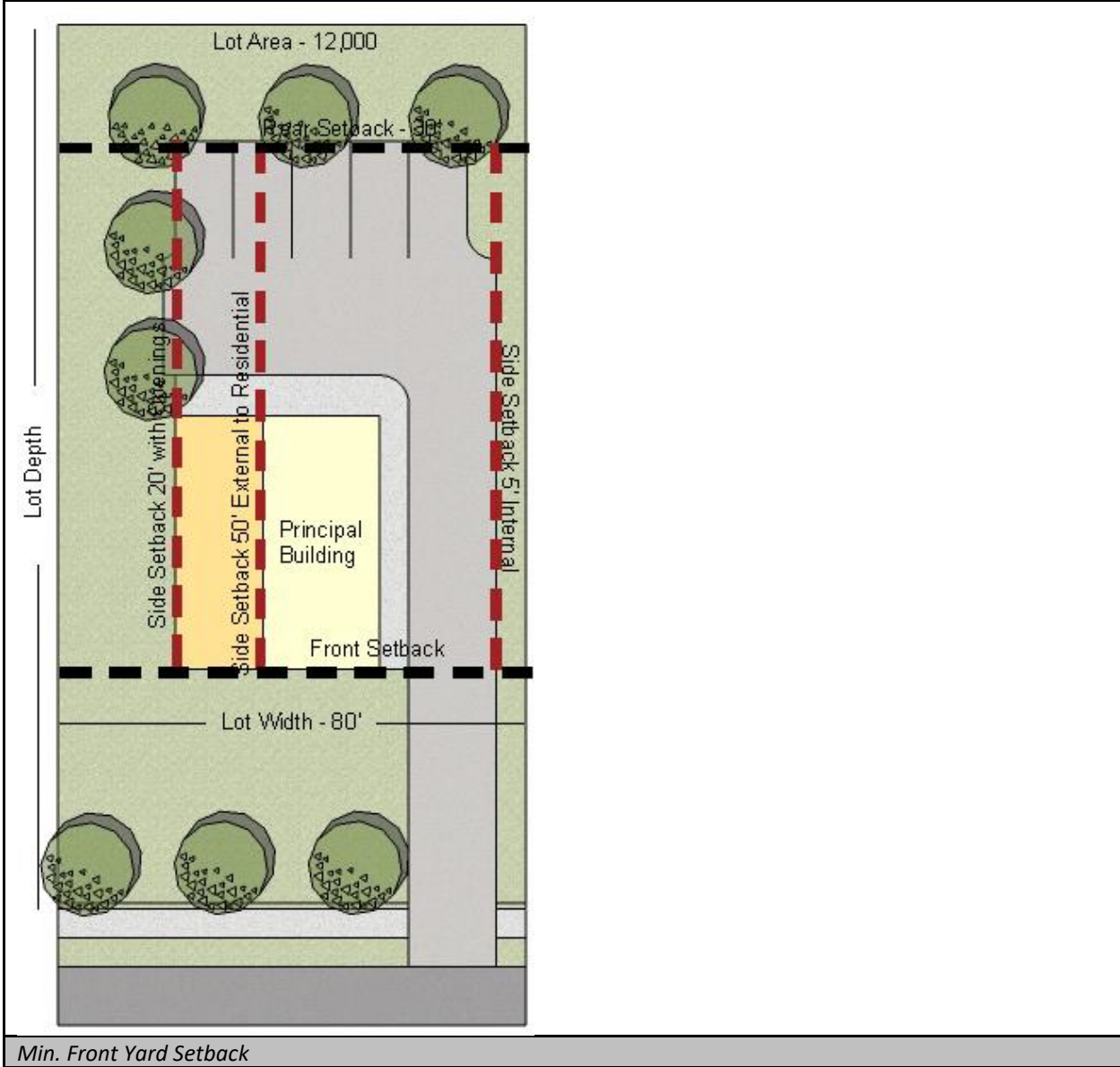
Section 14.15. LC local commercial.

LC Local Commercial	
<i>Lot</i>	
Min. Lot Area	12,000
Min. Lot Width	80 ft.
Max. Lot Coverage	30%
<i>Building</i>	
Min. Front Setback	See table below*
Min. Side Setback	5' interior side
	20' if openings

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	50' exterior side if abutting residential
Min. Rear Setback	30'
Structures	
<i>Max. Number of Structures</i>	
Principal	N/A
Accessory	N/A
<i>Max. Structure Height</i>	
Primary	1 story/20'
Parking	
Min. Spaces Required	See section 9.03
Configuration	See section 9.03



*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 50 feet from the front property line.

Road Type	Front Yard Setback	
	Building	Parking
Regional (204' ROW)	152'	112'
Major	110'	70'
Collector	93'	53'
Local	80'	40'

- A. *Intent.* The LC local commercial district is designated to meet the day-to-day convenience shopping and service needs of persons residing in adjacent residential areas. Protection of nearby residential districts is considered of importance; thus, businesses which tend to be a nuisance to immediately surrounding residential areas are excluded, even though the goods sold or services offered might fall within the convenience classification.

It is further the intent of this district to provide these goods and services in a physical setting that is compatible with surrounding residential neighborhoods and which are of a neighborhood size and character. Whenever possible, local business districts should be developed with consolidated site features to provide for a continuity of appearance and function and to minimize any negative impacts on nearby residential neighborhoods or the township's thoroughfare system.

- B. *Permitted use.*

1	Art gallery, dealer or supply shop
2	Banks (excluding drive-thru)
3	Carry out restaurants
4	Catering business
5	Dance hall or studio
6	Dry cleaners (drop off only)
7	Drug store/pharmacy
8	Eating and drinking establishments
9	Food and beverage stores
10	Hardware stores
11	Health and personal care stores
12	Home accessory and/or supply store
13	Home appliance and consumer electronic store
14	Museum
15	Personal care services (i.e. hair salons and tanning salons)
16	Places of worship
17	Professional and medical office uses
18	Public park
19	General retail sales (indoors only)
20	Township facilities
21	Accessory buildings and structures
22	Outdoor storage and display of merchandise shall be prohibited

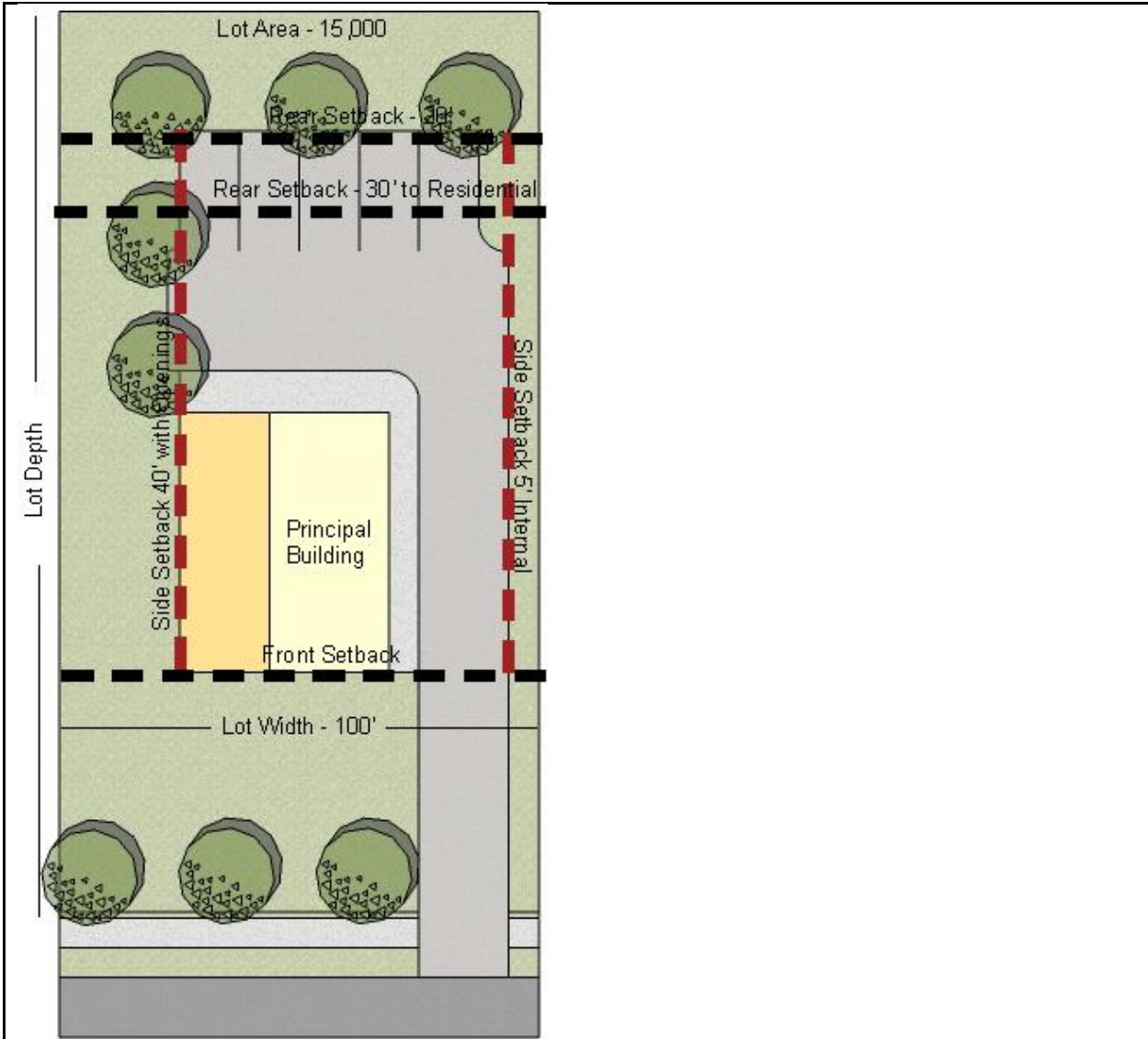
- C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Cemeteries (section 17.14)
2	Child care centers (section 17.15)
3	Colleges and universities (section 17.16)
4	Drive-thru facilities (section 17.19)
5	Funeral homes (section 17.21)
6	General hospitals (section 17.23)
7	Outdoor cafes (section 17.30)
8	Planned unit development (section 17.33)
9	Private clubs, fraternal organizations, etc. (section 17.34)
10	Private and trade schools (section 17.35)
11	Public utility buildings without storage
12	Veterinary offices with outdoor runs
13	Zero lot line development (section 17.43)

(Ord. No. 308.4, § 33, 8-13-2018; Ord. No. 308.5, § 20, 4-26-2021)

Section 14.16. GC general commercial.

<i>GC General Commercial</i>	
<i>Lot</i>	
Min. Lot Area	15,000
Min. Lot Width	100 ft.
Max. Lot Coverage	30%
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below
Min. Side Setback	5' interior side
	40' if openings
	40' exterior side to residential
Min. Rear Setback	20' interior rear
	30' exterior rear to residential
<i>Structures</i>	
<i>Min. Number of Structures</i>	
Primary	N/A
Accessory	N/A
<i>Max. Structure Heights</i>	
Principal	2 stories/30'
Accessory	2 stories/30'
<i>Parking</i>	
Min. Spaces Required	See section 9.03
Configuration	See section 9.05



Min. Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
 However, in no case shall any building be located closer than 50 feet from the front property line.

Road Type	Front Yard Setback	
	Building	Parking
Regional (204' ROW)	152'	112'
Major	110'	70'
Collector	93'	53'
Local	80'	40'

- A. *Intent.* The GC general commercial district is designed to provide for a wide diversity of business activities which are predominantly, but not necessarily, totally retail in character. In addition to retail uses, a number of other activities, usually requiring considerable land area and access to major thoroughfares, are

permitted. Uses in this district normally must have good automobile accessibility, but should not cause congestion on adjacent thoroughfares.

B. *Permitted use.*

1	Permitted uses in the LC zoning district
2	Auto parts sales
3	Building material supply and dealer except for lumber retail yards with all activities being indoor. The outdoor display, storage, or sale of goods shall be considered a special land use.
4	Catering/banquet hall
5	Commercial businesses of a retail nature
6	Colleges and universities
7	Eating and drinking establishments (excluding drive-thru facilities)
8	Electrical supply store
9	Funeral home
10	Garage door dealer
11	Home furniture, furnishings and equipment
12	Lawn and garden equipment and supply store
13	Nursery and garden center
14	Outdoor cafes
15	Physical fitness facilities
16	Places of worship
17	Precious metal/buy-sell
18	Private clubs, fraternal organizations, etc.
19	Private or trade school
20	Service and repair facilities not involving vehicles
21	Warehouse club facility

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

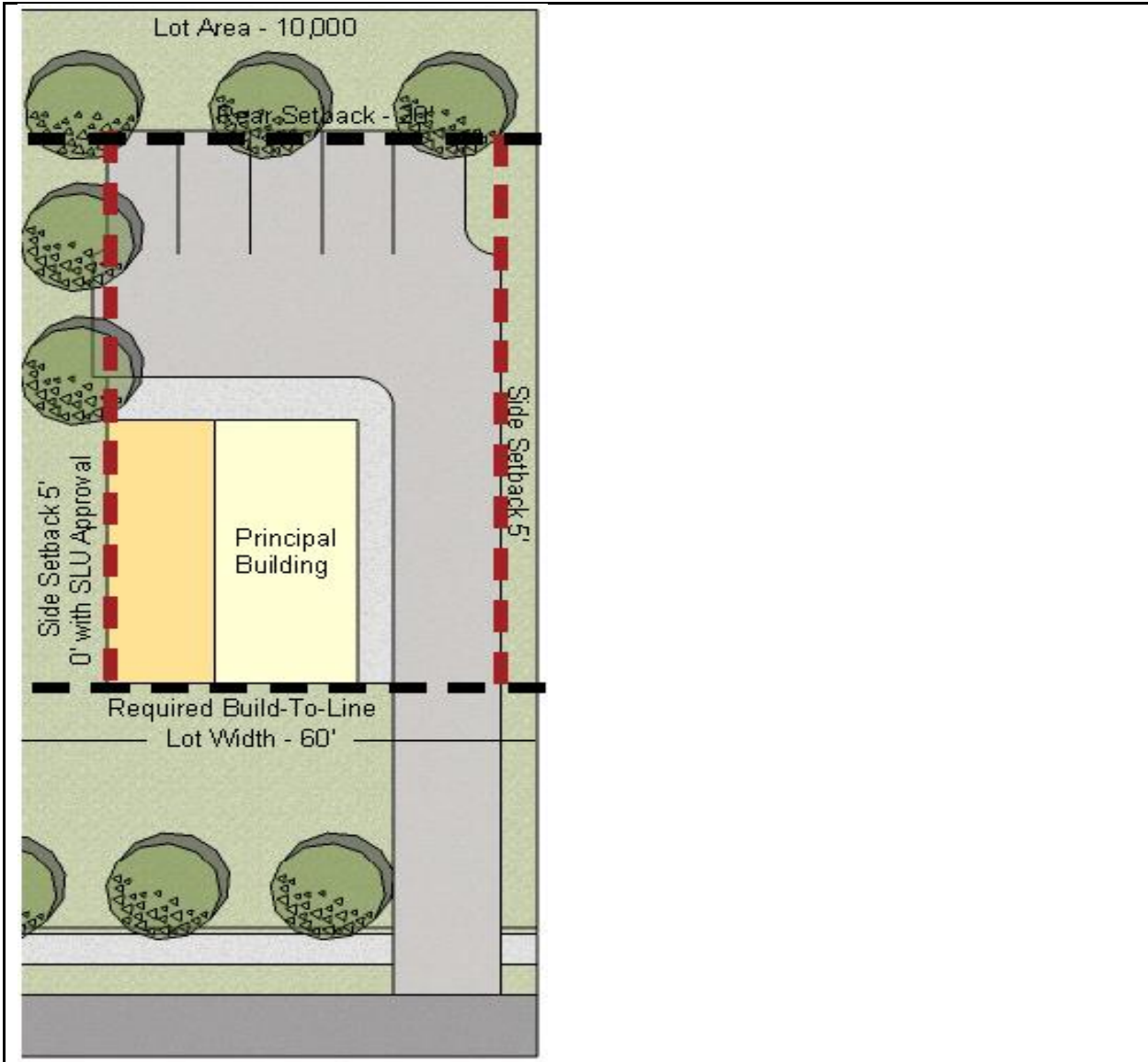
1	Auditoriums, sports facilities and outdoor theaters (section 17.03)
2	Automobile, motorcycle, and boat dealerships (section 17.06)
3	Automobile, boat, recreation vehicle service and repair center (section 17.05)
4	Bowling alleys (section 17.09)
5	Businesses of a drive-in nature (section 17.11)
6	Child care centers (section 17.15)
7	Commercial greenhouse or nursery (section 17.17)
8	Drive-thru facilities (section 17.19)
9	Flea markets
10	Full and self-service car washes (section 17.20)
11	Gasoline stations (section 17.22)
12	General hospitals (section 17.23)
13	Hotel and motels
14	Indoor commercial recreation
15	Kennels (section 17.36)
16	Lumber yard
17	Open air businesses

18	Planned unit development (section 17.33)
19	Pre-fabricated home sales
20	Public utility buildings without storage
21	Wireless communication towers (section 17.41)
22	Veterinary offices with outdoor runs
23	Zero lot line (section 17.43)

(Ord. No. 308.4, § 34, 8-13-2018; Ord. No. 308.5, § 21, 4-26-2021)

Section 14.17. V-1 village district.

V-1 Village District	
<i>Lot</i>	
Min. Lot Area	10,000
Min. Lot Width	60 ft.
<i>Building</i>	
<i>Primary Structure</i>	
Front Setback (Build-To-Line)	See table below*
Min. Side Setback	5' sideyard or zero lot line after special land use approval
Min. Rear Setback	20'
<i>Max. Structure Heights</i>	
Principal	See section 14.17.D.
<i>Parking</i>	
Min. Spaces Required	See section 9.03
Configuration	Not permitted in front yard—See section 9.04 for full list of requirements
<i>Landscaping</i>	
Screening	section 6.05
Parking Lot and Frontage	section 7.03
<i>Front Yard Setback</i>	
*Front and street-side setbacks shall be measured from the centerline of each road. The setbacks required are maximum permitted setbacks (build-to-line):	
<i>Road</i>	<i>Front Yard Setback</i>
	<i>Building</i>
Jefferson (south of MetroParkway), Shook and S. River Rd.	Build-to-line between 53' and 63'
Jefferson (north of MetroParkway) and Crocker Boulevard	Build-to-line between 65' and 75'
Local	Build-to-line 40'



- A. *Intent.* The major function of the village district is that of a specialty center. It is the intent of the village district to permit a mixture of mutually supporting convenience, specialty, and service commercial uses, as well as complementary office, entertainment and residential uses, which provide for the needs of township residents. The standards contained herein are designed to promote compact infill development which creates a continuous office and retail frontage, convenient and unobstructed pedestrian access and shopping experience, and compatible building appearance and architectural style and character. Uses permitted in this district should complement each other, not adversely impacting vehicular or pedestrian circulation or the overall character and function of the district. Parking must be an integral part of development and coordinated with the village district as a whole.

B. *Permitted use.*

1	Art gallery, dealer or supply shop
2	Banks (excluding drive-thru)

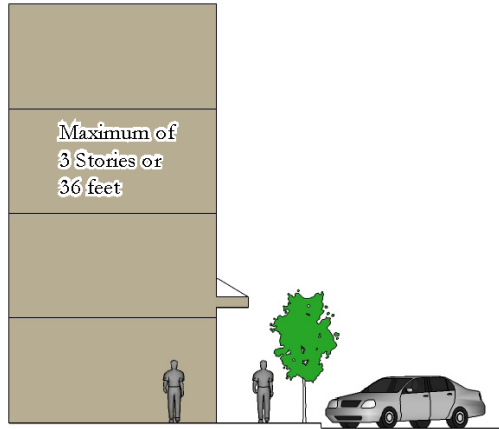
3	Carry out restaurants
4	Catering business
5	Dance hall or studio
6	Dry cleaners (drop off only)
7	Drug store/pharmacy
8	Eating and drinking establishments
9	Food and beverage stores
10	Hardware stores
11	Health and personal care stores
12	Home accessory and/or supply store
13	Home appliance and consumer electronic store
14	Museum
15	Personal care services (i.e., hair salons and tanning salons)
16	Places of worship
17	Physical fitness facilities
18	Professional and medical office uses
19	Precious metal buy/sell
20	Public park
21	General retail sales (indoors only)
22	Theaters (indoor)
23	Township facilities
24	Residential uses located on the second floor or higher of a building occupied on the first floor by a non-residential use
25	Accessory buildings and structures
26	Outdoor storage and display of merchandise shall be prohibited

- C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Child care centers (section 17.15)
2	Drive-thru facilities (section 17.19)
3	Hotels and motels
4	Multiple family development subject to the RM-2 requirements
5	Outdoor seating areas of cafes (section 17.30)
6	Planned unit development (section 17.33)
7	Private clubs, fraternal organizations, etc. (section 17.34)
8	Private or trade schools (section 17.35)
9	Zero lot line development (section 17.43)
10	Permitted and special land uses of the waterfront marina zoning district
11	Single family dwellings
12	Two family dwellings

- D. *Building.*

Maximum building height: The maximum building height permitted shall be three stories or 36 feet.



Minimum building height: The minimum building height of any building constructed along the required front yard build-to-line shall be 20 feet.

E. Materials.

Building Materials: Buildings within the V-1 village district shall be subject to the design and material requirements of article IV, as well as the following requirements. Wherever, a conflict exists, the requirements of this section shall prevail:

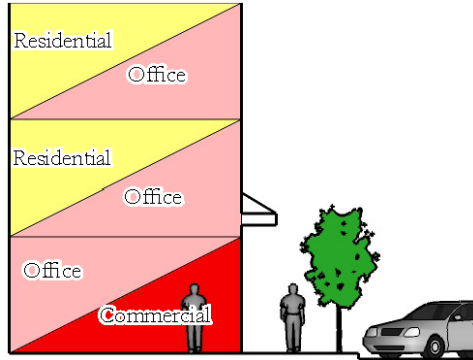
Commercial and office: Cement fiber board is the required primary facade treatment. 75% of each building elevation shall consist of this material. Secondary and accent treatments may be permitted in accordance with the table provided.

The use of EIFS or other similar materials shall be limited to architectural accents and shall not be utilized less than eight feet above grade.

Multiple family: Cement fiber board is the required primary facade treatment. A secondary treatment of up to 25 percent is permitted on each elevation.

Use	Cement Fiber Board	Brick/Stone	Wood	CMU	EIFS
Commercial/Office	75% Minimum	Permitted as Secondary Treatment	Permitted as Secondary Treatment	Permitted as Accent Not To Exceed 10%	Permitted as Accent Not To Exceed 10%
Multiple Family	75% Minimum	Permitted as Secondary Treatment	Permitted as Secondary Treatment	Permitted as Accent Not To Exceed 10%	Not Permitted

F. Building usage. The following uses types may be permitted on each floor:



1st Floor: Commercial/Office
 2nd Floor: Office/Residential
 3rd Floor: Office/Residential

G. Architecture.

1. **Architecture:** Buildings are encouraged to be designed with a nautical themed architecture. Any roof mounted fixtures shall be properly screened from view by the use of parapets.
 Long blank walls shall be avoided. Breaks in the facade shall be accomplished with "building steps", the use of windows and doors, and other architectural elements.
2. **Windows/transparency:** The length of walls/facades facing streets and internal streets or pedestrian areas shall consist of windows for a minimum of 50 percent of that facade area.
 The use of tinted or reflective glass within first floor windows is prohibited. First floor windows shall only be clear glass.



(Ord. No. 308.4, § 35, 8-13-2018; Ord. No. 308.5, §§ 22, 26, 4-26-2021)

Section 14.18. RW residential waterfront mixed-use district.

RW Residential Waterfront	
<i>Lot</i>	
Min. Lot Area	15,000 square feet
Min. Lot Width	100'

Building		
<i>Primary Structure</i>		
Min. Front Setback	See table below*	
Single family residential uses shall maintain setbacks consistent with the requirements of the R1-D zoning district. All other uses shall comply with the setback requirements herein.		
Min. Side Setback	15'/50' on side abutting a residential district	
Min. Yard Setback from the established fill or bulkhead line for buildings and other uses, except as provided in this paragraph, shall be 20 linear feet. No building or uses, including parking, shall be less than 15 feet from the water's edge. Launching ramps and docks may be constructed to the water's edge and into the water where appropriate.		
<i>Min. Living Area</i>		
Shall be consistent with the requirements of the R1-D zoning district.		
<i>Max. Structure Heights</i>		
Primary	2 stories/35'	
<i>Other Issues</i>		
The addition or alteration of slips, boathouses, moorings or the shoreline shall require site plan review the same as other construction or alteration on shore.		
A proposed use shall abut a similar use along at least one of its side boundaries, i.e., residential shall be next to residential, waterfront uses shall be next to other permitted waterfront district uses.		
<i>Min. Front Yard Setback</i>		
*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows: However, in no case shall any building be located closer than 30 feet from the front property line.		
<i>Road Type</i>	<i>Front Yard Setback</i>	
	<i>Building</i>	<i>Parking and Outdoor Storage</i>
Regional (204' ROW)	132'	112'
Major	90'	70'
Collector	73'	53'
Local	60'	40'

- A. *Intent.* The RW, residential waterfront mixed-use district is established to encourage a diversity of compatible land uses, which may include a mixture of residential, waterfront, office, retail, recreational, and

other similar uses within an aesthetically attractive environment conducive to the development and protection against nuisance-type uses and combinations.

B. *Permitted use.*

1	Single family dwellings
2	Family day care
3	Home occupation - Type 1 (section 15.26A)
4	Parks
5	Private beaches and recreation areas directly related to the waterfront
6	Public schools
7	Township facilities
8	Accessory buildings, uses and structures

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Public or private facilities for berthing or servicing of recreational boats (Section 17.08)
2	Retail businesses which supply products primarily and directly for persons using the waterfront facilities in the district such as: sale of boats, equipment and accessories, fishing equipment and other similar items
3	Indoor storage of boats in a permanent structure (section 17.38)
4	Outdoor storage of recreational boats on the paved off-street parking surface
5	Group day care (7—12 adults or children) (section 17.25)
6	Places of worship (section 17.32)
7	Planned unit development (section 17.33)
8	Private clubs or fraternal organizations (section 17.34)
9	Private or trade schools (section 17.35)
10	Public utility structures
11	Two-family dwellings (section 17.40)
12	Accessory uses in buildings as follows: Private launching facilities when developed in conjunction with a private marina for an exclusive use of those berthing boats at such marina

(Ord. No. 308.4, § 36, 8-13-2018; Ord. No. 308.5, § 23, 4-26-2021)

Section 14.19. WF waterfront district.

WF Waterfront District	
<i>Lot</i>	
Min. Lot Area	15,000
Min. Lot Width	100'
<i>Building</i>	
<i>Primary Structure</i>	
Min. Front Setback	See table below*
Min. Side Setback	20'

Min. Yard Setback from the established fill or bulkhead line for buildings and other uses, except as provided in this paragraph, shall [be] 15 linear feet. No building or use (including off-street parking), except covered boat wells, slips or berths, shall be less than 15 feet from the water's edge. Launching ramps and docks may be constructed to the water's edge and into the water, where appropriate.

Max. Structure Heights

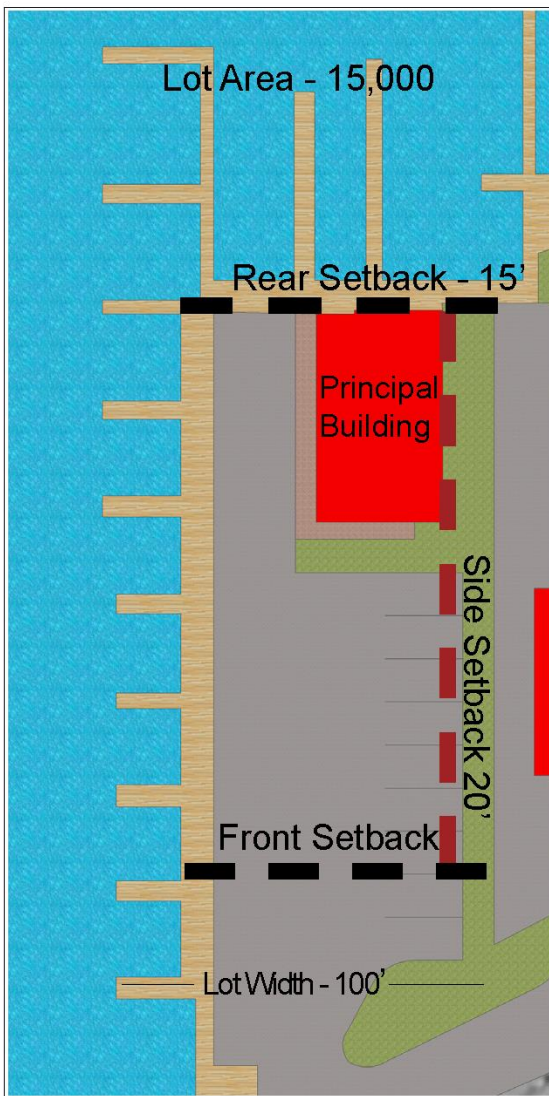
Primary	2 stories/35'
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The addition or alteration (excluding maintenance) of slips, boathouses, moorings or the shoreline shall require site plan review the same as other construction or alteration on shore.

Permitted outside storage of boats and equipment necessary and accessory to the principal use shall comply with the following conditions:

All storage or parking shall meet the principal setback requirements.

Facilities shall be provided at the marina for disposal of refuse from boat holding tanks in a sanitary manner. Each marina shall provide suitable, safe and sanitary toilet refuse facilities within buildings designed for this purpose.



Min. Front Yard Setback

*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows:
However, in no case shall any building be located closer than 30 feet from the front property line.

Road Type	Front Yard Setback	
	Building	Parking and Outdoor Storage
Regional (204' ROW)	132'	112'
Major	90'	70'
Collector	73'	53'
Local	60'	40'

A. *Intent.* The waterfront of Harrison Township is a limited community resource; therefore, it is the intent of the waterfront district to allow only those recreational, public and business uses which are related to the waterfront and which, therefore, cannot feasibly be located elsewhere. Residential uses shall only be permitted after careful review for compatibility with existing and potential surrounding uses. Such districts are intended to encourage safe and efficient development of waterfront areas and facilitate navigation.

B. *Permitted use.*

1	Public or private facilities for berthing or servicing of recreational boats (marina)
2	Public beaches and recreation areas directly related to the waterfront
3	Retail businesses which supply products primarily and directly for persons using the facilities in the district such as: sale of boats, equipment and accessories, fishing equipment and other similar items
4	Indoor storage of boats in a permanent structure
5	Public park
6	Township facilities
7	Accessory uses and buildings with the following restrictions: <ul style="list-style-type: none"> • Private launching facilities when developed in conjunction with a private marina for an exclusive use of those berthing boats at such marina. • Outdoor storage of recreational boats on the paved off-street parking surface.
8	No parking lot shall be occupied by stored boats during the months of June, July and August. All such storage shall be arranged in an orderly manner and at least one-half of the parking area shall be conveniently available for customer parking by May 15th. All other areas used to store boats shall comply with the requirements of section 11.13.

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

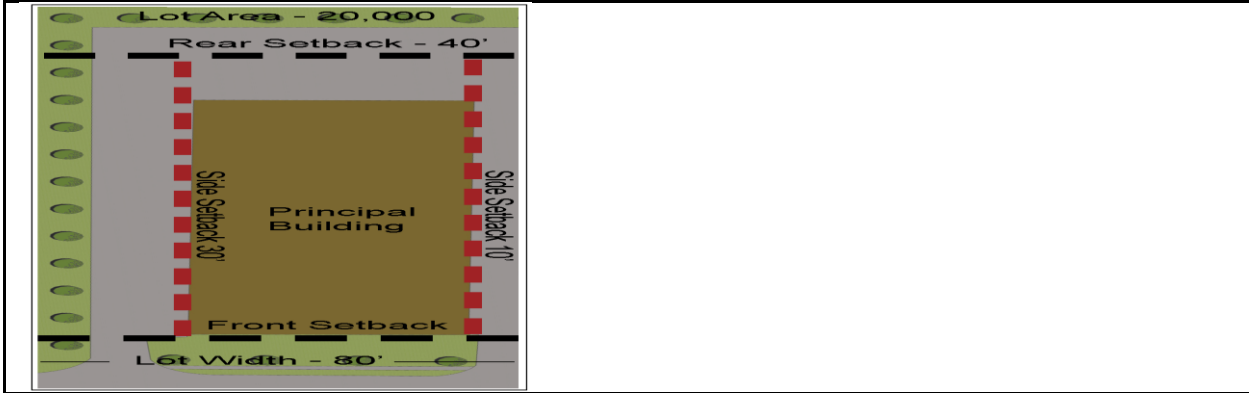
1	Governmental facilities for the berthing, launching, handling or servicing of commercial boats
2	Boat fuel stations
3	Boat launch ramps-public and private (section 17.08)
4	Eating and drinking establishments
5	Engine and hull repair shops
6	Marine construction, maintenance equipment use and storage
7	Places of worship (section 17.32)
8	Planned unit development (section 17.33)
9	Private clubs and fraternal organizations (section 17.34)

10	Public utility buildings without storage
11	Single family residential as regulated by the R1-D zoning district
12	Stacked boat storage (section 17.38)
13	Wireless communication towers (section 17.41)

(Ord. No. 308.4, § 37, 8-13-2018; Ord. No. 308.5, § 24, 4-26-2021)

Section 14.20. Industrial district.

IND Industrial District		
<i>Lot</i>		
Min. Lot Area	20,000	
Min. Lot Width	80 ft.	
Max. Lot Coverage	50%	
Max. Impervious Surface	90%	
<i>Building</i>		
<i>Primary Structure</i>		
Min. Front Setback		
Min. Side Setback Least Side/Combined Total	10'/40' (zero lot line as a special land use)	
Min. Rear Setback	40'	
<i>Other Requirements</i>		
All uses shall meet the performance standards outlined in section 7.06.		
<i>Max. Structure Heights</i>		
Primary	2 stories/40'	
<i>Min. Front Yard Setback</i>		
*Front and street-side setbacks shall be measured from the centerline of each road right-of-way in accordance with the township's master plan as follows: However, in no case shall any building be located closer than 50 feet from the front property line.		
<i>Road Type</i>	<i>Front Yard Setback</i>	
	<i>Building</i>	<i>Parking and Outdoor Storage</i>
Regional (204' ROW)	152'	112'
Major	110'	70'
Collector	93'	53'
Local	80'	40'
Freeway	100'	60'



- A. *Intent.* The intent of the industrial district is to encourage and facilitate the development of industrial enterprise in a setting conducive to economic stability and growth, providing protection from blight, deterioration and nonindustrial encroachment, and efficient traffic movement for employee and truck traffic. Protection is provided to residential land uses by separating them from industrial activities and by prohibiting the use of industrial zones for new residential development.
- B. *Permitted use.*

1	Administrative offices of permitted uses
2	Automobile, boat, RV service and repair
3	Building material sales
4	Contractors offices with garages for indoor maintenance and indoor storage of equipment
5	Corporate headquarters
6	County, state and federal uses
7	Home supply dealers
8	Indoor storage of boats
9	Industrial printing facility
10	Lawn and garden equipment supply dealer
11	Manufacturing of merchandise from previously prepared materials
12	Packaging facilities
13	Places of worship
14	Pre-fabricated home dealer
15	Private or trade schools
16	Private or public park
17	Sleeping quarters for security and maintenance personnel
18	Township facilities
19	Tool and die, gauge and machine shops
20	Uses with secondary impacts (adult uses, pawnbrokers, etc.)
21	Warehousing, wholesale establishments and indoor storage
22	Accessory uses and accessory outside storage customarily incidental to any of the above uses such as currently licensed cars, trucks, finished and semi-finished materials produced on the premises
23	Medical marihuana facilities: grower; processor; secure transporter, safety compliance facility are permitted uses in industrial zoned property north of Shook Road and subject to the buffer district requirements set forth in section 14.21

C. *Special land use approval.* The following uses, and others similar to those cited in this article, may be permitted by the planning commission, subject to the special land use standards outlined in this ordinance.

1	Airports (section 17.02)
2	Automobile heavy repair garage (collision) (section 17.04)
3	Boat engine and hull repair
4	Bulk storage of flammables and raw materials (section 17.10)
5	Bus garages/transportation terminals
6	Central dry cleaning plant
7	Cement crushing and batch plant operations (sec. 17.13)
8	Commercial and retail service uses
9	Compounding facilities
10	Crematoriums
11	Foundries
12	Freight terminal
13	Indoor and outdoor recreational facilities
14	Junk yards (section 17.28)
15	Landfills (section 17.29)
16	Lumber and planing mills
17	Outdoor storage (section 17.31)
18	Planned unit developments (section 17.33)
19	Plating facilities
20	Public utility structures
21	refuse disposal incinerators, recycling centers and transfer stations (section 17.37)
22	Stamping, punching, hammering, riveting, grinding or pressing operations
23	Towing service
24	Transportation services
25	Truck terminal (section 17.39)
26	Wireless communication towers (section 17.41)
27	Yard composting facility (section 17.42)
28	Zero lot line (section 17.43)
29	Any lawful use of land not expressly prohibited or provided for (as a permitted or special land use) shall be a special land use in this district when such uses comply with the intent of this ordinance

(Ord. No. 308.3, § 17, 4-9-2018; Ord. No. 308.4, § 38, 8-13-2018; Ord. No. 308.5, § 25, 4-26-2021)

Section 14.21. V-1A village district: downtown waterfront.

A. *Intent.* The major function of the V-1A village district: downtown waterfront is to support a mixed-use, pedestrian-oriented, integrated waterfront district with a unified nautical theme. It is the intent of the village district: downtown waterfront to permit a mixture of mutually supporting convenience, specialty, service and marine-related commercial uses, as well as complementary office, entertainment and residential uses, which complement nearby residential neighborhoods and provide for the needs of township residents and visitors. The standards contained herein are designed to promote compact infill development which creates a continuous office and retail frontage, convenient and unobstructed pedestrian access and shopping

experience, and compatible building appearance and architectural style and character. Uses permitted in this district should complement each other, not adversely impacting vehicular or pedestrian circulation or the overall character and function of the district. Parking must be an integral part of development and coordinated with the village district: downtown waterfront as a whole.

B. *Permitted uses.*

Residential uses:

1. Residential uses located on the second floor or higher of a building occupied on the first floor by a non-residential use

Commercial and office uses:

2. Art gallery, dealer or supply shops
3. Banks, credit unions and financial service offices (excluding drive-thru)
4. Bowling alley and similar commercial recreation (indoors only)
5. Carry out restaurants
6. Catering businesses
7. Dance halls or studios
8. Drug stores, pharmacies, health and personal care stores
9. Dry cleaners (drop off only)
10. Eating and drinking establishments
11. Food and beverage stores
12. General retail sales (indoors only)
13. Hardware, home appliance and consumer electronic stores
14. Home accessory and/or supply stores
15. Laundromats
16. Personal care services
17. Physical fitness facilities
18. Precious metal buy/sell
19. Professional, medical and dental offices
20. Theaters (indoors only)

Other uses:

21. Museums
22. Outdoor cafes, subject to planning commission review and the requirements of section 17.30)
23. Places of worship
24. Private/public beaches
25. Public parks
26. Township facilities

27. Accessory structures and uses customarily incidental to the above permitted uses

C. *Special land use approval.*

Residential uses:

1. Single-family dwellings
2. Two-family dwellings
3. Multiple family development subject to RM-2 district requirements
4. Senior and elderly housing (section 17.27)
5. Nursing/convalescent home (section 17.18)

Commercial and office uses:

6. Banks, credit unions and financial service offices (including drive-thru)
7. Colleges and universities (section 17.16)
8. Funeral homes (section 17.21)
9. Private and trade schools (section 17.35)

Other uses:

10. Child care centers (section 17.15)
11. Permitted and special land uses of the WF district not otherwise listed as a permitted use in this V-1A district.
12. Public utility structures
13. Zero lot line development (section 17.43)
14. Public or private off-street parking areas as a principal use
15. Accessory structures and uses customarily incidental to the above special land uses

D. *Lot and setback requirements.*

1. Minimum lot area: 10,000 square feet
2. Minimum lot width: 60 feet
3. Maximum required front setback (build-to-line): Front and street-side setbacks shall be measured from the centerline of each street, as noted below. The setbacks required are maximum permitted setbacks (build-to-line).

Street	Build-to-Line
Jefferson Avenue	Between 53 feet and 63 feet
Crocker Boulevard	Between 60 feet and 70 feet
Local streets	40 feet

4. Minimum required side setback: Five-foot sideyard or zero lot line after special land use approval
5. Minimum required rear setback: 20 feet

E. *Building height.*

1. **Maximum building height:** The maximum building height permitted shall be three stories or 36 feet. Up to one additional story, not to exceed four stories, may be permitted after approval as a special land use. Further, such additional story must be stepped back from the front building line by a minimum of ten feet.
2. **Minimum building height:** The minimum building height of any building constructed along the required front yard build-to-line shall be 20 feet.
3. **Building height exceptions:** The height requirements may be exceeded by parapet walls not over four feet in height, or as needed to conceal mechanical equipment, roof structures (attic stories), chimneys, television and radio antennas, cupolas, spires or other ornamental projections. Additional non-habitable height may be approved for ornamental projections that reflect the nautical character of the downtown waterfront village district, such as those that house clocks, nautical features, historic symbols, and other similar elements.

F. *Building placement.*

1. At least 40 percent of the width of the front/street-side build-to-line shall be occupied by the front/street-side building façade which shall have a height of at least the minimum required building height.
2. Extending from any block corner, at least the first 30 feet of each front/street-side build-to-line shall generally be occupied by the front/street-side building façade, which shall have a height of at least the minimum required building height. Exceptions to this may be allowed to accommodate unique architectural design, outdoor activity areas, courtyards or similar spaces.

G. *Building usage:* The following use types may be permitted on each floor:

1 st Floor:	Commercial/Office/Lodging
2 nd Floor:	Office/Residential/Lodging
3 rd Floor:	Office/Residential/Lodging
4 th Floor:	Residential/Lodging
Rooftop:	Outdoor dining accessory to on-site eating and drinking establishments
Exceptions:	Certain ground level residential use may be allowed in the V-1A district as a special land use in accordance with section 14.21.C. Other exceptions to the building usage requirements above, such as the inclusion of commercial uses on the upper floors, may be granted by the planning commission after special land use approval.

H. *Architectural design and building materials.* The architectural design of buildings within the V-1A village district: downtown waterfront shall be subject to the design and material requirements of article 4, as well as the following requirements. Wherever, a conflict exists, the requirements of this section shall prevail.

1. *Architecture:* Buildings are encouraged to be designed with a nautical themed architecture. Any roof mounted fixtures shall be properly screened from view by the use of parapets. Long blank walls shall be avoided. Breaks in the facade shall be accomplished with "building steps", the use of windows and doors, and other architectural elements.
2. *Windows/transparency:* The length of walls/facades facing streets and internal streets or pedestrian areas shall consist of windows for a minimum of 50 percent of that facade area. The use of tinted or reflective glass within first floor windows is prohibited. First floor windows shall only be clear glass.
3. *Commercial and office building materials:* Seventy-five percent of each building elevation shall consist of one or a combination of the following primary façade treatment materials: brick, stone, cement fiber board siding, or similar decorative material as approved by the planning commission. Secondary and

accent treatments may be permitted in accordance with the table provided. The use of EIFS or other similar materials shall be limited to architectural accents and shall not be utilized less than eight feet above grade.

4. *Multiple family building materials:* Seventy-five percent of each building elevation shall consist of one or a combination of the following primary façade treatment materials: brick, cement fiber board siding, or similar decorative material as approved by the planning commission. Secondary and accent treatments may be permitted in accordance with the table provided.

Use	Brick or Cement Fiber Board Siding	Stone or Wood	CMU	EIFS
Commercial/Office	75% Minimum	Permitted as Secondary Treatment	Permitted as Accent Not to Exceed 10%	Permitted as Accent Not to Exceed 10%
Multiple Family	75% Minimum	Permitted as Secondary Treatment	Permitted as Accent Not to Exceed 10%	Not Permitted

I. *Outdoor storage and merchandising.*

1. *Outdoor merchandising:* Outdoor merchandising accessory to a principal use permitted in the V-1A district may be allowed subject to the requirements of section 11.08.A.

J. *Parking.* The provisions and requirements as set forth in article 9 shall apply to all areas within the V-1A district except as modified by this section. The township recognizes that special provisions should be considered for the downtown waterfront area, including the reduction of required parking spaces, because of the district's many unique characteristics such as zero lot line, mixed-use, pedestrian oriented, traditional downtown development.

1. *Minimum number of off-street parking spaces:* For non-residential uses located in the V-1A district, a reduction of 25 percent shall be applied against the amount of required parking as determined in section 9.03. Such reduction shall not apply to residential uses in the V-1A district.
2. *Payment in lieu of providing off-street parking:* The owner or owners of a new or expanded use may make application to the township for the option of paying a dollar amount established by resolution of the township board per required parking space in lieu of providing such required spaces per the requirements set forth in subsection 1, above. These monies would be paid into a special parking district fund established by the township board specifically for the purpose of providing and improving on-street or off-street parking areas to serve uses located within the V-1A district. The timing of parking spaces provided and their location shall be at the sole discretion of the township board. The amount paid into the parking fund described above shall not apply against any present or future special assessments levied by the township for parking improvements.
 - a. *Exception criterion.* The exception authorized by this section 14.21.J.2. may only be granted by the township board. Granting of such exception shall be based upon evidence presented by the property owner or owners showing that the reasonable ability to provide any or all of the parking spaces as required in subsection 1 above does not exist.
 - b. *Maximum exception.* In no case shall the exception authorized by this section result in a payment being made for more than 25 percent of the total parking spaces as required in subsection 1 above.

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- c. *Payment required prior to occupancy.* A property owner or owners granted the exception of contributing to the parking fund will not receive an occupancy permit until such monies have been paid into such fund in full.
 - d. *Application to change in use.* The provisions of this section 14.21.J.2. shall also apply to any change in use of property located within the V-1A district that would require parking spaces in excess of those required by the previous use.
- 3. *Pervious surfacing:* In lieu of asphaltic or concrete surfacing as required by section 9.05.C. off-street parking spaces and parking drive aisles within the V-1A district may be constructed of pervious materials, including pervious pavement or pervious pavers, but not including rock or gravel. The use of pervious materials shall be subject to review and approval by the township planning commission and the township engineer, in consideration of the underlying soil permeability, level of ground water, lot slope, and maintenance needs of the project (e.g. sweeping and washing).
 - 4. *Off-street loading:* The planning commission shall have the right to modify or waive the requirement for off-street loading areas as specified in section 9.07. Any such modification or waiver shall be based upon a review of a site plan and/or the surrounding area and a determination that there is satisfactory loading space serving the building or that the provision of such loading space is physically and/or functionally impractical to provide.
- K. *Stormwater management.* All developments and earth changes within the V-1A district subject to review under the requirements of this section shall be designed, constructed, and maintained to prevent flooding and protect water quality. The particular facilities and measures required on-site shall reflect the natural features, wetlands, and watercourses on or near the site; the potential for on-site and off-site flooding, water pollution, and erosion; and the size of the site. Stormwater management shall comply with the following standards:
- 1. The design of storm sewers, detention facilities, and other stormwater management facilities shall comply with township design standards.
 - 2. Stormwater management conveyance, storage and infiltration measures and facilities shall be designed to prevent flood hazards and water pollution related to stormwater runoff and soil erosion from the proposed development.
 - 3. Alterations to natural drainage patterns shall not create flooding or water pollution for adjacent property owners.
 - 4. The use of drywells, infiltration trenches, swales, bio-retention or other best management practices for controlling urban runoff quality is strongly encouraged so as to decrease runoff velocity, allow for natural infiltration, allow suspended sediment particles to settle, and to remove pollutants. Such methods shall be designed in accordance with professionally accepted principles and shall be subject to review by the township engineer. Such stormwater control methods shall include, but are not necessarily limited to:
 - a. Swales, both biofiltration and vegetated/rock swales.
 - b. Rain gardens.
 - c. Rain barrels or cisterns, both underground and above ground. Above ground rain barrel or cistern systems in excess of 250 gallons must conform to the setbacks for accessory buildings and structures and shall be fully enclosed to avoid attracting mosquitos or becoming a hazard.
 - d. Vegetated roof systems.

Single-family and two-family dwellings are exempt from having to receive permitting and engineering approval for placement of rain gardens, bio-swales, rain barrels or other stormwater management practices, but all stormwater structures must meet applicable setbacks and other general standards.

- Maintenance of stormwater management facilities shall be the responsibility of the property owner.

V-1A Village District: Downtown Waterfront Zoning Requirements Summary For summary purposes only. Refer to text for complete requirements.	
<i>Lot Requirements</i> Section 14.21(D)	
Minimum Lot Area	10,000 square feet
Minimum Lot Width	60 feet
<i>Required Setbacks</i> Section 14.21(D)	
Maximum Front Setback (Build-To-Line)	
Jefferson Avenue:	Between 53 and 63 feet
Crocker Boulevard:	Between 60 feet and 70 feet
Local streets:	40 feet
Minimum Side Setback	5 feet. Zero lot line may be permitted upon approval as a Special Land Use.
Minimum Rear Setback	20 feet
<i>Building Height</i> Section 14.21(E)	
Maximum Height	3 stories or 36 feet. Up to one additional story, not to exceed four (4) stories, may be permitted after approval as a Special Land Use, provided that the additional story is used for residential or lodging purposes. Further, such additional story must be stepped back from the front building line by a minimum of ten feet.
Minimum Height	The minimum building height of any building constructed along the required front yard build-to-line shall be 20 feet.
<i>Building Placement</i> Section 14.21(F)	
Front/Street-Side Building Façade	At least 40 percent of the width of the front/street-side build-to-line shall be occupied by the front/street-side building façade which shall have a height of at least the minimum required building height.
Block Corners	Extending from any block corner, at least the first 30 feet of each front/street-side build-to-line shall generally be occupied by the front/street-side building façade, which shall have a height of at least the minimum required building height. Exceptions to this may be allowed to accommodate unique architectural design, outdoor activity areas, courtyards or similar spaces.
<i>Building Usage</i> Section 14.21(G)	
Allowable Uses by Floor	
1 st Floor:	Commercial/Office/Lodging
2 nd Floor:	Office/Residential/Lodging

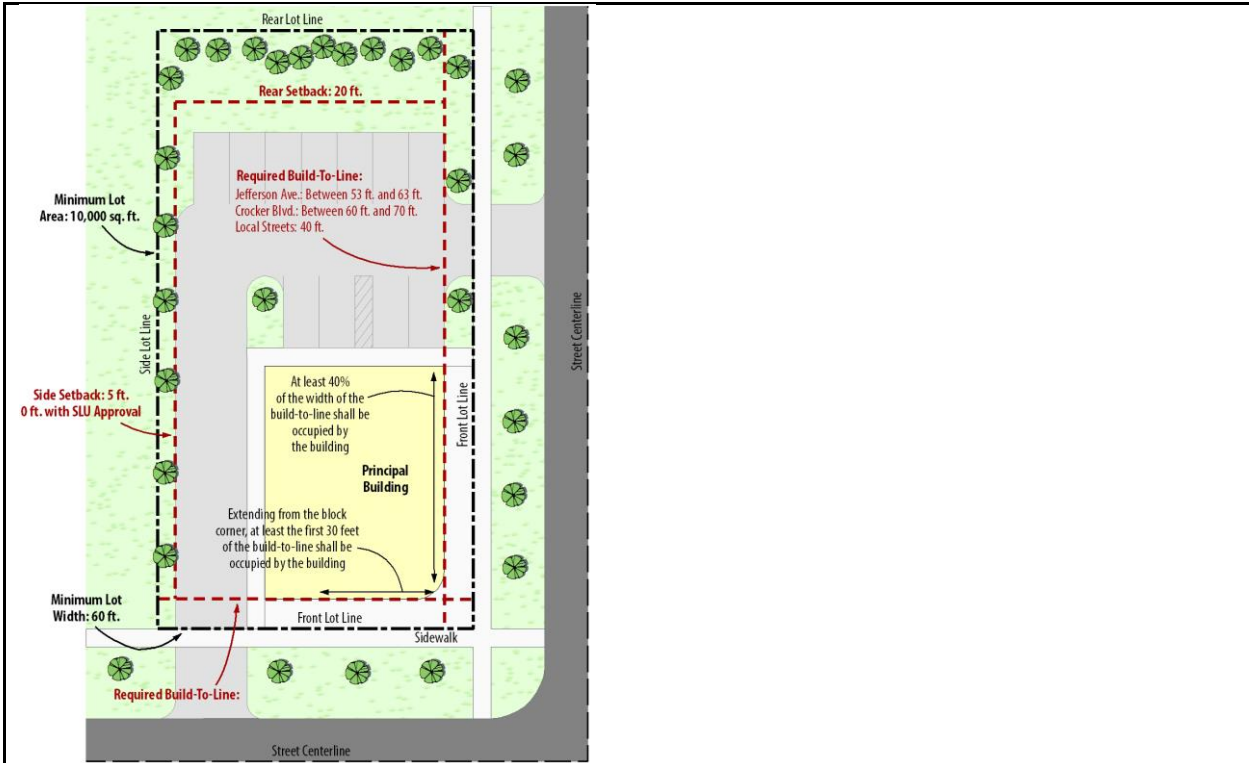
3 rd Floor:	Office/Residential/Lodging
4 th Floor:	Residential/Lodging
Other Site Development Requirements:	
Architectural Design and Building Materials	See Article 4 and Section 14.21(H)
Accessory Structures and Uses	See Article 5
Fencing and Screening	See Article 6 and Section 6.05
Landscaping	See Article 7
Site Lighting	See Article 8
Parking	See Article 9 and Section 14.21(J)
Stormwater Management	See Section 14.21(K)
Trash Receptacle Standards	See Section 11.15

Lot, Setback and Building Placement Requirements:

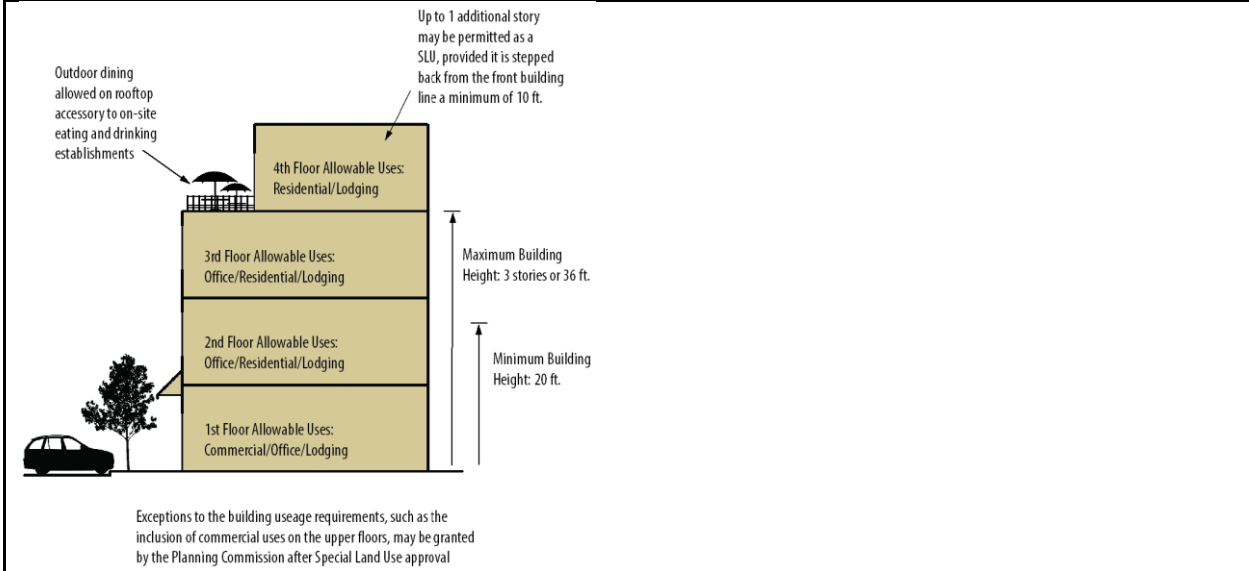
Interior Lot



Corner Lot



Building Height and Usage Requirements



(Ord. No. 308.2, § 2, 2-26-2018)

Section 14.22. Industrial medical marihuana district.

- A. *Intent.* The industrial medical marihuana district is intended to provide opportunities for the development of certain medical marihuana facilities that have been granted a permit by the township and have been granted

a state license pursuant to the MMFLA. The township desires to allow approved medical marihuana facilities to operate exclusively within those properties zoned industrial (IND) that are north of Shook Road and that comply with the requirements of the buffer district, in order to limit any secondary effects of such operations.

- B. *Buffer district.* The buffer district is defined as the area within 500 feet of the following:
1. Any private or public preschool, elementary, secondary, vocational or trade school, college or university;
 2. Any public park;
 3. Existing licensed child care center associated with a school;
 4. Any existing place of worship or religious assembly;
 5. Any residential zone R1;R1-A; R1-B; R1-C; R1-D; RM1; RM2; MHC; excluding the property owned by the Federal Government and commonly known as Selfridge Air National Guard Base.

A Licensee shall not operate a medical marihuana facility within the buffer district.

- C. *General provisions.*
1. A Licensee shall not operate a marihuana facility at any place in the township other than the address provided in the application on file with the township clerk.
 2. A Licensee shall operate the medical marihuana facility in compliance with all applicable state and township regulations for that type of medical marihuana facility.
 3. The distance requirements described in the buffer district shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated in section 14.21B to the nearest portion of the building, structure, or unit in which a medical marihuana facility is located.

(Ord. No. 308.3, § 18, 4-9-2018)

Section 14.23. Regulations on patient caregiver activities.

A. *Intent and purpose.*

On November 4, 2008, Michigan voters approved a ballot initiative that legalized medical marihuana and on December 4, 2008, Michigan's Medical Marihuana Act, M.C.L. 333.26421, et seq. ("MMMA"), took effect allowing both patients and/or their caregivers to cultivate medical marihuana within an enclosed, locked facility in order for those individuals to be entitled to the MMMA protections. As such, these enclosed locked facilities have been located on various locations of varying zoning classifications within the township.

The Stille-Derossett-Hale Single State Construction Code Act 230 of 1972 (M.C.L. 125.1501, et seq.) allows a local unit of government to legally adopt and enforce the state building code at the local level. The purpose of the building code is to ensure public health, safety, and welfare by protecting life and property from all hazards related to the design, erection, repair, removal, demolition, or use and occupancy of buildings, structures, or premises. This is in relation to structural strength, adequate egress facilities, sanitary equipment, light and ventilation, and fire safety. Building permits are required when construction or alteration of a structure is in order when a patient caregiver has made alterations to a structure to support the cultivation of marihuana.

Since the passage of the Act, a caregiver's cultivation of marihuana particularly, within residential districts within the township, has resulted in problems with insufficient or improper electrical supplies, problems with ventilation leading to mold, offensive odors, other health hazards and/or other hazards which are associated with the cultivation of marihuana in residential settings.

The Michigan Zoning Enabling Act, MCLA 125.3101 et. seq., ("MZEA") provides the township with statutory authority to regulate land use within the township through its zoning ordinance. The Michigan Supreme Court in the recent case of *DeRuiter v Byron Township*, 505 Mich 130 (2020), found that a township's zoning ordinance that geographically restricted such caregiver marihuana cultivation to a particular zoning district did not directly conflict with the MMMA and the township had the authority under the MZEA to require zoning permits and permit fees for the use of buildings and structures within its jurisdiction.

Therefore, this article as proposed, is intended to permit those persons in need of marihuana for medicinal purposes as allowed under the state acts as defined herein, to be afforded a reasonable opportunity to be treated and for those persons who are permitted to furnish medical marihuana, to furnish it within the limitations of the state acts and the geographical restriction imposed by the zoning ordinance in order to protect public health, safety, and welfare.

This article is also intended to protect and preserve the public health, safety and welfare of the community, the quality of life and the stability of property values including but not limited to the value of residential, commercial, and industrial districts.

This article is intended to prohibit a caregiver's cultivation of marihuana in residential zoning district and continues to prohibit same in commercial districts, in order to protect and preserve peace, order, property and safety of persons as a result of issues associated with the growth of marihuana in residential and commercial districts including problems with insufficient or improper electrical supply, problems with ventilation leading to mold, offensive odors, or other health hazards and other hazards which are associated with the cultivation of marihuana in residential and commercial settings and which is otherwise often difficult to detect and regulate. The MZEA provides the township with statutory authority to impose zoning limitations as set forth in this article. The township's zoning authority as it relates to patient care giver operations pursuant to the MMMA has also been upheld by the Michigan Supreme Court in the recent case of *DeRuiter v. Byron Township*, 505 Mich 130 (2020).

B. *Definitions.* [The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

Enclosed locked facility means a closet, room, or other comparable stationary and fully enclosed area equipped with secure locks or other functioning security devices that permit access only by a registered primary care giver, or registered qualifying patient. Marihuana plants grown outdoors, are considered to be in an enclosed, locked facility if: they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level, or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that it is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient, or a person designated through the department registration process, as the primary giver, for the registered qualifying patient, or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restricts access to only the registered qualifying patient, or the registered primary caregiver, who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

1. The vehicle is being used temporarily to transport living marihuana plants from one location to another with the intent to permanently retain those plants at the second location.
2. An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong, or the individual designated through the department of registration process as the primary caregiver for the registered qualifying patient.

Marihuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, M.C.L. 333.7106.

Medical use means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a

registered qualifying patient's debilitating medical condition, or symptoms associated with the debilitating medical condition, as further defined under the MMMA.

MMMA means to the Michigan Medical Marihuana Act, M.C.L. 333.26421 et seq. currently, or as amended. ("Act or "MMMA")

MRTMA means to the Michigan Regulation and Taxation of Marihuana Act Initiated Law 1 of 2018, M.C.L. 333.27952 et seq. currently, or as amended. ("MRTMA")

Registered primary care giver means to a person meeting the definition of caregiver under the MMMA and who has been issued and possesses a registry identification card and possesses the documentation that constitutes a valid registry under the MMMA.

Registered qualifying patient means a person meeting the definition under state law and who has been issued and possesses a registry identification card which is valid under the MMMA, as amended.

Transfer means to convey, sell, give, deliver, or allow the possession by another person or entity.

Zoning ordinance means the Zoning Ordinance of the Charter Township of Harrison.

Other provisions and terms. The other provisions and terms of the MMMA and MRTMA for purposes of deferential context are incorporated by reference as though more fully restated herein.

C. *Medical marihuana for registered qualifying patients or any individual over the age of 21.*

Registered qualifying patients, or visiting qualified patients and individuals over the age of 21 years old, may use, possess, and store medical marihuana as provided in the MMMA, M.C.L. 333.26421 et seq. as amended, and marihuana as provided in the MRTMA, M.C.L. 333.27952 et seq. as amended, and as further regulated herein.

1. A registered qualifying patient and individuals over the age of 21 years of age:
 - a. May use, possess and store marihuana in their principal residence within the township for personal use only, and shall comply at all times and in all circumstances with the Act, MRTMA and the General Rules of the Michigan Community Health or the Michigan Department of Licensing and Regulatory Affairs, as they may be amended from time to time.
 - b. May only cultivate marihuana for him or herself in compliance with the MMMA and the MRTMA, on a residentially zoned parcel or otherwise authorized for residential use and on a parcel zoned within the industrial medical marihuana district, in an enclosed locked facility, inaccessible on all sides and equipped with locks or other security devices that permit access only by the registered qualifying patient and individuals 21 years or older.
 - c. All necessary building, electrical, plumbing, and mechanical permits shall be required and obtained prior to any alterations of any portion of the structure in support of or in association with the cultivation of marihuana, or for the erection of an accessory structure meeting the definition of an enclosed locked facility located on the residential premises.
 - d. The storage of any chemicals such as herbicides, pesticides, and fertilizers, shall be subject to inspection and approval by the Harrison Township Building Department.
 - e. The separation of plant resin from a marihuana plant by butane extraction or any other method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, a motor vehicle, inside a residential structure or the curtilage of a residential structure is prohibited.
 - f. If a room with windows is utilized as a marihuana-cultivation location, any lighting methods that exceed usual residential use between the hours of 11:00 p.m. and 7:00 a.m. shall employ shielding methods, without alteration to the exterior of the residence or dwelling unit, to prevent

ambient light spillage that causes or creates a distraction or nuisance to adjacent residential properties.

- g. If the registered patient, or individual 21 years or older, is not the owner of the premises, then written consent must be obtained from the property owner to ensure the owner's knowledge of the use of the premises as permitted by this section, and the registered patient and individual 21 years or older shall maintain written proof that the use of the property under this section is approved by the property owner.
 - h. No person other than the registered patient or individual 21 years or older shall be engaged or involved in the growing, processing, handling of marihuana.
 - i. Use of the registered patient's residential dwelling unit for medical marihuana or an individual 21 years or older for recreational marihuana related purposes, shall be clearly incidental and subordinate to its use for residential purposes. Not more than 150 square feet of any residential dwelling unit and/or accessory structure on a residential lot, shall be used for the growing, processing, and handling of medical or recreational marihuana. Any modifications to the dwelling unit made for the purpose of cultivating medical or recreational marihuana shall comply with all applicable building, electrical, mechanical, and fire safety code requirements, including all requisite permit applications and related inspections. No part of an accessory building, detached garage, pole barn, or similar building or structure shall be used for the growing, processing, or distribution of medical or recreational marihuana unless such building or structure has been inspected and approved for the building, electrical, mechanical, and fire safety requirements of such use and fits the definition of an enclosed, locked facility.
 - j. No equipment or process shall be used in growing, processing, or handling medical or recreational marihuana which creates noise, vibration, glare, light, fumes, odors, or electrical interference detectable to the normal senses at or beyond the property line of the registered patient's or individual's, over the age of 21, residential property. In case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio, television, or similar receiver off the premises or causes fluctuation of line voltage off the premises.
 - k. Marihuana plants grown in an outdoor enclosed lock facility shall be further subject to the requirements of Section 5.02.C. and D. of the zoning ordinance.
 - l. The registered qualifying patient, individuals over the age of 21 and the owners, agents, and employees of the parcel at which marihuana for personal or medical use is present are responsible jointly and severally for compliance with this section.
- D. *Registered primary caregiver operations.* Any registered primary caregiver may acquire, possess, cultivate, manufacture, transfer, or transport medical marihuana compliant with the MMMA, M.C.L. 333.26421 et seq. as amended. Cultivation of medical marihuana by a registered primary care giver as defined under the MMMA, is prohibited in any zoning district, except the Industrial Medical Marihuana District, section 14.22 of this article and further subject to the following:
- 1. A registered primary caregiver may only grow, cultivate, manufacture, process, and store marihuana on a parcel in the IND-Industrial Medical Marihuana District; sections 14.22 of this article and in an enclosed locked facility.
 - 2. The registered primary caregiver is responsible for utilizing an enclosed locked facility upon the industrial zoned parcel, compliant with the MMMA for cultivating, growing, manufacturing, processing, and storing marihuana for medical use only. The enclosed locked facility utilized by the primary registered caregiver, shall provide separation by fully enclosed walls, or fences, for plants that are grown on behalf of each registered qualifying patient, on whose behalf the registered primary

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- caregiver is furnishing marihuana for medical use, so it is accessible only to the primary caregiver and registered patient. The processing and storing of medical marihuana is permitted only by registered primary caregivers and registered qualifying patients.
3. The registered primary caregiver may grow up to a maximum of 72 plants, but no more than 12 plants for each individual registered qualifying patient as set forth in the MMMA.
 4. The registered primary caregiver is responsible for providing the security necessary to assure that the growing marihuana and usable product are accessible for use only by the primary registered caregiver for transfer to, only to registered qualifying patients who are registered to the registered primary caregiver and must fully comply with the provisions of the MMMA.
 5. A certificate of occupancy is required and must be obtained from the township before the presence of marihuana is allowed on the parcel.
 6. Marihuana plants grown outdoors in an enclosed, locked facility shall be subject to the requirements of this article as well as section 5.01 of the zoning ordinance.
 7. The consumption, transfer, or use of marihuana, in public, or a place opened to the public is prohibited.
- E. *Certificate required.* The operations of a registered primary caregiver within the Industrial Medical Marihuana Zoning District shall only be permitted upon the issuance of a zoning certificate to cultivate medical marihuana. Such certificate is required to be renewed annually and is subject to inspections by the building and fire department and police department for compliance with the provisions of this article and for the issuance of the certificate and its renewals.
1. A complete and accurate application shall be submitted on a form provided by the township along with submission of the application fee. The application fee and renewal fee shall be an amount determined by resolution of the township board.
 2. The certificate application shall include the name and address of the applicant; the address of the property; a copy of the current state registration card issued to the primary caregiver; a full description of the nature and types of equipment which will be used in marihuana cultivation and processing; and a description of the location at which the use will take place. The planning and zoning administrator may require additional information necessary to demonstrate compliance with all requirements. The planning zoning administrator shall review the application to determine compliance with this section, the MMMA and the MRTMA and any applicable Michigan regulatory agency general rules. A certificate shall be granted if the application demonstrates compliance with this section and the MMMA.
 3. The use shall be maintained in compliance with the requirements of this section and the MMMA. Any departure shall be grounds to revoke the certificate and take other lawful action. If a certificate is revoked, the applicant shall not engage in the activity unless and until a new zoning authorization to cultivate medical marihuana certificate is granted.
 4. Information treated as confidential under the MMMA, including the primary caregiver registry identification card and any information about qualifying patients associated with the primary caregiver, which is received by the township, shall be maintained separately from public information submitted in support of the application. It shall not be distributed or otherwise made available to the public and shall not be subject to disclosure under the Freedom of Information Act.
- F. *Nonconforming status.* Registered patient caregivers that have applied for and have obtained building, electrical, plumbing and/or mechanical permits for the cultivation of medical marihuana within any zoning district other than the IND-Industrial Medical Marihuana District, prior to the enactment of this section, shall enjoy nonconforming use status from the provisions of this ordinance and shall be permitted to continue subject to section 16.01 of this ordinance.

G. *Violations; penalty.* Any person, persons, firm or corporation, or anyone acting on behalf of said person, persons, firm or corporation, convicted of a violation of any of the provisions of this article shall be a misdemeanor and, shall, upon conviction thereof, be subject to a fine of not more than \$500.00 or 90 days in jail or both and the costs of prosecution at the discretion of the court. Each day such violation continues shall be deemed a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this article.

(Ord. No. 402, § 1, 8-23-2021)

- CODE OF ORDINANCES
 APPENDIX A - ZONING ORDINANCE
 ARTICLE XV. USE MATRIX

ARTICLE XV. USE MATRIX

	Use													
Key: P = Permitted Use S = Special Land Use Blank = Not Permitted	R1/ R1- A	R1- B	R1- C	R1- D	MHC	RM- 1	RM- 2	HMR	LC	GC	V- 1	RW	WF	IND
<i>Residential Uses</i>														
Accessory Building	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Family Day Care (Under 7)	P	P	P	P	P	P	P	P			P	P		
Group Day Care (7-12 Persons)	S	S	S	S	S	S	S	S			S	S		
Multiple-Family Housing						P	P	P			S			
Senior/Elderly Housing						S	S	S			S			
Nursing/Convalescent Home						S	S	S			S			
Single-Family Dwelling	P	P	P	P	P	P	P	P				P		
Two-Family Dwelling			S	S	S	P	P	P				S		
Home Occupation Type I	P	P	P	P	P	P	P	P			P	P		
Home Occupation Type II	S	S	S	S	S	S	S	S			S	S		
<i>Commercial Uses</i>														
<i>Apparel and Accessory Related Uses</i>														
General Retail Sales Such as:										P	P	P		
Cosmetic, Beauty Supply and Perfume Store										P	P	P		
Clothing Accessory Shop										P	P	P		
Resale shop										P	P	P		
Clothing Store										P	P	P		
Department Store										P	P	P		
Jewelry Store (Retail)										P	P	P		
Leather and Luggage Shop										P	P	P		
Optical and Sunglass Store										P	P	P		
Shoe Store										P	P	P		
Precious Metal /Buy-Sell											P	P		
<i>Food, Beverage and Tobacco Related Uses</i>														
Carry Out Restaurants										P	P	P	S	S
Catering										P	P	P		

- CODE OF ORDINANCES
 APPENDIX A - ZONING ORDINANCE
 ARTICLE XV. USE MATRIX

Eating and Drinking Establishment										P	P	P	S	S	
Food and Beverage Stores Such as:										P	P	P			
Bakery										P	P	P			
Beer, Wine and Liquor Store										P	P	P	S	P	
Bulk Food Store										P	P	P			
Butcher and Meat Shop										P	P	P			
Coffee and Tea Shop										P	P	P			
Convenience Store										P	P	P			
Delicatessen										P	P	P			
Donut and Bagel Shop										P	P	P			
Fish and Seafood Market										P	P	P			
Fruit and Vegetable Market										P	P	P			
Grocery Store										P	P	P	S	P	
Ice Cream/Frozen Yogurt Shop										P	P	P			
Outdoor Cafes										S	P	S			
<i>Home Improvement and Decoration Related Uses</i>															
Building Material Sales excluding Lumber Yards											P				
Garage Door Dealer											P				P
Hardware Store										P	P	P			
Home Appliance and Consumer Electronic Store										P	P	P			
Home Accessory and/or Supply Store Such as:										P	P	P			
Bath Shop										P	P	P			
Candle Shop										P	P	P			
Electrical Supply Store											P				
Fireplace Store										P	P	P			
Floor Covering Store										P	P				
Furniture and/or Home Furnishing Store										P	P	P			
Glass Store										P	P	P			
Interior Design Shop										P	P	P			
Kitchen Cabinet Store										P	P	P			P
Kitchenware Store										P	P	P			
Lamp and Lighting Shop										P	P	P			P

- CODE OF ORDINANCES
APPENDIX A - ZONING ORDINANCE
ARTICLE XV. USE MATRIX

Linen store									P	P	P				
Paint and Wallpaper Store									P	P					P
Plumbing Supply Store									P	P					P
Swimming Pool Supply Stores									P	P					P
Window Treatment Store									P	P	P				
Lawn and Garden Equipment and Supply Store										P					P
Lumber yard										S					S
Pre-Fabricated Home Dealer										S					P
<i>Motor Vehicle Related Uses</i>															
Auto Collision Repair (Body and Paint)															S
Auto, Boat, Recreation Vehicle Service and Repair										S					P
Auto, Motorcycle, Boat and other Recreational Vehicles Sales										S					
Auto Part Sales										P					
Auto Wash										S					
Boat Fuel Stations												S	S		
Engine and Hull Repair Shops												S	S	S	
Gasoline station										S					
Indoor Storage of Boats in a Permanent Structure												S	P	P	
<i>Office Related Uses</i>															
Bank (with Drive-Thru Facilities)									S	S	S				
Bank (without Drive Thru Facilities)									P	P	P				
Hospital/Urgent Care									S	S					
Medical/Dental Office									P	P	P				
Professional Office									P	P	P				
Veterinary Office w/Outdoor Runs									S	S					
<i>Organization, Recreation, and Hotel Related Uses</i>															
Art gallery									P	P	P				
Bed and Breakfast					S	S	S								
Boat Launch Ramps												S	S		

- CODE OF ORDINANCES
 APPENDIX A - ZONING ORDINANCE
 ARTICLE XV. USE MATRIX

Bowling Alley and Similar Commercial Recreation											S				
Church, Synagogue, Temple, and Other Places of Religious Worship	S	S	S	S	S	S	S	S	P	P	P	S	S	P	
Catering/Banquet Hall										P					
Dance Hall/Studio									P	P	P				
Golf Courses and Country Clubs	S	S	S	S	S										
Hotel /Motel										S	S				
Indoor/Outdoor Recreation Facilities															S
Marine Construction, Maintenance Equipment Use and Storage												S	S		
Museums									P	P	P				
Physical Fitness Facilities										P	P				
Private/Public Beaches												P	P		
Private Clubs and Fraternal Organizations	S	S	S	S	S	S	S	S	S	P	S	S	S		
Public or Private Facilities for Berthing or Servicing Boats												S	P		
Sport Facilities										S					
Stacked Boat Storage												S	S		
Theatres, Indoor										S	P				
Theatres, Outdoor										S					
<i>Personal Service Related Uses</i>															
Child Care Center										S	S	S			
Drug Stores/Pharmacies										P	P	P			
Dry Cleaning (Drop Off Only)										P	P	P			
Funeral Home	S	S	S	S	P	S	S	S	S	P	S				
Health and Personal Care Stores										P	P	P			
Personal Care Services Such as:										P	P	P			
Barbershop										P	P	P			
Beauty Salon/Spa										P	P	P			
Tanning Salon										P	P	P			
Laundromat										P	P	P			
Sexually Oriented Businesses															P

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Service and Repair Facilities Not Involving Vehicles											P								
Tattoo Parlors																			P
<i>Other Commercial Uses</i>																			
Art Dealer											P	P	P						
Art Supply Shop											P	P	P						
Businesses of a Drive-In Nature												S							
Drive-Thru Facilities											S	S	S						
General Retail Sales Such as:											P	P	P						
Book Store											P	P	P						
Camera and Photographic Supply Store											P	P	P						
Collector's item shop											P	P	P						
Copy and Print Shop											P	P	P						
Dollar Store											P	P	P						
Gift, Novelty and Souvenir Shop											P	P	P						
Firework Store (permanent)											P	P	P						
Florist Shop											P	P	P						
Hobby, Toy and Game Shop											P	P	P						
Music Store											P	P	P						
Office Supply Store											P	P	P						
Pet and Pet Supply Store											P	P	P						
Sporting Goods Store											P	P	P						
Commercial Greenhouse and/or Nursery												S							
Flea Markets												S							
Kennels												S							
Pawnshops																			P
Warehouse Club Store												P							
<i>Industrial Related Uses</i>																			
Airport, Heliport and Related Uses																			S
Bulk Storage of Flammables and Raw Materials																			S

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Bus Garage/Transportation Terminal																	S
Central Dry Cleaning Plants																	S
Cement Crushing and Permanent Batch Plant Operations																	S
Chemical Processing Plants																	S
Compounding Facilities																	S
Contractor Office/Showroom																	P
Crematoriums																	S
Foundries																	S
Industrial Printing Facility																	P
Junk Yards																	S
Landfill																	S
Lumber and Planing Mills																	S
Manufacturing From Previously Prepared Materials																	P
Other Outdoor Industrial Operations																	S
Outdoor Storage Yards																	S
Packaging Facilities																	P
Plating Facilities																	S
Refuse Disposal, Recycling Center and Transfer Stations																	S
Stamping, Punching or Pressing operations																	S
Tool, Die, Gauge, or Machine Shop																	P
Towing Service																	S
Transportation Services																	S
Truck Terminal																	S
Warehousing and Storage/Mini-Storage																	P
Yard Composting Facility																	S
<i>Government/Education Uses</i>																	
Cemetery	S	S	S	S	S	S	S	S	S	S	S						
College/ University					P	S	S	S	S	P	S						
Communication Towers										S						S	S

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Township Facilities	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public Utility Structures	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Public Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Private and Trade Schools					S	S	S	S	S	P	S	S		S

ARTICLE XVI. NONCONFORMING LOTS, USES, AND STRUCTURES

Section 16.01. Nonconforming lots, uses, and structures.

It is the intent to recognize that the elimination, as expeditiously as is reasonable, of existing structures and uses that are not in conformity with the provisions of this ordinance, is as much a subject of health, safety, and welfare as is the prevention of the establishment of new structures and uses that would violate the provisions of this ordinance. It is therefore, the intent to administer the elimination of nonconforming structures and uses, recognizing established private property rights, and avoiding any undue hardship. The following regulations shall apply to all nonconforming buildings and structures, or parts thereof, and nonconforming uses existing at the effective date of this ordinance.

- A. *Continuance of nonconforming building.* Any such nonconforming building or structure may be continued and maintained, provided there is no physical change other than necessary maintenance and repair in such building or structure, except as permitted hereinafter in subsections F., G. and H.
- B. *Continuance of nonconforming use.* Any such nonconforming use may be continued and maintained, provided there is no increase or enlargement of the area, space or volume occupied by, or devoted to, such nonconforming use within a building or on site.
- C. *Change of use.* The nonconforming use of a building, structure or land may not be changed to a different use unless one of the following conditions has been met:
 - 1. Such different use is permitted in the zoning district under which the property is currently zoned. The use shall be subject to site plan review and approval as required in this ordinance.
 - 2. Such proposed use, while still nonconforming, is considered less intense than the previous nonconforming use as determined by the Harrison Township Planning Commission, and would bring the site closer into conformance with existing ordinance standards. A use may be deemed more intense if the planning commission determines that the proposed use meets any of the following criteria:
 - a. The proposed use generates more light, noise, air, or other pollution than the current use;
 - b. The proposed use generates more traffic and/or turning movements, or negatively alters the traffic circulation pattern on or off the site;
 - c. The use generates a greater need for parking on site;
 - d. The proposed use causes greater negative economic impacts on adjacent properties than the current use.

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- e. Where a use change requires submission of a site plan, the applicant shall be required to comply with all applicable zoning provisions.
- D. *Abandonment; termination of nonconforming use.* Any part of a building, structure or land occupied by a nonconforming use which hereafter is abandoned and remains unoccupied for a continuous period of 12 months shall not thereafter be occupied, except by a use which conforms to the use regulations of the district in which it is located. This shall not apply to a seasonal nonconforming use of land. However, discontinuation for a full season with no active attempt to sell or market the property shall be considered abandoned and any future use shall conform to this ordinance.
- E. *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of an existing nonconforming use, provided there is no change in the nature or character of such nonconforming use.
- F. *Maintenance permitted.* Except as otherwise provided in this Section, a nonconforming building or structure may be maintained. The maintenance of such building or structure shall include necessary repairs and incidental alterations. Alterations, however, shall not constitute an expansion of the building or in any other way violate the terms of this section. Provided further, that the cost of such work shall not exceed 30 percent of the assessed valuation of such building or structure at the time such work is done. This requirement shall not be considered as prohibiting the bringing of a structure into conformity with the regulations of the district in which it is located.
- G. *Restoration of a damaged or demolished building.*
1. No nonconforming use shall be resumed if it has been changed to a conforming use for any period, or if the structure in which such use is conducted is damaged by fire or other casualty, or by demolition work, to the extent that the cost of reconstruction or repairs exceeds 50 percent of the replacement cost of such structure as defined by the current building code.
 2. No nonconforming use shall be enlarged or extended, nor shall the structure it occupies be repaired or reconstructed if demolished, damaged by fire or other casualty to the extent that the cost of reconstruction or repair exceeds 50 percent of the replacement cost of such structure.
- H. *Additions, enlargements, moving.*
1. A building or structure that is nonconforming, in regard to setbacks or height, may be added to or enlarged if such addition or enlargement conforms to the regulations of the district in which it is located. In such case, such addition or enlargement shall be treated as a separate building or structure in determining conformity to all of the requirements of this ordinance.
 2. When a building or structure, or portion thereof, is moved from one district to another or to another location within the same district, it must conform or be made to conform to all of the regulations, ordinances and codes of the district to which it is moved.
- I. *Expansion prohibited.* A nonconforming use of a portion of a building or structure, which building or structure otherwise conforms to the provisions of this ordinance, shall not be expanded or extended into any other portion of such conforming building or structure, nor changed, except to a conforming use. If such nonconforming use, or portion thereof, is discontinued or changed to a conforming use, any future use of such building, structure, or portion thereof, shall be in conformity to the regulations of the district in which such building or structure is located.
- J. *Nonconforming use of land.* continuation of use. The nonconforming use of land (where no building is involved) existing at the date this ordinance becomes effective, may be continued, provided that:
1. No such nonconforming use of land shall in any way be expanded or extended either on the same or adjoining property.

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2. If such nonconforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with the provisions of this ordinance.
- K. *Conformance of special land uses.* Any use for which a special land use approval is required in a specific zoning district as provided in this Ordinance shall not be deemed a nonconforming use, but shall without further action be deemed a conforming use in such district. Any change thereafter, however, shall require a site plan and processing as a special land use.
 - L. *Compliance with regulations for nonconforming buildings or uses.* Whenever the owner shall fail to comply with the provisions of this Ordinance relating to removal or discontinuance of a nonconforming use, the building official shall serve notice in writing on such owner or his agent requiring him/her to comply therewith within a reasonable time after such notice. If, after such notice, the owner fails to comply therewith, the building official shall take such action as may be necessary, including civil action, to cause compliance with the provisions hereof.
 - M. *Nonconforming lot of record; division of nonconforming lot.* Parcels shall not be divided in a manner that increases nonconformity, causes an existing structure or site improvement to become nonconforming, or creates one or more nonconforming lots.
 - N. *Use of a nonconforming lot of record.* Any nonconforming lot of record, in regards to frontage, shall only be used as permitted in the district in which it is located. A single nonconforming lot may be developed or improved with a principal building and permitted accessory structures, without the need for a variance, provided that the following conditions have been met:
 1. The lot in question shall not be less than 35 feet in lot width and 100 feet in lot depth.
 2. The structure and lot shall conform with the following:
 - a. For single-family and two-family dwellings, side yard setbacks shall be no less than six feet. For all other principal structures, side yard setbacks shall be no less than ten feet.
 - b. Rear yard and front yard setbacks shall equal the average established setback of the two principal structures on either side of the subject lot, as applicable. The building official may look at additional principal structures for the average to provide for consistency and aesthetics.
 3. The lot is not under contiguous single ownership with other lots that could be combined into one or more conforming lots.
 - O. *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.

(Ord. No. 308, § 6, 2-13-2017; Ord. No. 308.5, § 1, 4-26-2021)

ARTICLE XVII. SPECIAL LAND USE

Section 17.01. Special land use review requirements.

In all cases, the power to grant special land use approval is vested in the planning commission. All applications for special land use approval shall first be forwarded by the planning department to the planning commission for review and processing. The application shall be submitted in the number of copies required and accompanied by the same number of site plans, all prepared and filed to meet the requirements of article III.

The planning commission shall review the application after proper notice has been given as required by state law and approve or deny the application. Approval may require conditions the commission may find necessary; disapproval of the application will be accompanied by reasons in writing. If a public hearing is to be held as provided by state law, then the planning commission, after proper notice, shall hear any person wishing to express an opinion on the application.

The planning commission shall review each case individually as to its applicability and must find affirmatively to each of the following standards of the proposed land use if it is to be approved.

A. *Standards.*

1. The proposed use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and applicable regulations of the zoning district in which it is to be located.
2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian-vehicle conflicts.
3. The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby uses permitted, whether by reason of dust, noise, fumes, vibration, smoke or lights.
4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses in regards to prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the township.
6. The proposed use will service a public convenience at the proposed location.
7. The proposed use is so designated, located, planned and operated so that the public health, safety and welfare will be protected.
8. The proposed use shall not cause substantial injury to the value of other property in the vicinity in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

B. *Decision.*

1. Approval. If the planning commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which shall be allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special land use(s) so approved. In all cases where a particular special land use has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the township not later than 12 months thereafter, or such approval shall automatically be revoked. The planning commission may grant an extension thereof for good cause shown under such terms and conditions and for such period of time not exceeding another 12 months as it shall determine to be necessary and appropriate.

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2. Denial. If the planning commission shall determine that the particular special land use(s) requested does not meet the standards of this ordinance, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.
 3. Record. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed.
 4. Hearings. The planning commission shall investigate the circumstances of each such case and give notice of the time and place of any hearing, meeting or review which may be held relative thereto as required by State law and/or its rules or procedure.
 5. Conditions. The planning commission may impose such conditions or limitations in granting approval as may be permitted by state law and this ordinance which it deems necessary to fulfill the spirit and purpose of this ordinance. The conditions may include conditions necessary to insure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity, to protect the natural environment and conserve natural resources and energy, to insure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. Conditions imposed shall do all of the following:
 - a. Be designed to protect natural resources, the health, safety and welfare, as well as the social and economic wellbeing of those who will use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
 - b. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
 - c. Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this ordinance for the land use or activity under consideration; and be necessary to insure compliance with those standards.
 6. Once a special land use has been approved, no zoning board of appeals variance requests shall be permitted. Any changes in the development plans must be made in accordance with revision procedures contained herein.

Section 17.02. Airports.

A. *Specific requirements and conditions.*

1. Airports, airfields, runways, hangars, beacons and other facilities involved with aircraft operations, subject to all rules and regulations of the Federal Aeronautics Administration, which agency shall approve the preliminary plans submitted to the township. All aircraft approach lanes, as established by appropriate aeronautical authorities, shall be so developed as to not endanger the permitted land use. Permitted height of buildings, structures, telephone and electrical lines and appurtenances thereto shall be considered factors in consultations with the appropriate aeronautical agencies in considering an airport use.
2. Yard and placement requirements.
 - a. No building or structure, or part thereof, shall be erected closer than 60 feet from any property line.
 - b. Those buildings to be used for servicing or maintenance shall not be located on the outer perimeter of the site where abutting property is zoned residential.

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3. Performance requirements. All lights used for landing strips and other lighting facilities shall be so arranged as not to reflect towards adjoining non-airport uses.
- B. *Prohibited uses.* The open storage of junked or wrecked motor vehicles or aircraft shall not be permitted, except that wrecked aircraft may be stored in the open for not more than 30 days from the date of the accident.

Section 17.03. Auditoriums, sports facilities and outdoor theaters.

1. Viewing screens and/or stages must be so located as to avoid distracting passing motorists on the streets and highways adjoining the site.
2. If vehicle ticket windows are provided, they shall be made available in the ratio of one such window for each 250 cars of parking space capacity.
3. All ingress and egress from the site shall be directly onto a regional or major thoroughfare having an existing or planned right-of-way width of at least 120 feet.
4. The site shall not abut a single-family residential zoning district on more than one side.
5. Devices for the transmission or broadcasting of voices shall be so directed or muffled as to prevent said sounds or music from being audible beyond the boundaries of the site.
6. A minimum 100-foot wide landscaped greenbelt shall be provided along all property lines abutting a residential zoning district.

Section 17.04. Automobile heavy repair garage (collision).

1. All repair activities shall be confined to the interior of the building.

Section 17.05. Automobile, boat, recreation vehicle service and repair.

1. All repair activities shall be confined to the interior of the building.
2. No outdoor storage is permitted within the front yard. A minimum of ten vehicle spaces shall be provided within the rear or side yard for vehicle storage.
3. An adequate means of waste disposal shall be provided.

Section 17.06. Auto, motorcycle, boat and other RV sales.

1. The lot or area shall be provided and maintained with a permanent, durable and dustless surface constructed of either asphalt or concrete and shall be so graded and drained as to dispose within the site of all surface water accumulated within the area.
2. The location of the site shall be upon a street with a right-of-way of at least 120 feet (existing or proposed) and shall contain no fewer than 40,000 square feet.
3. Such use shall be located no closer than 50 feet from any single-family zoning district. The planning commission may require a berm, wall, landscape screen or any or all of the above to protect from noise, dust, light, or any such nuisance.
4. No vehicle repair, bumping, painting or refinishing shall be done on the lot site. Cleaning and refurbishing of vehicles or units shall be permitted if done completely within an enclosed building.
5. Devices for the transmission or broadcasting of voices and/or music shall be prohibited.

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6. If such a lot abuts a street of less than 120 feet of right-of-way located abutting an RM district, a berm and landscaping in the front yard on such street shall be provided to screen all outdoor facilities, including storage and display areas, from adjacent residential property. In addition, all other areas of the site shall be fully landscaped.
 7. Display areas, storage areas and all other vehicle parking contained on the site shall comply with the parking design and layout requirements of this ordinance.

Section 17.07. Bed and breakfasts.

1. The room utilized for lodging purposes shall be part of the primary residential use and shall not have been specifically constructed for rental purposes.
2. There shall be no separate cooking facilities used for the bed and breakfast rooms.
3. The residence shall be occupied at all times by the owner or a staff member.
4. Adequate lavatory, bathing facilities and kitchen facilities for the lodging room shall be provided, as per the requirements of the Macomb County Health Department.

Section 17.08. Boat launch ramps, public and private.

1. The site and use shall be located on a major or secondary thoroughfare having a right-of-way equal to, or greater than, 120 feet, as specified by the township master plan.
2. The number of launchings permitted shall be limited to the number of parking spaces available for the parking of vehicles and boat carriers in any such launch facility or marina. Such spaces shall be no less than 12 feet wide and 40 feet deep. One additional passenger vehicle space (ten feet by 20 feet) shall be provided for each two vehicle and boat carrier spaces. Any potential for off-site parking within the stated right-of-ways of the surrounding thoroughfares shall be coordinated with the Road Commission of Macomb County.
3. The planning commission may require men's and women's restrooms and shower facilities which are available to the launch ramp users on a case by case basis, based on size of the facility and design of the site.
4. All marinas and facilities offering boat launch facilities shall include a park area. Such park area shall include a minimum of 10,000 square feet of land area for each ten launchings permitted at such marina or boat launch facility. The park area shall be of a maintained lawn and landscape and shall contain, at a minimum, the following number of amenities for each 10,000 square feet of park area: two picnic tables, one permanently installed barbecue, one park bench. In addition to the above requirements, each park shall include one "playscape" located in an area containing no less than 400 square feet of land area, and shall be landscaped with a minimum of ten trees per acre.
5. Lighting shall be provided at appropriate levels and intensities for the purpose of lighting the parking area, walkway areas, ramp area, restroom area and harbor areas.
6. Each facility or marina with a boat launch ramp shall provide a sanitary pump out facility with potable water. Such pump out facility must be accessible and functional while the watercraft remains in the water.
7. Fish cleaning stations shall be permitted subject to the provision of an appropriate means of disposal for all remains being demonstrated to the planning commission.
8. Trash receptacles shall be provided throughout the facility at locations approved by the planning commission for the convenience of the public.

Section 17.09. Bowling alleys and similar forms of indoor recreation.

1. The site shall be a minimum of one acre in size.
2. The site shall be so located as to abut a major thoroughfare right-of-way.
3. The site shall not abut a residential zoning district except at the rear of the site.
4. A minimum 25-foot wide landscaped greenbelt shall be provided along any property line which abuts a residential zoning district.

Section 17.10. Bulk storage of flammables and raw materials.

A. Site requirements.

1. All such uses shall be located on a parcel of land which is surrounded by abutting land zoned IND Industrial.
2. All access to the parking areas shall be provided from a major thoroughfare.
3. All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting and fence or wall so as to obscure from view all activities within the development.

B. Yard and placement requirements.

1. No building, structure or tanks or containers for storage or part thereof shall be erected closer than 100 feet from any property line.
2. Those buildings to be used for servicing or maintenance shall not be located on the outer perimeter of the site.

Section 17.11. Businesses of a drive-in nature.

A. Specific requirements and conditions.

1. All buildings shall observe the front or street-side setbacks of the district, plus 25 feet.
2. Ingress and egress points shall be located at least 60 feet from the intersection of any two streets.
3. The entire site, other than that area occupied by buildings and/or structures, shall be landscaped or provided with a permanent, durable and dustless surface constructed of either asphalt or concrete. The site shall be landscaped and maintained. In addition, the site shall be graded and drained, hard-surfaced and maintained.
4. Devices for the transmission or broadcasting of voices shall be so directed or muffled as to prevent said sounds or music from being audible beyond the boundaries of the site.
5. All adjacent side yards shall be zoned for business use.

Section 17.12. Carry-out restaurants.

Adequate ventilation shall be provided to ensure that any odors associated with any food preparation will be confined to the site so as not to create a nuisance for any adjoining residential parcels. All such ventilation systems shall be maintained in good working order at all times.

Section 17.13. Cement crushing and permanent batch plant operations.

1. The site shall be a minimum of five acres in size.
2. The site shall be a minimum of 1,000 feet from any residential structure.
3. All properties which abut the site shall be zoned for industrial use.

Section 17.14. Cemeteries.

1. The cemetery shall have direct access to a public road which is capable of carrying the traffic without interfering with the residential subdivision.
2. The minimum site size shall be 40 acres.
3. Crematoriums shall be centrally located on the cemetery property and shall be a minimum of 500 feet from any property line.
4. A cemetery shall provide decorative fencing around the entire perimeter of the site.

Section 17.15. Child care centers.

1. The site shall contain a minimum of 150 square feet of outdoor play area for each child and shall not be less than 5,000 square feet in total.

Section 17.16. Colleges and universities.

1. Any use permitted herein shall be developed on sites of at least 15 acres in area.
2. All ingress to and egress from the site shall be directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet, as indicated on the master plan.
3. No building shall be closer than 50 feet to any property line when said property line abuts or is adjacent to land zoned for residential purposes.
4. The site shall consist of a minimum area of 400 square feet per pupil.

Section 17.17. Commercial greenhouses and nurseries.

1. All such uses shall be located on a regional or major road as designated in the Harrison Township Master Plan.
2. All outdoor areas designated for retail sales shall be enclosed by a decorative fence or masonry wall. The planning commission shall approve the height of said wall or fencing.
3. A greenbelt with a minimum width of seven feet shall be provided around such fencing in all areas where no entrance/exit gate is located.

Section 17.18. Convalescent, nursing homes and hospices.

1. All such facilities shall have ingress and egress from a site directly onto a major or secondary thoroughfare or collector road having an existing or planned right-of-way of at least 86 feet, as indicated in the master plan, except existing hospital facilities located on a designated local street shall be exempt from this requirement.
2. All such facilities shall be developed only on sites consisting of at least five acres in area.

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3. There shall be provided at least 1,000 square feet of lot area per bed.
 4. No building on the site shall exceed 25 feet in height, or two stories.
 5. Licensing shall be in accordance with the State of Michigan and/or appropriate authority or jurisdiction.

Section 17.19. Drive-thru facilities.

1. The site and use shall be located on a regional or major thoroughfare having a right-of-way equal to, or greater than, 120 feet.
2. Any freestanding drive-thru facility located in a shopping center shall be aesthetically compatible in design and appearance with the other buildings and uses located in the shopping center. In making this determination, the planning commission shall consider the architectural design of the building, the signage and the landscaping to ensure that the design and appearance of the developed site is compatible with the design and appearance of the remainder of the shopping center.
3. Drive-thru service shall be permitted only if a satisfactory traffic pattern for the drive-thru lane can be established to prevent traffic congestion and the impairment of vehicular circulation for the remainder of the development. Vehicle stacking lanes shall not cross any maneuvering lanes, drives or sidewalks.
4. Devices for electronically amplified voices or music shall be directed or muffled to prevent any such noises from being audible at any lot line.

Section 17.20. Full and self-service car washes.

1. Vehicular ingress and egress from the site shall be directly onto a major thoroughfare, except that it may be permissible to allow vehicles to exit from the facility onto a public alley.
2. All vehicles waiting or standing to enter the facility shall be provided off street waiting space, and no vehicle shall be permitted to wait on the public right-of-way as part of the traffic approach.
3. An on-site, 50-foot long drying lane shall be required at the exit point of the car washing facility or an alternate means of collecting and drying water shall be provided.
4. A 15-foot greenbelt shall be provided between all property lines.

Section 17.21. Funeral homes.

1. Sufficient off-street automobile parking and assembly area is provided for vehicles to be used in a funeral procession. The assembly area shall be provided in addition to any required off-street parking area.
2. The site shall be located so as to have one property line abutting a major or secondary thoroughfare of at least 120 feet of right-of-way, existing or proposed on the township master plan.
3. Adequate ingress and egress shall be provided to said major or secondary thoroughfare.
4. No building shall be located closer than 50 feet to the outer perimeter (property line) of the district when said property line abuts any one-family residential district.
5. Loading and unloading area used by ambulances, hearses or other such service vehicles shall be obscured from all residential view by a poured embossed brick or other approved pattern decorative concrete wall six feet in height.
6. Crematoriums shall be a minimum of 500 feet from any residential property line.

Section 17.22. Gasoline service stations.

1. The site shall be located at the intersection of two public roads with at least one of the roads having a proposed right-of-way of 120 feet.
2. Not more than 50 percent of the lots located at an intersection of any two roads may be occupied by a gasoline service station.
3. The site for the gasoline service station shall have 150 feet of frontage on the principal street serving the station.
4. The site shall contain an area of not less than 30,000 square feet.
5. All buildings shall observe front yard setbacks plus ten feet. For purposes of this section, gasoline pumps and pump islands shall not be considered buildings.
6. The inclusion of a drive-thru, automobile service station, car wash or similar use that requires special land use approval, shall be required to receive a separate special land use approval when proposed in tandem with a gasoline service station.

Section 17.23. General hospitals.

1. All such hospitals shall be developed only on sites consisting of at least ten acres in lot area and provide a minimum of 1,500 square feet of lot area per bed.
2. All ingress and egress from the site shall be directly onto a major or secondary thoroughfare having an existing or planned right-of-way width of at least 120 feet, as indicated on the township master plan, except that existing hospital facilities shall be exempt from this requirement.
3. The buildings shall maintain a minimum distance of 75 feet to the nearest residentially zoned lot.
4. Ambulance delivery and service areas, when visible from adjacent land zoned for residential purposes, shall be obscured from view by a poured decorative concrete wall at least six feet in height, or a berm and landscaping meeting the requirements for major screening impacts.
5. Whenever the parking plan is designed to cause automobile headlights to be directed toward any single-family residential district within 120 feet of the parking areas, an obscuring wall, berm or landscaping may be required. Such screening would not apply to points of ingress or egress.

Section 17.24. Golf courses.

1. Nine-hole courses. Not less than 60 acres devoted exclusively to course use.
2. Eighteen-hole courses. Not less than 150 acres devoted exclusively to course use.
3. Location of structures. Any structures to be erected on the site shall be set back a minimum of 100 feet from any adjoining property site line.
4. Any accessory use and all of the facilities therefor which are customary and incidental to the normal golf course operation shall be permitted. Such accessory uses shall include, but not necessarily be limited to:
 - a. Bathing, tennis and lounging.
 - b. Sale and consumption of food and beverages on the premises.
 - c. Sale and rental of golfing supplies and equipment.

Section 17.25. Group care home (7 to 12 persons).

1. Fencing shall be required next to residential uses or districts. All outdoor play areas shall be enclosed.
2. The requested site and building shall be consistent with the visible characteristics of the neighborhood. The group day-care home shall not require the modification of the exterior of the dwelling nor the location of any equipment in the front yard.
3. The proposed use, if approved, may have one non-illuminated sign that complies with the Harrison Township sign ordinance.
4. The proposed use, if approved, shall be inspected for compliance with these standards prior to occupancy and at least once each year thereafter within ten days of the anniversary of the certificate of occupancy.
5. All facilities must provide of proof of being registered as a residential care facility in the State of Michigan.

Section 17.26. Home occupations.

- A. Home occupations type I may be permitted in a residential district. Home offices that do not result in more traffic than is normal for residential districts shall be considered a permitted use and do not require special land use approval. Type I home occupations must register the location of the home occupation with the township building department. All other home occupation requests shall be subject to the requirements of section 17.26.B. No person other than members of the family residing on the premises shall be engaged in such occupation.
- B. *Type II home occupation site requirements.*
 1. The use of the dwelling unit for a home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and, not more than 25 percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation and shall be carried out completely within such dwelling.
 2. There shall be no change in the outside appearance of the structure or premises or other visible evidence of the conduct of such home occupation.
 3. Such home occupation shall not require internal alterations or construction, equipment, machinery, or outdoor storage not customary in residential areas.
 4. No signage of any type is permitted for a home occupation business.
 5. There shall be no sales of any goods, articles or services on the premises, except such as is produced by such approved home occupation.
 6. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
 7. Persons with a disability applying for home occupation permits may be excused from certain provisions of this section by the planning commission, based on necessity.

(Ord. No. 308.3, § 19, 4-9-2018; Ord. No. 402, § 3, 8-23-2021)

Section 17.27. Housing for the elderly and senior citizen housing.

1. Density. The number of units shall not exceed twice that permitted for multi-family development in the RM district. The density shall be based on the type of dwelling and the gross site area for the proposed number of one- and two-bedroom dwelling units.
2. All dwellings shall consist of at least 500 square feet per one-bedroom unit and 650 square feet per two-bedroom unit.
3. Business uses shall be permitted on the site when developed as retail or service uses clearly accessory to the main use, within the walls of the main structure, and totally obscured from any exterior view. No identifying sign for any such business or service use shall be visible from any exterior view. Such businesses or services shall not exceed 25 percent of the floor area at grade level.
4. All proposals for housing for the elderly shall be reviewed against the standards for such housing as published by the Michigan State Housing Development Authority [(MSHDA)]. MSHDA standards shall be used only as a general guide for the review to assure minimum adequacy and shall not limit the requirements placed on the use by the Charter Township of Harrison.

Section 17.28. Junk yards.

1. Such use shall be completely enclosed on all sides by a fence constructed of unpierced wood or metal vertical boards or panels not less than eight feet in height, which shall be maintained in a condition of good repair.
2. The fence required in subsection 1. above shall be set back not less than 25 feet from the front site line, subject to the following additional requirements.
 - (a) No such fence shall be erected closer than 25 feet from the public right-of-way as shown on the general development plan of the Macomb Department of Roads.
 - (b) No such fence shall in any event be erected closer than 85 feet from the centerline of the street that the site abuts.
3. The area line between the front fence and the front site line shall be completely landscaped and maintained with grass and coniferous trees or shrubs.
4. Parking shall be permitted only within the fenced enclosure.

Section 17.29. Landfills (earthen only).

- A. All fill operations shall be only allowed subject to the provisions of this ordinance and subject, further, to the satisfactory preparation of the land for an approved specific land use permitted within the applicable zoning district.
- B. Specific requirements and conditions.
 1. Permitted earth landfills shall be subject to all other laws and ordinances pertaining thereto, provided such shall not be permitted in any wetland area or in any floodplain zone, except under terms and conditions of all other laws and ordinances pertaining thereto.
 2. An earthen landfill shall contain only soil free from building debris. No putrescible or manufactured inert materials may be placed in an earthen landfill.
 3. The site shall not be within 1,000 feet of a residential use.

Section 17.30. Outdoor cafes.

1. The planning commission shall determine if the area designated for an outdoor café use significantly hinders the movement of pedestrian traffic. In no instance shall an outdoor café project into the public right-of-way.
2. All such uses shall be shielded from the roadway by means of a decorative fence or wall. This fence or wall shall not exceed three feet in height. It shall be constructed of the same brick as the building or decorative/simulated (pre-finished aluminum) wrought iron.
3. The planning commission may vary the building setback if outdoor seating areas are provided.

Section 17.31. Outdoor storage.

1. Any such use must be completely enclosed with screening in accordance with the requirements of section 11.13 and subsection 2. below. Marinas are excluded from the provisions of this section.
2. No storage use shall be closer than 100 feet to the outer perimeter (property lines) of the district where said property lines abut any residential district or border other than an industrial district, and such space shall be fully landscaped and fenced at the setback line. Corner lot side yards must equal the setback requirements for the front yard on the street side as referenced herein.
3. Whenever a different material is to be stored other than what was approved in the original request, a new approval shall be required from the planning commission.
4. Uses expressly prohibited under this section include the following:
 - (a) Junkyards, including used auto parts.
 - (b) Used building materials.
 - (c) Storage of combustible or odoriferous materials.

Section 17.32. Places of worship.

1. Minimum site shall be one acre on a continuous parcel.
2. The site shall abut a public road having a right-of-way of not less than that of a collective thoroughfare (86 feet) or the proposed right-of-way of a major thoroughfare on the township's master plan.
3. In residential zoning districts, a minimum 25-foot wide greenbelt shall be provided around the perimeter of the property.

Section 17.33. Planned unit development.

- A. *Purpose and intent.* The planned unit development (PUD) concept is intended to provide a greater degree of flexibility in the regulation of land development and the arrangement of uses. Through this option, more creative approaches to development can be utilized which take advantage of the special characteristics of the land than would otherwise be possible through the strict enforcement of the ordinance. The specific objectives of this section are to:
 - Require innovation in land use and variety in design, layout and type of structures constructed, while preserving the intent and integrity of the township master plan.
 - Preserve significant natural resources.

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- Achieve economy and efficiency in the use of land, natural resources, energy and the provision of public services and utilities.
 - Require the preservation of useful open space.
 - Permit flexibility in the placement, lot area and building type regulations, while assuring the application of sound site planning standards.

B. *General requirements.* These planned unit development (PUD) regulations shall apply to all proposed planned unit development projects. Where there are conflicts between the PUD regulations and general zoning, subdivision, or other township regulations or requirements, the PUD regulations shall apply for the project.

1. A PUD project may be permitted in any zoning district subject to township approval.
2. A PUD project shall follow the same public hearing procedure as a special land use.
 - a. The public hearing for the proposed PUD development shall be held during the formal PUD application review phase.
 - b. A sign shall be posted by the township on the subject site indicating that a PUD development is proposed. Such sign shall be placed on the site at the time the formal PUD application has been submitted. The sign shall be the same size as that which is required for the posting of a sign under a rezoning request.
3. All requirements of the underlying zoning district including but not limited to, setbacks, uses and density/area regulations shall be met by the proposed PUD unless specifically waived by the planning commission and township board. In waiving these requirements the township will, at a minimum, consider the criteria outlined in subsection C.3.
4. A parcel of land proposed for a PUD in any residential zone shall be a minimum of 40 acres in size. A parcel of land proposed for a PUD in any nonresidential zone shall be a minimum of five acres in size.
 - a. The planning commission may waive the above-mentioned acreage requirement if it is found that each of the criteria listed below has been met. The determination to waive the minimum acreage requirement shall be made at the time the planning commission makes a recommendation to approve or deny the formal PUD application. The criteria to be considered are as follows:
 - (1) The proposed density of the PUD is generally consistent with what would be expected from a development under the conventional standards of the zoning ordinance.
 - (2) The proposed PUD development is consistent with the Harrison Township Master Plan.
 - (3) The property is located at the intersection of two roads, or is situated in such a manner that transitional or higher intensity uses are located around the majority of the perimeter of the proposed development. For the purposes of this section, transitional uses shall include public uses, roads, utilities or other similar activities as determined by the planning commission.
5. A minimum of 25 percent of the net developable area of the land shall be irrevocably dedicated as open space. The dedication shall be evidenced by a recordable instrument acceptable to the township attorney. All undevelopable areas including open bodies of water and regulated wetlands shall not be counted towards the net developable area of land.
6. On residentially zoned properties, nonresidential uses shall not occupy an area that exceeds 25 percent of the gross acreage of the entire parcel of land.

C. *Review procedures.*

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1. *Conceptual review.* Prior to the formal submission of a PUD application, the applicant shall submit a site plan for conceptual review. The plan shall show the entire PUD concept in schematic form, indicating generalized land use areas and their relationship to each other, circulation patterns and generalized existing site characteristics.
 - a. The planning commission shall review the plan with the applicant, offer comments on such plan as it relates to the Township's development policies and make appropriate comments or suggestions concerning the proposed development scheme.
 - b. This phase shall not be construed to require approval of the conceptual plan by the township. Further, the conceptual plan is only intended to be used as a general guide to both the applicant and the township.
 - c. Upon completion of the conceptual review phase, the applicant may proceed with a formal submission of the PUD application, as outlined within this ordinance.
 2. *Formal PUD application.*
 - a. *Application.* The owner of the property shall submit an application for a PUD on a form approved by the township. The application shall include all information necessary to satisfy the terms and conditions of this section.
 - b. *Development agreement.* An application for a PUD must include a proposed development agreement for review and consideration by the planning commission. The final development agreement must be approved by the township board. The development agreement shall include, at a minimum, the following:
 - (1) The permitted uses of the property.
 - (2) The permitted density and/or intensity of the proposed use.
 - (3) Provisions for reservations or dedications of land for public purposes, if applicable.
 - (4) Terms, conditions, restrictions and requirements upon which approval is based, including phasing requirements, requirements for on-site or off-site improvements and contributions to improvements for public facilities if applicable.
 - (5) A time frame for commencement and completion of improvements associated with the PUD, including both public infrastructure improvements and internal site improvements, along with the means of insuring that all public improvements are constructed and maintained.
 - (6) A statement indicating that, except as otherwise provided by the agreement, regulations governing permitted uses of land, density, design, improvement and construction standards and specifications applicable to development of the land shall be the regulations in force at the time.
 - c. *Additional requirements.* In addition to the application requirements set forth in subsections (a) and (b), the applicant shall provide the following documents with the application:
 - (1) A site plan meeting all submission requirements of article 3, site plan review requirements of the Harrison Township Zoning Ordinance.
 - (a) Residential site plans shall include the street layout and the number and type of dwelling units proposed for each phase. A yield plan may be required by the planning commission to determine the number of units an applicant could achieve under the conventional standards of the zoning ordinance. The yield plan shall meet all applicable requirements of the state Land Division Act and all

applicable township ordinances. The yield plan shall also meet all requirements of the Harrison Township Land Division Regulations Ordinance, as applicable to the type of development.

- (b) Non-residential phases shall include at least the building footprint, street layout, square footage of each structure, and the location and number of spaces in all parking areas.
 - (2) A development impact statement meeting the requirements of the Harrison Township Zoning Ordinance.
 - (3) A phasing plan, if applicable. Phasing shall be provided in such a manner to ensure overall compliance with the overall PUD.
 - (4) A description of all landscaping, lighting and architectural themes and materials used for each building including architectural renderings.
 - (5) A coordinated sign package.
 - (6) Legal documents in recordable form including but not limited to:
 - (a) Master deed and bylaws which incorporates the associations involved in the PUD and includes the following:
 - i. The establishment of voting rights within the PUD.
 - ii. Maintenance language for all common areas.
 - iii. Special assessment language as approved by the township.
 - (b) Cross access, joint access and shared parking agreements where applicable.
 - (c) Conservation easements or other method deemed suitable to ensure the protection of open space areas.
3. *Criteria for approval.* Upon receipt of a formal application for a PUD, the planning commission shall hold a public hearing, with notice given pursuant to Public Act 110 of 2006, as amended, and review the application to determine if the proposal meets the eight standards for special land use approval outlined in section 17.01 of the Harrison Township Zoning Ordinance. In addition to meeting these eight standards, the commission shall find that the plan addresses the following issues:
- a. A suitable development agreement has been provided outlining the specific design of the site including parking arrangement, building footprint, building design and materials, landscaping and infrastructure improvements. Said agreement provides the township with a reasonable guarantee that what will be constructed is what has been agreed to by both the township and the developer.
 - b. The plan provides for safe, efficient, convenient and harmonious groupings of structures, uses and facilities; for appropriate relation of space inside and outside buildings to intended uses and structural features; and for preservation of desirable natural or historic features. In particular, streets, drives and parking and service areas shall provide safe and convenient on-site circulation, as well as safe and convenient access to dwelling units, general facilities and for service and emergency vehicles.
 - c. The planning commission shall review the positive and negative impacts of the proposed PUD to determine if the development provides benefits that substantially outweigh that which would be achieved under the conventional standards of the zoning ordinance. The following more specific list shall also be considered by the planning commission. This list shall not be deemed all-inclusive and should act as a guideline for applicants proposing a PUD.

(1) *Residential design.*

- (a) A significant amount of passive and/or active open space has been provided throughout the site. Additional consideration will be given towards the provision of open space along major roads abutting the development.
- (b) A substantial number of dwelling units within the development abut dedicated open space.
- (c) Trail ways have been located throughout the open space and link the internal sidewalk/walking path system of the housing development with the open space areas.
- (d) The development provides open space in a manner which encourages the future linkage of open space to adjacent parcels.
- (e) Dwelling units have side, rear, or alley entry garages, or other configurations not opening directly to the street.
- (f) The applicant has provided an architectural theme which promotes varied architectural designs and floor plans. Architectural features such as cupolas, dormers and gables are encouraged along with the design of porches and the use of brick and stone building materials.

(2) *Commercial/industrial design.*

- (a) A compatible architectural theme has been provided that provides architectural treatments and maintains durable materials.
- (b) Significant landscaping/open space areas have been provided that enhance/preserve the natural environment of the area.
- (c) Appropriate buffering has been provided that complements/protects surrounding residential neighborhoods.
- (d) The buildings have been designed at such a scale that the overall character of the area has not been compromised.
- (e) Shared driveways, parking areas and connectivity between uses has been taken into account.
- (f) Parking has been provided for in the side or rear yard of the site and does not act as a focal point for development.
- (g) Pedestrian accessibility has been planned for and is an integral part of the overall design.

4. *Decision and final approvals.*

- a. The planning commission, after the public hearing, shall recommend to the township board approval or denial of the PUD and development agreement presented by the developer after receiving a recommendation from the township attorney regarding the draft development agreement.
- b. Following the review and acceptance of the development agreement by the township attorney and the planning commission, the PUD and development agreement shall be forwarded to the township board with the recommendations made by the planning commission and all township consultants.

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- c. An additional public hearing, with notice given pursuant to Public Act 110 of 2006, as amended, may be held by the township board prior to making a decision. The township board shall consider the comments obtained during the public hearing(s), as well as the recommendations of all township consultants and the planning commission in making a decision to approve or deny the PUD and development agreement.
 - d. Prior to making a final decision, the township board may require revisions to the PUD plan and development agreement, as is deemed necessary to further the objectives of this section.
5. *Site plan and amendment procedure.* Application for approval of each phase of the PUD shall be submitted and regulated under the standard site plan review process outlined in section 3.03 and/or section 3.04 as well as criteria a.—c. outlined above in subsection 3.
- a. Each phase of the project shall be in compliance with the approved PUD and development agreement signed and approved by the township. The PUD and development agreement shall not be amended without a majority vote of approval by the full township board (four votes), after review and recommendation by the planning commission. All amendments to the site plan and/or development agreement shall follow the same review procedures as outlined for the initial PUD approval.
 - b. Development within the PUD property shall not be permitted to appeal specific standards of the zoning ordinance to the ZBA unless otherwise stated in the development agreement.

(Ord. No. 308.4, § 39, 8-13-2018; Ord. No. 308.5, §§ 32, 33, 4-26-2021)

Section 17.34. Private clubs or fraternal organizations.

1. All such uses shall have ingress and egress directly onto a major thoroughfare having an existing or planned right-of-way width of at least 120 feet, as indicated on the master plan.
2. All activities, other than parking of motor vehicles and loading and unloading, shall be conducted within a completely enclosed building, except for outdoor activity specifically approved and/or licensed by the township.
3. No building shall be closer than 50 feet to any property line.
4. No such uses shall abut an existing residential district on more than one side.

Section 17.35. Private and trade schools.

1. A 30-foot wide landscaped greenbelt shall be provided along any property line that abuts a residential zoning district.

Section 17.36. Raising of fur bearing animals including kennels.

Minimum site size: One (1) acre.

1. The site shall abut a roadway designated as either a regional or major thoroughfare in the Harrison Township Master Plan.
2. There shall be provided an area of at least 50 square feet for each animal, including the area devoted to interior kennel space and runs.
3. All interior building areas used for the keeping of animals shall be soundproofed.
4. All animals shall be kept in soundproofed buildings between 8:00 p.m. and 8:00 a.m.

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5. Exterior dog runs and non-soundproofed interior buildings shall not be located closer than 200 feet to any lot line.
 6. Soundproofed interior buildings shall be located at least 100 feet from any property line.
 7. Exterior areas for the keeping of dogs shall be provided with fencing capable of confining the animals.
 8. All exterior dog runs shall be screened from view by adjoining parcels and the public road.
 9. The design and appearance of buildings used as animal boarding places shall be consistent with surrounding uses.
 10. One parking space shall be provided for every five kennel runs.
 11. All kennel runs and interior building areas shall have concrete floors or a suitable equivalent that can be easily cleaned.

Section 17.37. Refuse disposal, recycling centers and transfer stations.

1. The proposed plan of operation shall be approved by the State of Michigan, Macomb County Health Department and Township Engineer and shall be subject to all EPA standards.
2. All refuse storage, dumping and feeding shall be done within an enclosed structure.
3. All ash and other incineration by-products shall be stored in an enclosed structure.
4. Smokestacks shall be of a design and operated in a manner so as to preclude the emission of noxious odors and smoke which would interfere with the use of adjoining properties.
5. The site shall be a minimum of 1,000 feet from any residential structure.
6. All ingress and egress to incinerators shall be paved roads and driveways maintained in a dust free state.

Section 17.38. Stack in-and-out boat storage.

1. All stack storage and in-and-out boat storage, including all storage racks and access to said racks, shall be enclosed in a building. No such stack storage or access to such racks can be maintained on the grounds of the premises outside a building.
2. The stack storage building shall comply in all respects with all building, height, zoning and site plan requirements for all other buildings in the waterfront district. Specifically, no building which will be used for stack storage of any vessel shall exceed 30 feet in height.
3. In-and-out boat storage shall be prohibited unless there is on-site access for launching of the stored vessels. For the purpose of this section, the term "site" shall mean and include a single parcel of property for which a separate tax identification number exists, or any property contiguous to such parcel owned by the same person or legal entity which contiguous parcel includes on-site launching facilities. Contiguous property does not include property which is on the opposite side of the thoroughfare, trunk highway or other county road, regardless of the ownership of both parcels.
4. The number of off-street parking spaces for any building in which stack storage of vessels is allowed, shall depend on the type of stack storage utilized. There shall be separate parking requirements for inventory storage areas and berthing or in-and-out storage areas.
 - a. For buildings having berthing or in-and-out vessel storage, there shall be three-quarter parking space for each storage berth or space.

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- b. For any building which includes both in-and-out storage and inventory storage areas, the parking requirements shall be a combination of the foregoing requirements and shall be determined based upon the number of in-and-out storage berths and the total area used for inventory storage purposes.
 5. There shall be posted in a conspicuous place in the storage facility, in clear view of all employees and customers of the facility, a sign of not less than 12 inches in height by 24 inches in length, listing the number of approved in-and-out berthing racks or spaces, as well as the number of racks or spaces approved for inventory storage. The lettering on said sign shall be presented in a clear and understandable fashion and shall not be less than six inches in height. At no time shall the number of boats stored in either category exceed the approved number of spaces, as posted.
 6. Parking spaces and/or yard spaces on the site shall not be used for the storage of boats during the dry storage season pursuant to the provisions set during the boating season. Such parking spaces may be utilized for the storage of boats during the winter storage season pursuant to the provisions of this ordinance.

Section 17.39. Truck terminals.

1. All such uses shall be located on a parcel of land which is surrounded by abutting land zoned industrial.
2. All sides of the development not abutting a major thoroughfare shall be provided with a 20-foot wide greenbelt planting and fence or wall so as to obscure from view all activities within the development.
3. No building or part thereof shall be erected closer than 100 feet from any property line.

[Section 17.40. Reserved.]

Section 17.41. Wireless communication towers and antennae.

Except as provided herein, wireless communication towers, including their respective transmission towers, relay and/or receiving antennas, and normal accessory facilities involved in television, radio, microwave, cable systems, cellular, personal communication, and similar communication services and facilities, shall be permitted as a special land use in the GC, WM and industrial districts, when found to be essential or desirable to the public convenience or welfare and in conformance with the following requirements:

- A. The applicant shall submit a written statement and technical verification regarding the nature of any transmissions, electromagnetic fields, or any other radiation emitted from the facility, and any potential hazards to humans, animals, and/or any other materials or property in the area. Further, communication towers and facilities shall be designed and operated to prevent broadcast interference with any equipment located on nearby properties.
- B. A written explanation of the design characteristics and ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards shall be submitted. This information shall also address the potential for the tower or other mounting structure and/or antennae to topple over or collapse, and what tower configuration should be expected in such an event. Technical documentation of any information regarding these concerns shall also be provided. Monopole (stealth or equivalent type) antenna structures shall be required where such are technologically feasible. In all cases, communication towers shall be designed to blend into the surrounding environment to the maximum extent feasible.
- C. In order to maximize the efficiency of providing such services, while minimizing the negative impact of such facilities on the township, co-location of such facilities on an existing tower or other existing structure is required, when feasible. An applicant shall furnish written documentation as to why a co-location at another site is not feasible and whether they have, in fact, contacted the owners of existing

facilities to determine if co-location is possible. If the application represents a new tower/antenna facility, the applicant shall provide a letter of intent to lease any excess space on a tower facility and shall commit itself to:

1. Promptly responding to any requests for information from a potential co-user of their tower/antenna;
 2. Negotiate in good faith and allow for leased, shared use of the facility, when it is technically practical; and
 3. Make no more than a reasonable charge for a shared use lease.
- D. Approval of a communication tower facility shall not be granted until such time that the applicant has demonstrated all of the following:
1. The proposed facility is needed because of proximity to an interstate highway or major thoroughfare, or is in proximity to areas of population concentration, or concentration of commercial, industrial, and/or business centers; or
 2. The proposed facility is needed because there are areas where signal interference has occurred due to tall buildings, masses of trees or other obstructions; and
 3. The proposed facility is needed because the telecommunications provider is unable to co-locate its facility with another provider or other structure; and
 4. The proposed facility is needed to complete its grid as it relates to the needs of Harrison Township and its surrounding communities, and that there are no suitable sites in any of said surrounding communities; and
 5. The proposed facility is designed to operate within the requirements for radio frequency emissions of the Federal Communications Commission and applicant has operated similar facilities within these requirements consistently.
- E. The development of a communication tower facility, together with accessory uses, shall be in such a location, size and character as to be compatible with the orderly development of the zoning districts in which it is situated and shall not be detrimental to the orderly and reasonable development or use of properties in the adjacent areas or the community at large. Furthermore, the location and improvement of facilities, as provided for herein, shall also be subject to the following additional requirements.
1. Towers may be located in the GC, WM and industrial zoning districts after special land use approval, and provided the location of such facilities do not represent a hazard to the use and/or development of other uses on the site and in the area. The development of new towers is specifically prohibited in all other zoning districts in the township. The township strongly encourages the development of required towers on suitable township property. Consult with the township planning department with regard to township property locations prior to submitting an application.
 2. The site shall be of such size and shape that the proposed tower facility may be developed in compliance with all requirements of the township, and any such tower/antenna shall not exceed 150 feet in height above the average grade around the structure it is mounted upon.
 3. The tower site shall meet all township standards relating to drainage, lighting, landscaping, general safety and other applicable standards. All landscaping shall be placed in an aesthetically pleasing and functional manner. Such landscaping shall be incorporated along access drives servicing the tower site.

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4. All communication towers and facilities shall be surrounded by a six-foot fence to prevent unauthorized access and vandalism, six-foot high evergreen trees shall be placed at intervals of ten feet on center outside of said fence to screen the tower base and ancillary facilities.
 5. Lighting associated with communication towers and facilities shall comply with all applicable FAA regulations. Where tower lighting is required, it shall be shielded or directed to the maximum extent possible to minimize the amount of light that falls onto nearby properties.
 6. A 12-foot-wide paved access road shall be provided and maintained in a good condition to provide access for service and emergency vehicles. Such access road shall meet all township engineering design requirements.
 7. Setback requirements will be determined in relation to the tower/antenna design and collapse data previously required in this section. Minimum setback requirements, unless otherwise provided for, are as follows:
 - a. When adjacent to non-residential zoning districts, the setback shall not be less than the overall height of the tower/antennas. This setback requirement shall also apply to any accessory buildings. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirements to any side or rear yard property line abutting a nonresidential zoning district may be reduced to one-half the overall height of the tower. In no instance shall any tower facility be located within a front yard. Accessory buildings shall be screened from view by an obscuring greenbelt.
 - b. When adjacent to any residential zoning district, the tower setback shall not be less than the overall height of the tower/antennas, plus 50 feet. If the design and collapse data for the tower properly documents its ability to collapse down upon itself, the setback requirement to any side or rear yard property line abutting any residential district may be reduced to the overall height of the tower/antenna. In no instance shall any tower be located within a required front yard. Accessory buildings and uses shall be screened from the view of any public right-of-way and residential zoning district by an obscuring greenbelt.
 - c. Further modifications to the side and rear yard setbacks may be considered when it is documented that the adjacent property is not buildable due to wetlands, floodplains or other significant limitations. It shall also be found that no adverse effects on reasonable development patterns in the area would be created by developing the tower.
 8. Cellular antennae and supporting structures shall be permitted to be attached to buildings and structures in all zoning districts whether or not they are accessory to the building use, subject to the following conditions.
 - a. The principal use is a conforming use and the building is a conforming structure.
 - b. If connected directly to the main building, antennae may be attached to any portion of the building. Such antennae or antennae with supporting structure may not exceed 20 feet in height.
 - c. The structure that supports antennae may not exceed ten feet in height.
 - d. Such antennae with supporting structure shall not be credited to the overall height of the building.
 - e. Any structure that supports antennae shall be set back from the outermost vertical wall or parapet of the building, a distance equal to at least two times the height of such supporting structure.

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- F. In addition to site plan review, the commission shall require an independent third-party review of an application for a communication tower facility. Such review shall be conducted by a professional engineer specializing in this type of communication technology and will be paid for by the applicant.
- G. All structures, buildings and required improvements shall comply with all other applicable codes and ordinances and shall be continuously maintained in a safe, healthful and complying condition. Every telecommunication provider with sites located in Harrison shall provide the township with an annual report disclosing the radio frequency emissions of each tower or antenna it has within the township, and require annual inspections of radio frequency emissions of each tower or antenna by the township to ensure that they are being operated within the requirements of the Telecommunications Act of 1996. The permit may include a requirement for periodic structural and safety inspections and reports, as deemed necessary by the township board. The township shall charge a fee for the annual inspection to cover its costs.
- H. A condition of every approval of a wireless communication facility shall be the adequate provision for the removal of the facility by users and owners when the facility has not been used for 180 days or more. Removal of the tower/antenna and its accessory use facilities shall also include removing the top three feet of the caisson upon which the tower is located and covering the remaining portion with top soil. For purposes of this section, the removal of towers, 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 non-use.
- I. The applicant shall deposit with the township, in a form which is satisfactory to the township, a performance guarantee in an amount established by the township board resolution as security for the removal of the tower if abandoned for use of cellular facilities.
- J. *Timeframe for special land use review.* After an application for special land use approval for a wireless communication facility is filed, the building official shall determine whether the special land use permit application is administratively complete within 14 business days of its receipt. The planning commission shall approve or deny the application not more than 90 days after the application is considered to be administratively complete. However, the planning commission may extend this deadline where it has been determined that the applicant has not provided sufficient information to demonstrate compliance with the requirements of this section or where reasonable additional time is necessary for the township or a third party to evaluate the submitted information to confirm compliance with the requirements of this section.
- K. *Co-location on an existing communication tower.*
1. Pursuant to Public Act 110 of 2006, as amended, co-location is permitted on existing and approved wireless communication towers without a zoning permit, provided the following requirements are met:
 - a. The proposed co-location will not increase the overall height of the tower by more than 20 feet or ten percent of its original height, whichever is greater.
 - b. The proposed co-location will not increase the width of the tower by more than the minimum necessary to permit collocation.
 - c. The proposed co-location will not increase the area of the existing equipment compound to greater than 2,500 square feet.
 2. Plans for co-location installation shall be administratively reviewed by the building official to verify compliance with the requirements herein. The building official shall complete his or her administrative review of the proposed co-location installation plans within 14 business days of his or her receipt of such plans.

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3. Co-location which does not meet any of the requirements of subsection K.1. above shall be subject to special land use review and approval by the planning commission.
- L. *Replacement of an existing communication tower.* An existing communication tower facility which was lawful at the time of its construction may be replaced for purposes of accommodating co-location of additional antenna, or otherwise, provided that the replacement tower facility does not exceed the original approved height, will be located within the same zoning lot as the existing tower facility, and will be located so as to maximize compliance with existing minimum yard requirements. Such installation shall be considered to be a permitted use of property, not subject to special land use permit approval. Further, the existing tower facility shall be removed within 180 days of the township's final construction inspection of the replacement tower facility.
1. The building official shall determine that the application is administratively complete within 14 business days of its receipt. The building official shall approve or deny the application not more than 90 days after the application is considered administratively complete. Such review by the building official shall be without notice.
- M. *Installation or replacement of equipment within an existing compound.* Plans for the installation of new or replacement of wireless communication equipment within an existing communication tower facility compound shall be administratively reviewed by the building official to verify compliance with the requirements herein. The building official shall complete his or her administrative review of the installation plans within 14 business days of his or her receipt of such plans.

(Ord. No. 308.5, § 31, 4-26-2021)

Section 17.42. Yard composting facilities.

- A. Yard waste composting facilities, those that manage the biological decomposition of organic matter under controlled, aerobic conditions and are registered with the MDEQ as a composting facility, may be permitted in industrial districts only, subject to the issuance of a special land use permit and compliance with the following conditions and standards:
1. Only yard wastes shall be composted at such facilities, including leaves, grass clippings, brush, tree or shrub trimmings, and vegetable or other garden debris. Composting of any other compostable material shall only be permitted upon approval by the township. Yard waste consisting of invasive species, or diseased or infested materials shall not be accepted at the compost facility. Non-compostable materials, or those incapable of decomposing naturally or of yielding safe, non-toxic end products, shall be prohibited. Examples of non-compostable materials include, but are not limited to plastic, glass, textiles, rubber, metal, ceramics, styrofoam, and painted, laminated, or treated wood. Agricultural wastes, animal waste, sewage sludge, and garbage shall also be prohibited. Yard waste composting facilities shall be prohibited from receiving materials in plastic bags. The applicant shall describe the types of material that will be accepted by the facility, sources of incoming material, and the types of containers in which materials will be accepted. When the facility is in operation, the operator shall maintain records tracking the type, origin, and volume of incoming yard wastes and of compost transferred off site each month. The above records shall be made available to the township as well as the MDEQ.
 2. The decomposition process shall be properly managed and maintained in an aerobic condition to prevent odors which are generally agreed to be obnoxious to any considerable number of persons.
 3. The site shall be gently sloped and well drained. Poned water shall not be permitted to collect on a yard waste composting site. A plan for collection, retention and drainage of storm water shall be provided for review and approval. Surface water drainage runoff must be controlled to prevent

untreated leachate from leaving the facility and must be diverted from the compost and storage areas. Vegetation filtration of runoff prior to discharge off-site shall be accomplished by use of a 50-foot wide (minimum) perimeter strip/swale of grass, or similar measure. Detention basins may also be required following a recommendation from the Township's consulting engineer. The run-off drainage system shall be designed to accommodate an unusually long and heavy rainfall statistically shown to occur every 25 years.

4. All operational areas shall have an engineered surface placed on top of a suitable compacted subbase. Composting pads shall be designed to support heavy equipment during all seasons and to prevent ruts from forming. Pads shall be permeable enough to allow water to percolate through the soil and to avoid standing water or ponding. The composting pad shall be graded with a slope that prevents ponding yet minimizes runoff.
5. Yard waste composting facilities shall not be located in a 100-year floodplain, within 300 feet of a regulated wetland or water source, and/or within 2,000 feet from a type I or type IIA water supply well, 800 feet from a type IIB or type III water supply well or within four feet above groundwater. In addition such facilities shall not be location within 100 feet of a groundwater or private water well. The applicant shall provide a map and description of local surface water features, as well as an indication of groundwater regime including water table elevations.
6. The operator shall provide sufficient equipment on-site to properly manage the composting process. As a minimum this shall include a front end loader or similar machinery for loading, unloading, turning, and aeration operations; a shredder for reducing new material to a smaller particle size for faster decomposition; a source of water or watering trucks; and a screen to improve the quality and marketability of the final product.
7. The applicant shall submit a description of naturally occurring and planned buffer areas. No compostables shall be stored within 150 feet of any boundary of a yard waste composting facility site when the adjacent property is a road right of way or not zoned industrial. If the site abuts property with an existing residence or property shown as residential on the township zoning map or master plan, a buffer zone shall be maintained where no composting, storage, transfer or loading activities will take place equal to 200 feet from adjoining property lines. All buffer areas shall be maintained as vegetative strips to facilitate the filtration of pollutants.
8. The applicant shall list sensitive land uses, including but not limited to schools, childcare facilities, homes for the elderly, health care facilities, and correctional facilities, within a two-mile radius of the proposed facility. The management or storage of yard clippings, compost, and residuals shall be located a minimum of 500 feet from a place of worship, hospital, nursing home, licensed day care center, or school, other than a home school.
9. All site access roads or drives and all areas for employee parking shall be paved with asphalt or concrete. Internal haul roads may be unpaved unless paving is deemed necessary by the planning commission following a recommendation from the township's consulting engineer. As developed, a yard waste composting facility must provide accessibility to all points of the site with a surface capable of supporting rescue equipment and emergency vehicles. Materials on site shall be arranged so as to permit easy access to all such material for firefighting purposes.
10. The volume of yard wastes handled by the facility shall not exceed 3,000 cubic yards of incoming yard wastes per acre per year of active composting area on-site, exclusive of access roads, service areas, parking areas, required buffer zones, and similar areas. The volume of finished compost stored by the facility shall not exceed 900 cubic yards per acre of active composting area on-site, exclusive of access roads, service areas, parking areas, required buffer zones, and similar areas.
11. The operator shall provide a name, address, and phone number of the person responsible for operation of the site and who is also responsible for correcting all operational problems that may result

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- in complaints being made to the township. A sign shall be posted at each entrance of the composting facility indicating the nature of activities at the facility, the facility name, operating hours, and an address and phone number for the operator.
12. The operator understands and agrees that failure to maintain and operate the site in a responsible manner that minimizes the potential for adverse impacts on neighboring properties shall constitute grounds for enforcement action by the township.
 13. Access to the site shall be controlled to prevent unauthorized dumping during non-business hours. A description shall be submitted detailing the type of fencing and gates that will be used and where they will be located. The operator shall establish a procedure and mechanism for proper disposal of non-yard wastes at an approved sanitary landfill.
 14. A composting facility designed for anaerobic composting shall not be permitted unless otherwise approved by the township. Yard waste composting facilities shall operate in a manner that prevents anaerobic conditions from occurring. Treated yard waste shall be actively rotated in an aerobic condition. At a minimum, rotation should be done so that the internal temperature of windrow piles does not drop below 120 degrees Fahrenheit or rise above 140 degrees Fahrenheit on a consistent basis during the decomposition process. The temperature of windrow piles shall be monitored at least twice a week and the operator shall keep a record of the temperatures taken. Windrows shall be no higher than six feet and no wider than 12 feet at the base. There shall be a minimum of 20 feet between windrows. Limitations on windrow dimensions and distance between windrows may be modified by the planning commission after recommendation by the township's consulting engineer.
 15. In no instance shall yard waste accumulate on site for longer than two years before being finished and removed from the site. There shall be no speculative accumulation. The operator shall be responsible for maintaining the records necessary to demonstrate that speculative accumulation is not occurring.
 16. The operator shall submit a management and operational plan for the facility that demonstrates compliance with this ordinance and other applicable regulations. The plan shall describe or provide information pertaining to the following: site design considerations including material flow and other procedures; the location of different activity areas (e.g., receiving, windrows, curing, screening, and load out); provisions made for removing and disposing of waste materials found in incoming materials; volume limits and where the operator will send material if site limitations are achieved; typical Carbon to Nitrogen ratios for expected materials and how the materials will be mixed to maintain reasonable ratios for successful composting; planned processing activities from receipt at the gate through until sale to a buyer; the frequency with which the yard waste will be rotated; the steps that will be taken to maintain composting materials at the appropriate moisture content and temperature; the means by which the temperature and moisture of the compost piles will be measured; the steps that will be taken to ensure that the decomposition process will be properly managed and maintained in an aerobic condition; the monitoring, record keeping, and reporting program that will be maintained; the length of time for which yard waste will remain on the site; the applicant's staffing plan and how many people will be working on-site throughout the year; the operating staff's qualifications and what training is planned for both operations and safety; and a plan for how the operator will troubleshoot typical composting difficulties such as litter control, odor, inappropriate temperature, dust, noise, flies and pests, and neighborhood complaints.
 17. A comprehensive plan for sale of finished compost shall be established. The plan shall include a description of the proposed service area or customer base for the composting facility, the beneficial uses of finished compost materials, how the operator will ensure final product quality and overall marketability, how the operator will distribute finished materials, and the quantity of materials expected to be available for marketing. Finished compost shall contain not more than one percent by weight of foreign matter that will remain on a four-millimeter screen. Records of laboratory analysis of finished products are required per the Department of Environmental Quality.

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18. The operator shall provide plans showing all equipment maintenance and storage areas. An equipment maintenance structure shall be provided on-site. Plans shall show the location of all fuel storage facilities and shall detail primary and secondary containment for all hazardous materials, including product-tight containers for primary containment.
 19. A restroom facility sufficient in size to accommodate the facility's staff and an office providing space for administrative functions shall be constructed on-site.
 20. The operator shall have a plan for emergency response and shall ensure that firefighting equipment is available at the site and that personnel have been trained in firefighting procedures. Water equipment, such as water trucks, hydrants and hoses, or backpack spray units, is required for wetting organic material and for firefighting purposes. Sufficient quantities of water, noncombustible soil, and earthmoving/excavating equipment or the equivalent shall be maintained on-site for purposes of fire extinguishing. Where possible, the operator shall ensure that fire protection services are available to the site through notification to local fire protection officials.
 21. The applicant shall provide a study of the impact that truck traffic associated with the facility will have on public roadways, including a description of the volume of truck traffic that will be generated, with truck traffic estimates during peak and off-peak times; the type and quantity of incoming vehicles by season; the trucks' projected routes; the current condition of affected roadways and the impact that truck traffic is projected to have on their condition; and a plan for mitigating the impacts of truck traffic on area roadways. Because of the level of truck traffic associated with this use, direct access to a paved public roadway is required.
 22. All yard waste composting facilities shall be inspected several times per year based on a schedule established by resolution of the township board. These inspections shall be conducted by township officials and/or consultants engaged by the township. An inspection/permit fee for all yard waste composting facilities shall be established by resolution of the township board. The operator shall pay for all inspections necessary to verify compliance with this ordinance. Township officials and/or consultants engaged by the township shall be permitted entry to a yard waste composting facility for inspection purposes during normal operating hours to determine compliance with this ordinance and other applicable regulations. No person shall impede reasonable inspection of a composting facility by township officials and/or consultants engaged by the township.
 23. An inspection for insects, rodents, vermin, and other vectors shall be performed by a licensed pest control company at least semiannually.
 24. A test shall be performed at least semiannually to ensure that on-site soils and surface waters leaving the site are not contaminated by an excessive concentration of nitrogen, phosphorus, phenols, pesticides, and/or herbicides, and to ensure that untreated leachate is not leaving the facility. Soil samples shall be taken from the windrow area and detention basin, as applicable, and surface water samples shall be taken at the outlet from the detention basin, as applicable. An outside agency not engaged by the township, such as the Michigan Department of Environmental Quality, may perform these tests. The operator shall pay for all inspections necessary to verify compliance with this ordinance.
 25. Any yard waste composting facility shall be conducted in accordance with current standards established by the United States Environmental Protection Agency, the U.S. Department of Agriculture, the Michigan Department of Natural Resources, the Michigan Department of Environmental Quality and other government regulatory agencies. Copies of all Michigan Department of Environmental Quality applications/permits, if required, shall be provided to the planning commission as part of the application package.
 26. All internal roads and operation areas shall be kept dust free at all times.

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27. Noise and vibration emanating from a yard waste composting facility shall not exceed standards established in Article VII Performance Standards of Harrison Township's Zoning Ordinance or regulations of the State of Michigan.
 28. A description of the direction of prevailing winds and how the wind conditions will affect operations shall be submitted. Pile turnings shall be timed to coincide with favorable wind conditions. The operator shall not permit offensive odors to escape the boundaries of the yard waste composting facility and/or interfere with the enjoyment of adjacent properties. The operator shall submit a set of "low-odor" operating protocols and an odor response management plan that shall be employed in the event that the operator or township receives odor complaints during operation.
 29. The operator shall prevent organic material and/or other material such as debris or litter from scattering and/or blowing off the premises. If yard clippings are collected in bags other than paper bags, clippings shall be debagged by the end of each business day.
 30. Yard waste composting facilities shall be operated so as to prevent the attraction, harborage, or breeding of insects, rodents, vermin, and other vectors. If insects, rodents, vermin, or other vectors are detected, appropriate measures shall be taken to capture and/or exterminate them in an environmentally safe manner.
 31. The use must conform with the performance standards of this ordinance.
 32. A description of the composting experience and qualifications of the compost facility owner and operator must be submitted with the application for site plan review. A pollution incident history must be provided for any facilities previously owned or operated by the applicant. Disclosure of any and all lawsuits, legal actions, or regulatory actions taken against the applicant in the last five years, and their resolutions, is required.
 33. In the event that the township retains the services of an independent compost engineer to evaluate the site plan and operation/management plan, the proposed yard waste composting facility shall comply with the conditions of the compost engineer's review. A fee to be borne by the operator for review and evaluation of the plan by an independent compost engineer shall be established by resolution of the township board.
 34. The operator shall submit a bond, in an amount established by resolution of the township board, to guarantee restoration of the site in the event of abandonment and to guarantee cleanup of chemical or other hazardous spills

Section 17.43. Zero lot line.

- A. If a building is to be located on the common boundary, site plan approval for such building shall not be granted unless the owner of the adjacent parcel grants the applicant a maintenance easement a minimum of five feet in width and parallel to the common boundary of the properties.

ARTICLE XVIII. ZONING BOARD OF APPEALS

Section 18.01. Creation and membership.

There is hereby established a zoning board of appeals, which shall perform its duties and exercise its powers as provided by Act 110, Public Acts of 2006, as amended. The zoning board of appeals shall consist of five members and two alternates as follows:

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- A. The members of the zoning board of appeals shall be selected by the township board at a regularly called meeting. The township board shall appoint one member of the planning commission to the zoning board of appeals. The remaining members shall be selected and appointed by the township board from the electors of the township and shall be representative of the population distribution and of the various interests present in the township. One regular or alternate member of the zoning board of appeals shall be a member of the township board, but shall not serve as chairperson of the zoning board of appeals.
 - B. The township board shall appoint two alternate members for the same term as regular members of the zoning board of appeals. An alternate member may be called as specified in the zoning ordinance to serve as a member of the zoning board of appeals in the absence of a regular member if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. An alternate member serving on the zoning board of appeals has the same voting rights as a regular member.
 - C. The terms of office for members appointed to the zoning board of appeals shall be for three years, except for members serving because of their membership on the planning commission or township board, whose terms shall be limited to the time they are members of those bodies. A successor shall be appointed not more than one month after the term of the preceding member has expired.
 - D. A member of the zoning board of appeals who is also a member of the planning commission or the township board shall not participate in a public hearing on or vote on the same matter that the member voted on as a member of the planning commission or the township board. However, the member may consider and vote on other unrelated matters involving the same property.
 - E. A member of the zoning board of appeals may be removed by the legislative body for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. A member shall disqualify himself or herself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself or herself from a vote in which the member has a conflict of interest constitutes malfeasance in office.
 - F. The zoning board of appeals shall not conduct business unless a majority of the members of the board are present.
 - G. A member of the zoning board of appeals may be paid a reasonable per diem and reimbursed for expenses actually incurred in the discharge of his or her duties, as established by the township board.

Section 18.02. Jurisdiction.

- A. The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall hear and decide appeals from any administrative order, requirement, decision, or determination made by any township administrative official or body charged with enforcement of the zoning ordinance. The zoning board of appeals shall also hear and decide on matters referred to it by any township administrative official or body charged with enforcement of the zoning ordinance.
- B. The zoning board of appeals shall have the authority to grant nonuse variances relating to the construction, structural changes, or alteration of buildings or structures related to dimensional requirements of the zoning ordinance or to any other nonuse-related standard in this ordinance.
- C. The zoning board of appeals shall not consider use variances.

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- D. The zoning board of appeals shall not consider variance requests for PUD or special land use standards after an approval or denial from the planning commission has been granted.
 - E. The zoning board of appeals shall interpret the provisions of the ordinance in such a way as to carry out the intent and purpose of the plan, as shown upon the zoning map fixing the use districts, accompanying and made part of this ordinance.
 - F. In consideration of all appeals and all proposed variations of this ordinance, the zoning board of appeals shall, before making any variations from the ordinance in a specific case, first determine that the reason for the proposed variation is consistent with all of the accepted standards of practical difficulty.

Section 18.03. Meetings.

Meetings of the zoning board of appeals shall be held at the call of the chair and at such other times as such board may determine or specify in its rules of procedure. All zoning board of appeals meetings are subject to the Open Meetings Act. The zoning board of appeals shall adopt its own rules of procedure and keep a record of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating said fact; and shall file a record of its proceedings in the office of the township clerk, and shall be a public record. The concurring vote of a majority of the members of the zoning board of appeals shall be necessary to reverse any order, requirement, decision or determination of the building official or planning commission, or to decide in favor of an applicant any matter upon which they are required to pass under this ordinance or to effect any variation in this ordinance.

Section 18.04. Appeals procedures.

These procedures are instituted to hear and decide appeals from and review an order, requirement, decision or determination made by an administrative official or commission charged with the administration or enforcement of the township zoning ordinance. An appeal shall be filed with the officer or commission from whom the appeal is taken and with the zoning board of appeals specifying the ground for the appeal.

- A. The applicant shall file with the zoning board of appeals, in writing or on forms furnished by township, giving notice of appeal and specifying the grounds for appeal within 20 days of the ruling.
- B. An application for the approval of a variance shall be made by an owner of an interest in the site to the township planning coordinator, accompanied by the necessary fees and documents, as provided in this ordinance.
- C. The application shall be accompanied by a site plan drawn at a legible scale and placed on a standard sheet and containing the following information:
 - 1. Dimensional elements for which a variance is requested.
 - 2. Dimensional relationships of the subject lot to the structure on all adjacent lots.
- D. The application shall be accompanied by an affidavit by the applicant explaining:
 - 1. How the strict enforcement of the provisions of the township zoning ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 - 2. The conditions and circumstances unique to the property which are not similarly applicable to other properties in the same zoning district.
 - 3. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.

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4. Why the requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
 5. Why the requested variance will not be contrary to the spirit and intent of this zoning ordinance.
- E. The township shall immediately transmit to the zoning board of appeals all of the papers constituting the record upon which the action appealed from was taken.
 - F. An appeal to the zoning board of appeals stays all proceedings in furtherance of the action appealed. However, if the township certifies to the zoning board of appeals after the notice of appeal is filed that, by reason of facts stated in the certificate, a stay would in the opinion of the body or officer cause imminent peril to life or property, proceedings may be stayed only by a restraining order issued by the zoning board of appeals or a circuit court.
 - G. The board shall consider the application for variance at its next regular meeting, which provides sufficient time for notice as required heretofore, or within not more than 45 days after receipt of the application by the township and hear and question any witness appearing before the board.
 - H. The township shall provide notice of this public hearing for each variance request in accordance with Act 110 of 2006.
 - I. The board shall not approve an application for a variance unless it has been found positively that:
 1. The strict enforcement of the zoning ordinance would cause practical difficulty and deprive the owner of rights enjoyed by all other property owners owning property within the same zoning district.
 2. The conditions and circumstances are unique to the subject property and are not similarly applicable to other properties in the same zoning district.
 3. The conditions and circumstances unique to the property were not created by the owner, applicant, or predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
 4. The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
 5. The requested variance will not be contrary to the spirit and intent of the township zoning ordinance.
 6. The requested variance will not adversely affect the purpose or objectives of the Master Plan of the Township of Harrison.
 7. If an application for a dimensional variance is made while the subject property is affected by eminent domain under M.C.L. 213.54, the zoning board of appeals may also consider the potential benefit of the public use for which the property is being acquired.
 - J. The building official shall, upon receipt of the notice of approval and upon application by the applicant, collect all required fees and issue a building permit or such other approval permitting the variance, subject to all conditions imposed by such approval.
 - K. 1. Except as otherwise provided in section 18.04, no order of the zoning board of appeals permitting the erection or alteration of a building shall be valid for a period longer than 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.
 2. No order of the zoning board of appeals permitting a use of a building or land shall be valid for a period longer than 12 months, unless such use is established within such period; provided,

however, that where such order shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with such permit.

(Ord. No. 308, § 7, 2-13-2017)

ARTICLE XIX. ADMINISTRATION AND ENFORCEMENT

Section 19.01. Administration and enforcement.

The provisions of this article shall be administered and enforced by the township board through the building official or any other employees, police officers, inspectors and officials as the township board may delegate to enforce the provisions of the article.

(Ord. No. 402, § 4, 8-23-2021)

Section 19.02. Duties of building official.

The building official shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises to carry out his/her duties in the enforcement of this ordinance. The building official shall not have the authority to approve any plans or issue a zoning compliance permit or a building permit for any excavation or construction until he has inspected such plans in detail and found them in conformity with this ordinance. The building official shall require that every application for a zoning compliance permit for excavation, construction, moving, alteration, or change in type of use or the type of occupancy be accompanied by a written statement and plans or plats drawn to scale, in triplicate, and showing the following in sufficient detail to enable the building official to ascertain whether the proposed work or use is in conformance with this ordinance:

1. The actual shape, location and dimensions of the lot.
2. The shape, size and location of all buildings or other structures to be erected, altered or moved and of any buildings or other structures already on the lot.
3. The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
4. The signature of the permit holder or owner of the premises concerned.
5. Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance are being observed.

If the proposed excavation, construction, moving, alteration, or use of land as set forth in the application are in conformity with the provisions of this ordinance, the building official shall issue a zoning compliance permit. If any application for such permit is not approved, the building official shall state, in writing on the application, the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provisions of this ordinance.

Whenever an application for a building permit and/or zoning compliance permit indicates the necessity for construction of an on-site sewage disposal system and/or water well system on the premises, the building official shall not issue such permit unless the Macomb County Health Department shall have approved the site for the construction of such facilities. The building official under no circumstances is permitted to grant exceptions to the actual meaning of any clause, order or regulation contained in this ordinance to any person making application to excavate, construct, remove, alter or use either buildings, structures or land within the township. The building official shall have the authority to adopt policies and procedures in order to clarify the application of its provisions. Such policies and procedures shall be in conformance with the intent and purpose of this ordinance. The building

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official shall not refuse to issue a permit when the conditions imposed by this ordinance are complied with by the applicant despite violations of contracts, such as covenants or private agreements which may result upon the granting of said permit.

Section 19.03. Permits.

The following shall apply in the issuance of any permit:

- A. Permits required. It shall be unlawful for any person to commence excavation for, or construction of, any building or structure, structural changes, repairs in any existing building or structure, or moving of an existing building without first obtaining a zoning compliance permit and a building permit from the building official. No permit shall be issued for construction, alteration or remodeling of any building or structure until an application has been submitted in accordance with the provisions of this ordinance, showing that the construction proposed is in compliance with the provisions of this ordinance and the building code.

No plumbing, electrical, drainage or other permit shall be issued until the building official has determined that the plans and designated use indicate that the structure and premises, if constructed as planned and proposed, will conform to the provisions of this ordinance. "Alteration" or "repair" of an existing building or structure shall not include any changes in structural members, stairways, basic construction type, kind of class occupancy, light or ventilation, means of egress and ingress, or any other changes affecting or regulated by the building code, the housing law of the State of Michigan, or this ordinance, except for minor repairs or changes not involving any of the aforesaid provisions.

- B. Permits for new use of land. A zoning compliance permit shall also be obtained for the new use of land, whether presently vacant or a change in land use is proposed.
- C. Permits for new use of buildings or structures. A zoning compliance permit shall also be obtained for any change in use of an existing building or structure to a different class or type.
- D. Certificates of zoning compliance for new, reoccupied, altered or non-conforming uses. It shall be unlawful to use, or occupy, reoccupy or permit the use or occupancy of, any structure or premises, or parts thereof, hereafter created, erected, changed, converted or wholly or partially altered or enlarged, until a certificate of zoning compliance has been issued by the building official stating that the proposed use of the structure, premises or lot conforms to the requirements of this Ordinance.
- E. The building official is authorized to grant permit extensions at his/her discretion, one or more extensions of time for additional periods not exceeding 180 days in each. The extensions shall be requested in writing prior to the expiration date and justifiable cause demonstrated. Expired permits cannot be given extensions or renewed and will be cancelled; however, a new permit may be issued at a reduced price to the original permit holder. The request to extend the permit shall not be construed as an automatic renewal. Permits are non-transferable. Work done without a valid permit shall be subject to penalties as prescribed by law.

(Ord. No. 308.4, § 40, 8-13-2018)

Section 19.04. Certificates of occupancy.

It shall be unlawful to use or permit the use of any land, building or structure for which a building permit is required, and to use or permit to be used any building or structure hereafter altered, extended, erected, repaired or moved until the building official shall have issued a certificate of occupancy or certificate of compliance stating that the provisions of this ordinance have been complied with.

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- A. Certificate validity. The certificate of occupancy as required for new construction of or renovations to existing building and structures in the building code shall also constitute certificates of occupancy as required by this ordinance.
 - B. Certificates for existing buildings. Certificates of occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that such certificate of temporary occupancy shall not remain in force more than 90 days, unless a written extension request is received for justifiable cause prior to the expiration, nor more than five days after the building or structure is fully completed and ready for occupancy; and provided, further, that such portions of the building or structure are in conformity with the provisions of this ordinance.
 - C. Temporary certificates. Certificates of temporary occupancy may be issued for a part of a building or structure prior to the occupancy of the entire building or structure, provided that such certificate of temporary occupancy shall not remain in force more than 90 days, unless a written extension request is received for justifiable cause prior to the expiration, nor more than five days after the building or structure is fully completed and ready for occupancy; and provided, further, that such portions of the building or structure are in conformity with the provisions of this ordinance.
 - D. Records of certificates. A record of all certificates of occupancy shall be kept in the office of the building official, and copies of such certificates of occupancy shall be furnished upon request to a person or persons having a proprietary or tenancy interest in the property involved.
 - E. Certificates for accessory buildings to dwellings. Accessory buildings or structures to dwellings shall not require a separate certificate of occupancy, but rather may be included in the certificate of occupancy for the principal dwelling, building or structure on the same lot, when such accessory buildings or structures are completed at the same time as the principal use.
 - F. Certificates. Certificates of occupancy or certificates of compliance shall be applied for in writing. The certificate shall be issued within a reasonable time and after verification of all township permits have been finalized, site plan work is completed and all other governmental agencies have finalized their permits. If such certificate is refused for cause, the applicant shall be notified of such refusal and the cause thereof within a reasonable time.

Section 19.05. Final inspection.

The recipient of any building permit for the construction, erection, alteration, repair or moving of any building, structure, or part thereof, shall notify the building official immediately upon the completion of the work authorized by such permit for a final inspection.

Section 19.06. Amendments and changes.

Amendments to this ordinance may be made from time-to-time in the manner provided in Act 110 of the Michigan Public Acts of 2006, as same may now or hereafter be amended, and in accordance with the initiatory procedure set forth hereinafter. Amendments may be initiated by the township board upon written request to the planning commission, or the planning commission may initiate amendments upon its own motion. Any person, firm or corporation affected by the provisions of this ordinance may initiate an amendment hereto by submitting the necessary forms, obtainable from the township, to the township clerk. The petition shall be processed according to the procedures adopted by the township.

- A. In reviewing any petition for a zoning amendment, the planning commission shall identify and evaluate all factors relevant to the petition, and shall report its findings in full, along with its recommendations for disposition of the petition, to the township board. The factors to be considered by the planning commission shall include, but not be limited to, the following:

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1. Consistency with the goals, policies, and objectives of the master plan and any sub-area plans. If conditions have changed since the master plan was adopted, consistency with recent development trends in the area shall be considered;
 2. Compatibility of the site's physical, geological, hydrological, and other environmental features with the uses permitted in the proposed zoning district;
 3. Evidence the applicant cannot receive a reasonable return on investment through developing the property with one or more of the uses permitted under the current zoning;
 4. Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values;
 5. The capacity of township's utilities and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety, and welfare of the township;
 6. The capability of the street system to safely and efficiently accommodate the expected traffic generated by uses permitted in the requested zoning district; and
 7. The apparent demand for the types of uses permitted in the requested zoning district in the township in relation to the amount of land in the township currently zoned to accommodate the demand.

(Ord. No. 308.5, § 5, 4-26-2021)

Section 19.07. Conditional rezoning.

- A. *Intent.* It is recognized that there are certain instances where it would be in the best interests of the township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this section to provide a process consistent with the provisions of Section 405 of the Zoning Enabling Act, Act 110 of the Michigan Public Acts of 2006, as amended, by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.
- B. *Application and offer of conditions.*
 1. An owner of land may voluntarily offer, in writing, conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.
 2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this section.
 3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
 4. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which rezoning is requested.
 5. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this chapter may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this chapter.

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6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this chapter may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this chapter.
 7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the township board provided that, if such withdrawal occurs subsequent to the planning commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the planning commission for a new public hearing with appropriate notice and a new recommendation.
- C. *Planning commission review.* The planning commission, after public hearing, may recommend approval, approval with recommended changes, or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.
 - D. *Township board review.* After receipt of the planning commission's recommendation, the township board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. Should the township board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the township board may refer such amendments to the planning commission for a report thereon within a time specified by the township board and proceed to deny or approve the conditional rezoning with or without amendments.
 - E. *Factors.* In reviewing any petition for a rezoning of land where there is an offer of conditions, the planning commission shall consider the factors as outlined in section 19.06.A.
 - F. *Approval.*
 1. If the township board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written statement of conditions acceptable to the owner and conforming in form to the provisions of this section. The statement of conditions shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the township board to accomplish the requested rezoning.
 2. The statement of conditions shall be reviewed by the township attorney and shall be in a form recordable with the register of deeds of the county in which the subject land is located or, in the alternative, be accompanied by a recordable affidavit or memorandum prepared and signed by the owner giving notice of the statement of conditions in a manner acceptable to the township board.
 3. Upon the rezoning taking effect, the zoning map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a statement of conditions. The township clerk shall maintain a listing of all lands rezoned with a statement of conditions.
 4. The approved statement of conditions or an affidavit or memorandum giving notice thereof shall be filed by the owner with the register of deeds of the county. The owner shall provide a copy of the recorded document to the township within 45 days of the date of its recording. The township board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame within which the conditions are to be satisfied, the recording of such a document would be of no material benefit to the township or to any subsequent owner of the land.
 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the statement of conditions.
 - G. *Compliance with conditions.*

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1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the statement of conditions. Any failure to comply with a condition contained within the statement of conditions shall constitute a violation of this chapter and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.
 2. No permit or approval shall be granted under this chapter for any use or development that is contrary to an applicable statement of conditions.
- H. *Time period for establishing development or use.* Unless another time period is specified in the ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 24 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may, upon written request, be extended by the township board if:
1. It is demonstrated to the township board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion;
 2. The township board finds that there has not been a change in circumstances that would render the current zoning with statement of conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy; and
 3. The written request shall be made to the township board requesting the extension prior to the end of the 24-month period.
- I. *Reversion of zoning.* If approved development and/or use of the rezoned land does not occur within the time frame specified under subsection H. above, then the land shall revert to its former zoning classification.
- J. *Subsequent rezoning of land.* When land that is rezoned with a statement of conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no statement of conditions, whether as a result of a reversion of zoning pursuant to subsection I. above or otherwise, the statement of conditions imposed under the former zoning classification shall cease to be in effect.
- K. *Amendment of conditions.*
1. During the time period for commencement of an approved development or use specified pursuant to subsection H. above or during any extension thereof granted by the township board, the board shall not add to or alter the conditions in the statement of conditions.
 2. The statement of conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and statement of conditions.
- L. *Township right to rezone.*
1. Nothing in the statement of conditions nor in the provisions of this section shall be deemed to prohibit the township from rezoning all or any portion of land that is subject to a statement of conditions to another zoning classification.
 2. Any rezoning shall be conducted in compliance with this chapter and the State Zoning Enabling Act.
- M. *Failure to offer conditions.* The township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this chapter.

(Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—Ord. No. 308.5, § 6, adopted April 26, 2021, added § 19.07 to the Code and in so doing renumbered §§ 19.07—19.12 as §§ 19.08—19.13, as set out herein.

Section 19.08. Fees.

The township board shall establish, by resolution, fees for each of the following:

- A. *Inspection and certification.* Fees for inspections and the issuance of permits or certificates, or copies thereof, required or issued under the provisions of this ordinance shall be collected by the township treasurer in advance of the issuance of such permits or certificates.
- B. *Appeals.* Any person appealing under article XVII of this ordinance in all cases shall pay the established fixed fee, plus such additional fees as may be deemed reasonable by the township board for expert services necessary to render a proper decision.
- C. *Reviews.* Fees for the review of site plans, special approval land uses or other matters requiring township board, planning commission or the zoning board of appeals review, under the terms of this ordinance, shall be paid to cover the cost of such reviews, including notice, publication, delivery, administration and professional services.
- D. *Rezoning.* Any petition for the rezoning of land requiring an amendment of the Harrison Township Zoning Ordinance shall be accompanied by a fee payable by the petitioner. Said fee shall be utilized to defray all costs, including necessary expert opinions in conjunction with the legislative review of the petition.
- E. *Other.* Fees for special resolutions pertaining to any matter relevant to this ordinance or for the cost of special meetings of the township board, planning commission, zoning board of appeals or building board of appeals shall be paid by the recipient or applicant prior to said resolution or meeting.
- F. *Waivers.* The township board may waive payment of any fees established by resolution when it finds that the necessity for an appeal, variance and/or rezoning is the result of an error or omission by the township board in enactment of this ordinance.

(Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—See editor's note in § 19.07.

Section 19.09. Violations and penalties.

Any use of land or of a dwelling, building or structure, including a tent, trailer coaches, mobile homes or recreational vehicle, used, erected, altered, razed or converted in violation of any of the provisions of this zoning ordinance or a regulation adopted under it, is declared to be a public nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer, coach, mobile home, or land shall be adjudged guilty of maintaining a nuisance per se. The township supervisor or his or her designate shall administer and enforce the zoning ordinance.

Uses of land and dwellings, buildings or structures, including tents, trailer coaches and mobile homes, used, erected, altered, razed or converted in violation of any provision of this article, are hereby declared to be a nuisance per se. The court shall order such nuisance abated and the owner and/or agent in charge of such dwelling, building, structure, tent, trailer, coach, mobile home or land shall be adjudged guilty of maintaining a nuisance per se.

(Ord. No. 308.2, § 9, 2-26-2018; Ord. No. 308.5, § 6, 4-26-2021; Ord. No. 402, § 5, 8-23-2021)

Editor's note(s)—See editor's note in § 19.07.

Section 19.10. Declaration of nuisance; abatement; enforcement.

Any use of land or of a dwelling, building or structure, including a tent or recreational vehicle, used, erected, altered, razed or converted in violation of any of the provisions of this section or a regulation adopted under it is declared to be a public nuisance per se and shall be abated by order of a court of competent jurisdiction. The township supervisor or his or her designate shall administer and enforce the zoning ordinance.

(Ord. No. 308.2, § 10, 2-26-2018; Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—See editor's note in § 19.07.

Section 19.11. Municipal civil infractions.

A. *Definitions.* In this article, the following words shall have the meaning ascribed to them:

Bureau. The word "bureau" means the Charter Township of Harrison Municipal Ordinance Violations Bureau as established by this article.

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

Municipal civil infraction citation. The words "municipal civil infraction citation" mean a written complaint or notice to appear in court upon which an authorized township official records the occurrence or existence of one or more municipal civil infractions by the person cited.

Municipal civil infraction notice. The words "municipal civil infraction notice" mean a written notice prepared by an authorized township official, directing a person to appear at the Charter Township of Shelby Municipal Ordinance Violations Bureau to pay the fines and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township.

Municipal ordinance violations bureau. The words "municipal ordinance violations bureau" mean the bureau established by section 1-16 [of the Code of Ordinances].

Repeat offense. The words "repeat offense" mean a second (or subsequent) municipal civil infraction of the same requirement or provision of this section committed by a person within any six-month period for which the person admits responsibility or is determined responsible.

B. *Municipal civil infraction action; commencement.* A municipal civil infraction action may be commenced upon the issuance by an authorized township official of (1) a municipal civil infraction citation directing the alleged violator to appear in court; or (2) a municipal civil infraction notice directing the alleged violator appear at the Charter Township of Harrison Municipal Ordinance Violations Bureau, within ten days, to pay a civil fine if the alleged violator admits responsibility.

C. *Municipal civil infraction citations; issuance and service.* Municipal civil infraction citations shall be issued and served by authorized township officials as follows:

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 district court.
3. Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained the township and issued to the alleged violator as provided by Chapter 87 Section 8705 of the Act.

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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 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 commit a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the township attorney approves in writing the issuance of the citation.
 7. Municipal civil infraction citations shall be served by an authorized township official as follows:
 - a. Except as provided by [subsection 1-14(7)b of the Code of Ordinances], an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - b. If the municipal civil infraction involves the use or occupancy of land, a building or other structure, a copy of the citation does not need 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 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.

D. *Municipal civil infraction citations; contents.*

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

by representation within the time specified for appearance and obtain a scheduled date and time for a hearing, unless a hearing date is specified on the citation.

- b. If the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone, or by representation within the time specified for appearance and obtain a scheduled date and time for a hearing, unless a hearing date is specified on the citation.
 - c. A hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or township.
 - d. At an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
 - e. At a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.
4. The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

E. *Municipal ordinance violations bureau.*

1. The Charter Township of Harrison Municipal Ordinance Violations Bureau ("bureau) is established as authorized by Chapter 83 Section 8396 of the Act to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction notices issued and served by authored township officials, and to collect and retain civil fines and costs as prescribed by ordinance.
2. The bureau shall be located at a site designated by the township supervisor and shall be under the supervision and control of the township supervisor. The township supervisor, subject to approval of the township board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified township employee(s) to administer the bureau.
3. The bureau may dispose of municipal civil infractions for which a fine has been scheduled and for which a municipal civil infraction notice (as differentiated from a citation) has been issued. The bureau may not dispose of a municipal civil infraction citation (as differentiated from a municipal civil infraction notice.)

Nothing in this section shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any action for such a violation in a court of competent jurisdiction. No person shall be required to respond to a municipal civil infraction notice at the bureau and may instead have the violation processed as a citation so that the matter will be handled by a court of competent jurisdiction. The unwillingness of any person to respond to any municipal civil infraction notice at the bureau shall not prejudice or diminish such person's rights, privileges and protections accorded by law.

4. The bureau shall only accept admissions of responsibility for municipal civil infractions for which a municipal civil infraction notice has been issued (as differentiated from a municipal civil infraction citation). The bureau shall collect and retain civil fines and costs resulting from those admissions. The bureau shall not accept payment of a civil fine from any person who denies responsibility for the offense or who admits responsibility with an explanation. In no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation.
5. Municipal civil infraction notices shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for in subsections 2-153 of the Code of Ordinances. In addition to any other information required by this Code, the notice of violation shall

indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.

6. An alleged violator receiving a municipal civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the municipal civil infraction violation notice. An appearance may be made by mail, in person or by representation.
7. If an authorized township official issues and serves a municipal civil infraction notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violations are not paid at the bureau within ten days from the date of issuance of the municipal civil infraction notice, a municipal civil infraction citation may be filed with the district court and a copy of the citation may be served by first class mail upon the alleged violator at his last known address. The citation filed with the court shall consist of a sworn complaint containing the allegations stated in the municipal civil infraction notice and shall fairly inform the alleged violator how to respond to the citation.

F. *Schedule of municipal civil infraction fines.*

1. The following schedule of fines payable to the bureau for admissions of responsibility by persons served with municipal civil infraction notices shall apply,
 - a. One hundred dollars for each violation.
 - b. Two hundred fifty dollars, for the first repeat offense.
 - c. Five hundred dollars, for any second or subsequent repeat offense.
2. A copy of the schedule, as amended from time to time shall be posted at the bureau.

(Ord. No. 308.2, § 11, 2-26-2018; Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—See editor's note in § 19.07.

Section 19.12. Authority to issue municipal civil infractions notices and citations.

The township supervisor, township engineer, building official, code enforcement official, police officers, park rangers and such other officers, employees and other public servants designated by the township supervisor are authorized to issue and serve municipal civil infraction notices and citations as authorized by Public Act 236 of 261, as amended.

(Ord. No. 308.2, § 12, 2-26-2018; Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—See editor's note in § 19.07.

Section 19.13. Authority to issue appearance tickets.

The township supervisor, township engineer, building official, code enforcement official, police officers and such other officers, employees and other public servants designated by the township supervisor are authorized to issue and serve appearance tickets as provided by section 9c and 9f of Chapter IV of Act No. 175 of the Public Acts of 1927, as amended.

(Ord. No. 308.2, § 13, 2-26-2018; Ord. No. 308.5, § 6, 4-26-2021)

Editor's note(s)—See editor's note in § 19.07.

ARTICLE XX. PLANNING COMMISSION

Section 20.01. Establishment.

There shall be a Charter Township of Harrison Planning Commission pursuant to P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq. hereinafter referred to as the commission with the powers and duties as therein set forth and as hereinafter provided and a staffed planning department. This ordinance shall be officially known and described as the "The Charter Township of Harrison Planning Commission Ordinance."

Section 20.02. Membership.

- A. The commission shall consist of seven members appointed by the Charter Township of Harrison Board of Trustees. To be qualified to be a member and remain a member of the planning commission, the individual shall meet the following qualifications:
 - 1. Shall be a qualified elector of the Charter Township of Harrison, except that one member may be a non-qualified elector;
- B. Members shall be appointed for three-year terms. If a vacancy occurs, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment such that, as nearly as possible, the terms of one-third of all commission members continue to expire each year.
- C. One member shall also be a member of the Charter Township Board of Trustees, whose term of office shall coincide with his or her elected term of office on the Township Board of Trustees. The board liaison shall not serve as chair.
- D. The membership of the commission shall be representative of the important segments of the community, such as the economic, governmental, educational, neighborhoods and social development of the Charter Township of Harrison, in accordance with the major interests as they exist in the township as follows:
 - 1. Agriculture;
 - 2. Natural resources;
 - 3. Recreation;
 - 4. Education;
 - 5. Public health;
 - 6. Government;
 - 7. Transportation;
 - 8. Industry;
 - 9. Commerce.
- E. The membership shall also be representative of the entire geography of the Charter Township of Harrison to the extent practicable, and as a secondary consideration to the representation of the major interests.

Section 20.03. Removal from office.

- A. The Charter Township of Harrison Board of Trustees may remove a member of the commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. Failure to disclose a potential conflict of interest shall be considered malfeasance in office. Failure to repeatedly attend commission meetings shall be considered nonfeasance in office.
- B. The secretary of the planning commission shall report any member who has missed three regular meetings in a row to the Charter Township of Harrison Board of Trustees.

Section 20.04. Vacancies.

The Charter Township Board of Trustees shall fill any vacancy in the membership of the commission for the unexpired terms in the same manner as the initial appointment.

Section 20.05. Compensation.

All members of the planning commission shall serve as such with compensation as determined by the township board.

Section 20.06. Meetings.

The commission shall meet at least quarterly and a majority of the Commission shall constitute a quorum for the transaction of the ordinary business of said commission and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the planning commission.

The affirmative vote of two-thirds of the total number of seats for members of the commission, regardless if vacancies or absences exist or not, shall be necessary for the adoption, or recommendation for adoption, of any master plan or amendment to a master plan.

Section 20.07. Powers and duties.

The commission shall have their powers and duties as set forth in P.A. 33 of 2008, as amended, being the Michigan Planning Enabling Act, M.C.L. 125.3801 et seq.; and PA. 110 of the Public Acts of 2006, as amended, being the Michigan Zoning Enabling Act, (M.C.L. 125.3101 et seq.).

ARTICLE XXI. DEFINITIONS

Section 21.01. Construction of language.

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

- A. The particular shall control the general.
- B. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.
- C. The words "shall" and "will" are always mandatory and not discretionary. The word "may" is permissive.

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- D. Words used in the present tense shall include the future; and words used in the singular number shall include the plural and the plural the singular, unless the context clearly indicates the contrary.
 - E. A "building" or "structure" includes any part thereof.
 - F. The term "lot" includes any site or parcel comprising an individual piece of land, whether created by platting, splitting, condominium or other legal process.
 - G. The phrase "used for" includes "arranged for", "designed for", "intended for", "maintained for", or "occupied for".
 - H. The word "person" includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
 - I. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunctions "and", "or", "either...or", the conjunction shall be interpreted as follows:
 - 1. "And" indicates that all the connected items, conditions, provisions, or events shall apply.
 - 2. "Or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - 3. "Either...or" indicates that the connected items, conditions, provisions or events shall apply but not in combination.
 - J. Terms not herein defined shall have the meaning customarily assigned to them.

Section 21.02. Definitions.

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

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

Accessory building (accessory structure). A building or structure detached from, but located on the same lot as the principal structure, the use of which is clearly incidental, customary, and subordinate to that of the principal structure.

Accessory use, or accessory. A use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same lot as, the principal use to which it is related. When "accessory" is used in this text, it shall have the same meaning as accessory use. An accessory use includes, but is not limited to, the following:

- a. Swimming pools for the use of the occupants of a residence or their guests.
- b. Domestic or agricultural storage in a barn, shed, tool room or similar accessory building or other structure.
- c. Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded in the applicable district regulations.
- d. Storage of goods used in or produced by industrial uses or related activities, unless such storage is excluded in the applicable district regulations.
- e. Accessory off-street parking spaces, open or enclosed, subject to the off-street parking regulations for the district in which the lot is located.

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- f. Uses clearly incidental to a main use, such as, but not limited to, offices of an industrial or commercial complex located on the site of the commercial or industrial complex.
 - g. Accessory off-street loading, subject to the off-street loading regulations for the district in which the lot is located.
 - h. Accessory signs, subject to the sign regulations for the district in which the lot is located.

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

Adult arcade means any place to which the public is permitted or invited, wherein coin-operated, slug-operated, or for compensation, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, video screens, videotape decks, computer screens, or other image-producing devices are maintained to show images to five or fewer persons at a time and where the images so displayed are distinguished or characterized by the depicting or describing of "specific sexual activities" or "specified anatomical areas".

Adult book store, adult video store or adult novelty store means a commercial establishment which as one of its principal business purposes (meaning either a substantial or significant portion of its stock in trade) offers for sale or rental, or for any form or consideration, any one or more of the following:

1. Books, computer diskettes, tapes or hard drives, magazines, periodicals or other printed matter or photographs, films, motion picture, video cassettes or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas", or
2. Instruments, devices, or paraphernalia, which are designed for use in connection with "specified sexual activities." Condoms and clothing articles are excepted.

Commercial establishment may have other principal business purposes which do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specific anatomical areas" and still be categorized as "adult book store" or "adult video store".

Such other business purposes will not serve to exempt such commercial establishment from being so categorized as long as one of its principal business purposes is the offering for sale or rental for consideration, materials depicting or describing "specified sexual activities" or "specified anatomical areas". For purposes of video cassettes or films which are X-rated or of substantially equivalent content of X-rated films, shall be considered to depict or describe "specified sexual activities" or "specified anatomical areas" notwithstanding any more restrictive definition set forth herein.

Adult cabaret, non-liquor establishment means a nightclub, bar, restaurant or similar commercial or non-commercial establishment which does not furnish or serve alcoholic beverages or permit the consumption of alcoholic beverages which permits any of the following:

1. Persons who appear in a state of nudity or semi-nudity, or
2. Live performances characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
3. Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult cabaret-liquor establishment means a nightclub, bar, restaurant or similar commercial or non-commercial establishment which serves, furnishes or permits the consumption of alcoholic beverages which permits any of the following:

1. Persons who appear in a state of nudity or semi-nudity, or

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2. Live performances characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or
 3. Films, motion pictures, video cassettes, slides, computer presentations, or other moving-image reproductions characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Adult motel means a hotel, motel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration and provides patrons with closed circuit television transmissions of X-rated motion pictures or motion pictures equivalent to X-rated motion pictures and has a sign visible from the public right of way advertising the availability of this type of photographic reproductions; or
2. Offers a sleeping room for rent for a period that is less than eight hours.

Adult motion picture theater means a commercial establishment where for any form of consideration films, motion pictures, video cassettes, or similar photographic reproductions are regularly shown which are X-rated or the equivalent of X-rated.

Adult theater means a theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified sexual activities" or "specified anatomical areas".

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

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

Antenna. A wire or set of wires used in transmitting and receiving electromagnetic waves and including the supporting structure including, but not limited to, amateur radio antennas, television antennas and satellite receiving dishes. (Also see satellite dish antenna)

Architectural features. Architectural features of a building shall include cornices, eaves, gutters, projections, extensions, belt courses, sills, lintels, bay windows, chimneys and decorative ornaments.

Automobile heavy repair garage. General repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service (such as body, frame or fender straightening and repair), overall painting, and vehicle rust-proofing.

Automobile wrecking yard. The dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two or more motor vehicles, which, for a period exceeding 30 days, have not been capable of operating under their own power and from which parts have been or are to be removed for reuse or sale, shall constitute prima facie evidence of an automobile wrecking yard. (Also see junkyard)

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

Bed and breakfast establishment. An owner-occupied dwelling unit that contains no more than three guest rooms where lodging, with or without meals, is provided for compensation.

Bedroom. A room in a dwelling unit planned and intended for sleeping, separable from other rooms.

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

Block. The property abutting one side of a street and lying between the two nearest intersecting streets (crossing or terminating), or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river or live stream; or other barrier to the continuity of development or corporate boundary lines of the municipality.

Boat or personal watercraft shall mean a vessel that requires registration from the Secretary of State for traveling in or on water including a unit powered by sail or motor.

Boat house. A boat house is a structure with sides for the storage, shelter and simple routine maintenance of a privately owned boat, and not used to serve the public for revenue, public storage or maintenance purposes, as distinguished from a covered boat well which contains no sides.

Boat livery. Any structure, site, or tract of land utilized for the storage, servicing or rental of boats and/or the sale of hunting and/or fishing tackle, equipment, baits, etc.

Boat, recreational. Any vessel used primarily for non-commercial use or leased, rented, or chartered to another for the latter's noncommercial use.

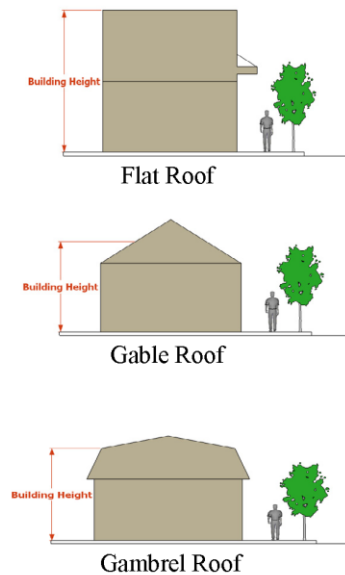
Buffer (screening). A landscaped area intended to separate and/or partially obstruct the view of two adjacent land uses or properties from one another. If the buffer area is to act as a screen, then fences, walks, berms, trees or shrubs may be required on the strip of land.

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

Building, apartment. A building containing three or more dwelling units whose entrances are from a common hallway or series of hallways or porch.

Building height. The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs; to the deck lines of mansard roofs; and to the average height between eaves and ridge for gable, hip and gambrel roofs; or to a point equivalent to the foregoing on any other roof. Where a building is located on sloping terrain, the height may be measured from the average ground level of the grade at the building wall.

Building Height



Building integrated solar energy system. A solar energy system that consists of integrating photovoltaic devices into the building structure, such as the roof or the wall, and which does not alter the relief of the roof or wall.

Building, main or principal. A building in which is conducted the principal use of the lot on which it is situated.

Building, multiple family. A building containing three or more dwelling units.

Building official. The building official of the township or their authorized representative.

Building permits. A building permit is the written authority issued by the building official permitting the construction, removal, moving, alteration or use of a building in conformity with the provisions of this ordinance (zoning compliance permit).

Building, single-family. A detached building designed or occupied exclusively by one family.

Building, temporary. A structure without a permanent foundation, erected or devoted to the development of, or in connection with, the principal use for a limited period of time.

Building, two-family. A detached building designed for or occupied exclusively by two families living independently of each other, such as a duplex dwelling unit.

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

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

Carry-out restaurant. See restaurant, fast-food.

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

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

Club, lodge or fraternity. An organization of persons for special purposes or for the promulgation of agriculture, sports, arts, science, literature, politics or the like, but not for profit.

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

Commission. The word "commission" shall mean the Harrison Township Planning Commission.

Condominium.

- *Condominium Act* means Act 59 of 1978, as amended.
- *Condominium subdivision (site condominium)* means a method of dividing land where land ownership of sites is regulated by the Condominium Act as opposed to the Subdivision Control Act of 1967. Condominium subdivision (site condominium) shall be equivalent to the term "subdivision" as used in this zoning ordinance.
- *Condominium unit* means that portion of the condominium project designed and intended for separate ownership and use, as described in the master deed.
- *Master deed* means the condominium document recording the condominium project as approved by the township. The documents include attached exhibits of the approved and constructed condominium subdivision plans and the bylaws, either directly or by reference.

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

Convalescent, nursing, or foster care homes are buildings with sleeping rooms where persons are housed or lodged, provided meals and receive nursing and medical care.

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

Deck. A platform structure more than 18 inches above the established grade.

Density. Density does not guarantee any specific number of units or lots for any individual parcel or group of parcels. It is the number of units or lots that could be developed while meeting all of the criteria and regulations applicable to conventional subdivision development.

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

District (zoning district). A portion of Harrison Township that certain uses of land and buildings are permitted within, and which certain regulations and requirements of this ordinance apply on a uniform basis.

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

Dwelling unit. A dwelling unit is any house or building, or portion thereof, having cooking facilities, which is occupied wholly as the home, residence or sleeping place of one family, either permanently or transiently, but in

no case shall a travel trailer, automobile chassis, tent or portable building, not including mobile homes, be considered a dwelling unit.

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

Efficiency unit. A dwelling unit consisting of one room, exclusive of bathroom and kitchen.

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

Establishment. As applied for adult uses, means and includes any of the following:

1. The opening or commencement of any sexually-oriented business as a new business;
2. The conversion of an existing business, whether or not sexually-oriented, to any sexually-oriented business;
3. The addition of any sexually-oriented business to any other existing sexually-oriented business; or
4. The relocation of any sexually-oriented business.

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

Escort agency means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

Essential services. The term "essential services" means the erection, construction, alteration, maintenance, addition, reconstruction or replacement by public utilities or municipal departments or commissions of underground, surface or overhead distribution of gas, electricity, communications, steam or water transmission or distributing systems, collection, supply or disposal system including poles, mains, drains, sewers, pipes, conduits, wires, cables, high voltage transmission lines, towers in connection with such lines, 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 to this municipality and immediate surrounding territory by such public utilities or municipal departments or commissions. Such facilities, both above and below ground, including storage fields and high pressure mains designated to serve users principally outside of this municipality and immediate surrounding territory, shall not be considered essential services under this definition. The term includes those facilities designed and located to serve Harrison Township residents.

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

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

Family member. For the purpose of determining eligible resident or owner family member, family shall include only persons related by genetics, adoption or marriage.

Farm. The term "farm" shall include the carrying on of any agricultural activity or the raising of livestock as a source of income.

Fast-food restaurant. See restaurant, fast-food and restaurant, drive-in.

Fence. Any man-made barrier or structure (including a hedgerow) of any material or combination of materials erected to enclose, separate, or screen areas of land.

Flea market. An occasional or periodic sales activity within a building or open area in which stalls or sales areas are set aside and rented or otherwise provided, and which are intended for use by various unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete or antique, and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade.

Floor area, gross (for the purpose of computing parking). Is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings. The "floor area" of a building shall include the basement floor area when more than one-half of the basement height is above the established curb level or finished lot grade, whichever is higher (see "basement" definition). "Floor area" shall include elevator shafts and stairwells at each floor, floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof), attic space having headroom of seven feet ten inches or more, interior balconies and mezzanines. Any space devoted to off-street parking or loading shall not be included in "floor area."

Floor area, residential. For the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

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

Frontage. The width of the lot measured at the required building line or minimum front yard setback from the right of way of the abutting street or road.

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

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

Garage, public. Any building or premises, other than a gasoline filling station, used for housing or care of more than three automobiles, or where any such automobiles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Garage, storage. Any premises, except those herein defined as private garage, used exclusively for the storage of self-propelled vehicles, and where such vehicles are not repaired.

Gasoline self-service station. An establishment where liquids used as motor fuels are stored and dispersed into the fuel tanks of motor vehicles by persons other than the service station attendant and may include facilities available for the sale of other retail products.

Grade. The ground elevation established for the purpose of regulating the number of stories and height of buildings. The building grade shall be the level of the ground adjacent to the walls of the building if the finished

grade is level. If the ground is not entirely level, the grade shall be determined by averaging the elevation of the ground for each face of the building. Grade in no instance shall be less than current U.S.G.S. 100-year flood elevation datum established by FEMA (see the definition of "story" for illustration).

Grade, building. The finished grade at the building shall be the building grade.

Greenbelt (also screening). A strip of land of definite width and location reserved for the planting of shrubs and/or trees to serve as an obscuring screen or buffer strip in carrying out the requirements of this ordinance.

Gross floor area. The total area of a building measured from the interior of all outside walls thereof and including all levels.

Gross site area. The total site area under the ownership of the applicant before any deductions are made for roads, easements, open space, parcels to be separated or planned for later development, and the like.

Ground-mounted solar energy system. A solar energy system that is directly installed in the ground and is not attached or affixed to an existing structure.

Group "C" cabaret. A cabaret which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers.

Group day-care. A private residence where care, protection and supervision are provided for a fee to at least seven and no more than 12 adults or children, including children of the adult provider.

Hazardous substances. Hazardous substances include hazardous chemicals, as defined by the Michigan Department of Public Health and the Michigan Department of Labor; hazardous materials, as defined by the U.S. Department of Transportation; critical materials and polluting materials, as defined by the Michigan Department of Natural Resources; and hazardous waste, as defined by the Michigan Department of Natural Resources.

Home occupation. An activity carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental, subordinate, and customary to the use of the dwelling unit for residential purposes and is such that it does not generate additional vehicular traffic to or from the location.

Hospital. A building, structure or institution in which sick or injured persons are given medical or surgical treatment and operating under license by the health department and the State of Michigan, and is used for in-patient and out-patient services provided by the hospital including but not limited to such related facilities as laboratories, out-patient departments, physical therapy, medical records, central service facilities, physician, and staff offices.

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

Household pet. Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but not be limited to, domestic dogs, domestic cats, domestic tropical birds and domestic rodents.

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

In-out boat storage. See stack storage.

Junk. For the purpose of this ordinance, the term "junk" shall mean any motor vehicles, machinery, appliances, product, merchandise with parts missing or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose that the product was manufactured.

Junkyard. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags,

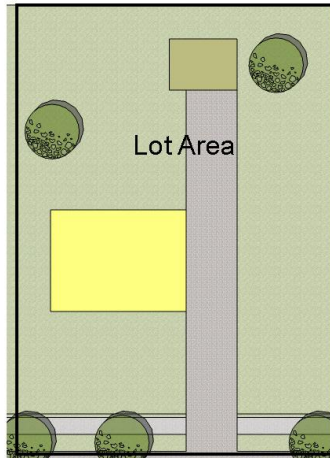
rubber tires and bottles. A "junkyard" includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping or abandonment of junk, but does not include uses established entirely within enclosed buildings.

Kennel, commercial. Any lot or premises on which four or more dogs, cats or other household pets over six weeks old are either boarded, bred, or sold.

Licensee means a person holding a state operating license under the MMFLA.

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

Lot area. The total horizontal area within the lot lines of a lot.



Lot, Substandard. A lot or parcel of land that has less than the minimum required area, depth, or width as established by the zoning district where it is located, and provided that such lot or parcel was of record as a legally created lot on the effective date of this ordinance.

Lot lines. The lines bounding a lot as defined herein:

- *Front lot line.* In the case of an interior lot, is that line separating said lot from the street. In the case of a through lot, is the line separating said lot from either street.
- *Rear lot line.* That lot line opposite the front lot line.
- *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street is a side street lot line.

Lot of record. A parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by township or county officials, and which actually exists as so shown, or any part of such parcel held in a record ownership separate from that of the remainder thereof.

Major thoroughfare. An arterial street which is intended to serve as a large volume trafficway for both the Township and the region beyond, and is designated as a major thoroughfare, parkway, freeway, expressway or equivalent term on the thoroughfare plan to identify those streets comprising the basic structure of the thoroughfare plan.

Manufactured home. A structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in the structure. Recreation vehicles are not manufactured homes.

Manufactured housing community. A parcel or tract of land under the control of a person upon which two 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 incident to the occupancy of a mobile home and which is not intended for use as a temporary trailer park and licensed pursuant to the provisions of Public Act 419 of 1976, as amended.

Marihuana shall have the meaning given to it in Section 7106 of the Michigan Public Health Code, 1978 PA 368, MCL 333.7106.

Marihuana board means the Medical Marihuana Licensing Board created pursuant to Part 3 of the MMFLA.

Marihuana infused product means that term as defined in the Medical Marihuana Facilities Licensing Act, PA 281 of 2016, MCL 333.27102.

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

Master plan. The township's basic land use plan prepared in accordance with the Michigan Planning Enabling Act (PA 33 of 2008), including graphic and written proposals indicating the general location for streets, parks, schools, public buildings and all physical development of the municipality, and includes any unit or part of such plan and any amendment to such plan or parts thereof. Such plan shall be adopted by the planning commission.

Mean grade. Mean grade is defined as the arithmetic average of elevations of points on the boundary lines of a site (parcel of land) uniformly spaced and not more than 100 feet apart.

Medical marijuana dispensary, compassion center or similar operation for the consumption of medicinal marijuana is any facility or location where medical marijuana is grown or possessed for the purpose of distributing to a registered primary caregiver who does not reside at the location where the medical marijuana is grown, cultivated, or possessed, or any facility or location where medical marijuana is grown, processed, possessed or where a means is provided for the purpose of distributing or facilitating the distribution of medical marijuana to more than a cumulative total of five qualified patients.

Medical marihuana facility or facility means one of the following:

- a. *Grower.* As that term is defined in the MMFLA.
- b. *Processor.* As that term is defined in the MMFLA.
- c. *Provisioning facility.* As that term is defined in the MMFLA.
- d. *Safety compliance facility.* As that term is defined in the MMFLA.
- e. *Secure transporter.* As that term is defined in the MMFLA.

Medical use of marihuana means that term as defined in the Medical Marihuana Act, MCL 333.26423.

Mezzanine. An intermediate floor in any story occupying not to exceed one-third of the floor area of such story (see the definition of "story" for illustration), with a clear height of seven feet and six inches, excluding obstructions.

MMMA means the Michigan Medical Marihuana Act, MCL 333.26421 et seq. as amended from time to time.

MMFLA means the Medical Marihuana Facilities Licensing Act, MCL 333.2701, et seq. as amended from time to time.

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

Motor home shall mean a recreation vehicle intended for temporary human habitation, sleeping, and/or eating, mounted upon a chassis with wheels and capable of being moved from place to place under its own power. Motor homes generally contain sanitary, water, and electrical facilities.

MTA means the Marihuana Tracking Act, MCL 333.27901 et seq. as amended from time to time.

Municipality. The Charter Township of Harrison.

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

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

Nude model studio means any place where a person appears in the state of nudity or displayed specified anatomical areas to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by any other person who pays money, or any other form or consideration.

Nudity or state of nudity means the exposure of the human male or female genitals, pubic area, or buttocks with less than a fully-opaque covering, the showing of the female breasts with less than a fully-opaque covering of any part of the nipple or areola, or the showing of the covered male genitals in a discernibly turgid state.

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

Nuisance factors. An offensive, annoying, unpleasant or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics of activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to, noise, dust, smoke, odor, glare, fumes, flashes, vibration, shock waves, heat, electronic or atomic radiation, objectionable effluent, noise of congregation of people (particularly at night), passenger traffic, and invasion of non-abutting street frontage by traffic.

Nursery, plant materials. A space, building or structure for the cultivation or storage of live trees, shrubs or plants offered for sale on the premises, including products used for gardening or landscaping. The definition of nursery within the meaning of this ordinance does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

Nursing home (also convalescent or rest home). A home, whether operated for profit or not, for the care of the aged, infirmed, or those suffering from bodily disorders, wherein seven or more persons are housed or lodged and furnished with nursing care.

Nursery school, day school, child care center. An establishment wherein 13 or more children, not related by bonds of consanguinity or fostership to the family living on the premises, are for remuneration cared for. Such schools or centers need not have a resident family on the premises.

Obstruction. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation channel rectification, bridge conduit, culvert, building, wire, fence, rock gravel, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

Occupancy load. The number of persons that a building can hold, as determined by the fire marshal or as indicated by the building code.

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

Off-street parking lot. A facility providing vehicular parking spaces, along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit, for the parking of more than two automobiles.

Open air business uses. Open air business uses not conducted from a wholly enclosed building, if operated for profit, shall include, but not be limited to, the following uses: Bicycles, trailers, mobile homes, motor vehicles, farm implements, boats, or home equipment sale or rental services.

Open space. Land used for recreation, resource protection, amenity and/or buffers. If any area of a lot is part of an existing or future road or right-of-way it shall not be counted as constituting open space.

Open space, common. Open space within or related to a development, not in individually owned lots or dedicated for public use, but which is designed and intended for the common use or enjoyment of the residents of the development.

Other recreation vehicles shall include snowmobiles, all terrain or special terrain vehicles.

Outdoor storage. The keeping, in an unroofed area, of goods, junk material, merchandise, boats or vehicles in the same place for more than 24 hours.

Parcel/Site. A continuous quantity of land in the possession of or owned by, or recorded as the property of, the same person or persons.

Parcel of record. A parcel of record is an area of land described by metes and bounds and which is not necessarily a lot of record in a subdivision plat.

Park. Any public or private improved land available for recreational, educational, cultural or aesthetic uses, or land preserved for scenic purposes.

Parking space. An area of definite length and width, exclusive of drives, aisles or entrances giving access thereto, and full accessibility for the storage or parking of permitted vehicles. Tandem parking stalls in single-family and multiple-family residential uses (in garages or driveways) shall be considered to be fully accessible for the purpose of this definition.

Patient means a "registered qualifying patient or a "visiting qualifying patient as those terms are defined by the Michigan Medical Marihuana Act, MCL 333.26423.

Paved surface. A level horizontal surface covered with a hard material such as asphalt, concrete, brick, or similar hard and solid material, for the purpose of walking, driving, or parking.

Performance guarantee (also maintenance guarantee). Any security accepted by the township in the form of cash, certified check, or certificate of deposit endorsed to the township, provided that the township shall not surcharge more than ten percent of the total performance costs to ensure that all improvements, facilities or work required by this ordinance will be completed in compliance with the ordinance, regulations, and the approved plans and specifications of a development.

Person means any individual, proprietorship, partnership, corporation, association, or any other legal entity.

Photovoltaic device. A system of components that generates electrical energy from incidental sunlight by means of photovoltaic effect, whether or not the device is able to store the electric energy produced for later use. For purposes of this ordinance, a photovoltaic device shall also be known as a solar device.

Pickup camper shall mean a structure designed to be mounted on a pickup or truck chassis with sufficient equipment to render it suitable for uses as a temporary dwelling during travel, recreational, and vacation uses.

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

Porch, open. A covered entrance to a building or structure which is unenclosed, except for columns supporting the porch roof, and projects out from the wall of said building or structure and has a separate roof or an integral roof with the principal building or structure to which it is attached.

Primary caregiver operation means a location where a primary caregiver can lawfully operate as permitted by the Medical Marihuana Act and this ordinance. A primary caregiver operation is not a medical marihuana facility.

Principal building. A building in which the principal use of the lot on which the building is located is conducted.

Principal use. The main use of land or structures, as distinguished from an accessory use.

Privacy fence. Privacy fencing is the use of fences to protect privacy, usually by preventing outsiders from seeing onto the property. They can be made of concrete, block, wood, assembled elements of landscape material, such as bushes, plants and evergreens, or a combination of any of the stated

Private drive. A means of vehicle access serving one property or one dwelling.

Private launching ramp. A space or structure from which a boat may be launched for the use and benefit of the patrons of the waterfront marina or boat yard wherein said boats are berthed or docked.

Private street or road. A street or road serving two or more parcels of land which the landowners of property served by the private road are responsible for its maintenance and which conforms to all requirements of the Harrison Township Engineering Standards Ordinance.

Public launching ramp. A space or structure at which a boat may be launched by the general public, the patrons of which do not berth their boats at the site of launching, but remove them by trailers or other means at the end of each trip.

Public utility. Any persons, firm, corporation, municipal department, board or commission duly authorized to furnish and furnishing, under federal, state or municipal regulations, to the public, electricity, gas, sanitary sewers, steam, communications, telegraph, transportation or water services. The term includes those facilities designed and located to serve Harrison Township residents.

Recreation vehicles means vehicles primarily designed for recreation, camping, or travel purposes, including a vehicle having its own motor power or a vehicle mounted on or drawn by another vehicle, in accordance with Act 419 of Michigan Public Acts of 1976 as amended. Recreation vehicles are further defined as follows:

- a. *Boat or personal watercraft* shall mean a vessel that requires registration from the Secretary of State for traveling in or on water including a unit powered by sail or motor.
- b. *Snowmobile* shall mean a motor driven vehicle designed for travel primarily on snow or ice, of a type which utilizes sled-type runners or skis and endless belt tread, or any combination of these, or other similar means of contact with the surface on which it is operated.
- c. *Utility trailer* shall mean a vehicle without motor power, designed to be drawn by a motor vehicle, to be used for carrying property including but not limited to, a boat, snowmobile, ATV, or other equipment for recreational, camping or travel use.

Recycling center. A facility where recoverable resources, such as newspapers, glassware and metal cans, are collected, stored, flattened, crushed or bundled, essentially by hand within a completely enclosed building.

Recycling collection point. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

Regulatory flood protection elevation. The elevation to which uses regulated by this ordinance are required to be elevated or flood-proofed.

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

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

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

Restaurant, fast-food. Any establishment whose principal business is the sale of foods, frozen desserts or beverages in ready-to-consume individual servings, for consumption either in the building or for carry-out, and where either: 1) Foods, frozen desserts or beverages are usually served in disposable containers, and where customers are not served their food, frozen desserts or beverages by a restaurant employee at the same table or counter where the items are consumed; or 2) The establishment includes a drive-up or drive-through service facility or offers curbside service.

Right-of-way. The right-of-way line shall be the line established by the Road Commission of Macomb County or the Michigan Department of Transportation in their right-of-way requirements established for Harrison Township or the township's adopted master plan.

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

Roof-mounted solar system. A solar energy system in which solar panels are mounted to a roof of a building, either as a flush-mounted system or as modules fixed to frames which can be tilted.

Room. For the purpose of determining lot area requirements and density in a multiple-family district, a room is a living room, dining room or bedroom, equal to at least 80 square feet in area. A room shall not include the area in kitchen, sanitary facilities, utility provisions, corridors, hallways and storage. Plans presented showing 1-, 2- or 3-bedroom units and including a "den", "library," or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Secondary road. A road that conducts and distributes traffic and carries through-traffic as a lower order major thoroughfare to major activity centers.

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

Semi-nude means a state of dress in which clothing covers no more than the genitals, anus, pubic region and areola of the female breast as well as portions of the body covered by supporting straps or devices.

Sexual encounter center means of business or commercial enterprise that as one of its principal business purposes offers for any form of consideration:

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1. Contact in the form of wrestling or tumbling between semi-nude or nude persons of the same or opposite sex; or
 2. Physical contact between male and female persons and/or persons of the same sex, where one or more of the persons is in a state of nudity and the contact includes actual or simulated specified sexual activity.

Sexually-oriented business means any of the following:

1. "Adult arcades";
2. "Adult book stores and adult video stores";
3. "Adult cabarets";
4. "Adult motels";
5. "Adult motion picture theaters";
6. "Adult theaters";
7. "Escort agencies";
8. "Nude model studios";
9. "Sexual encounter centers";
10. Other similar uses.

Solar array. Any number of photovoltaic devices connected together to provide a single output of electrical energy or other energy.

Solar energy system, large-scale. A utility-scale solar energy system where the primary use of the land is to generate electric energy or other energy by converting sunlight, whether by photovoltaic devices or other conversion technology, for the sale, delivery or consumption of the generated energy by more than one end-user, and typically the power output of that system is equal to or greater than one megawatt.

Solar energy system, small-scale. A solar energy system where the sole use is to generate electric energy or other energy by converting sunlight, whether by photovoltaic devices or other conversion technology, primarily for consumption by a single end user at the same property upon which the solar energy system is located.

Special land use. A land use or an activity that, under certain circumstances, might be detrimental to other permitted uses and should not be permitted as a right in a given zoning district, but which use can be permitted under circumstances unique to the proposed location and subject to conditions, acceptable to the township, which provide protection to land uses.

Specified sexual activities:

- A. Human genitals in a state of sexual stimulation or arousal.
- B. Acts of human masturbation, sexual intercourse or sodomy.
- C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Specified anatomical areas:

- A. Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
- B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Stack storage ("in-and-out" boat storage). The dry storage of any vessel for any purpose (whether during the wet or dry storage season) in a vertical fashion in or on any type of rack, cradle, or held by any sling system in a

multi-tiered configuration, or by any other means or any other system utilized for the stacking or vertical storage of boats.

State equalized valuation. The value shown on the township's assessment roll as equalized through the process of state and county equalization.

Story. That portion of a building between the upper surface of a floor and the upper surface of the floor or roof next above it. A "mezzanine" shall be deemed a full story when it covers more than 50 percent of the area of the story underneath said mezzanine, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.

Story, half. An uppermost story lying under a sloping roof, having a floor at an elevation above the eaves of that same roof. Any area of this story used for finished living space shall be at least 200 square feet, with a clear height of seven feet six inches. For the purposes of this ordinance, the usable floor area is only that area having at least four feet clear height between the floor and ceiling.

Structure. Anything constructed or erected on the ground or attached to the ground, including, but without limitation to principal and accessory buildings.

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

Temporary use or building. A use or building permitted to exist during periods of construction of a principal building or use, or for special purposes as allowed by this chapter.

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

Township board. The Township Board of the Charter Township of Harrison.

Travel trailer shall mean a portable vehicle on a chassis, which is designed to be used as a temporary dwelling during travel, recreational, and vacation uses, and which may be identified as a "travel trailer" or "folding camper trailer" by the manufacturer. Travel trailers may contain sanitary, water, and electrical facilities.

Tree canopy. The area of land where the outermost limits of the branches of a tree or group of trees projects perpendicularly to the existing grade of a site.

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

Utility trailer shall mean a vehicle without motor power, designed to be drawn by a motor vehicle, to be used for carrying property including but not limited to, a boat, snowmobile, ATV, or other equipment for recreational, camping or travel use.

Variance. A relaxation by the zoning board of appeals of the dimensional regulations of the zoning ordinance where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions or the situation of the applicant, a literal enforcement of this code would result in a practical difficulty.

Vertical projection. Any architectural feature which projects into the yard space from the ground up through the first story.

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

Wall-mounted solar energy system. A solar energy system that is mounted to a wall of a building, either as a flush-mounted system or as modules fixed to frames which can be tilted.

Walls, obscuring. A decorative obscuring structure of definite height and location constructed of wood, masonry, concrete or similar material.

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

Woodland or woodlot. A tract of land dominated by trees, but usually also containing woody shrubs and other vegetation.

Zero lot line. The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.

Zoning district. A portion of the territory of the township, exclusive of streets, alleys and other public ways, within which certain uses of land, premises and buildings are permitted, and within which certain yards and open spaces are required and certain height limits are established for buildings.

Zoning board of appeals. The words "board of appeals" shall mean the Harrison Township Zoning [Board of Appeals].

(Ord. No. 308, § 8, 2-13-2017; Ord. No. 308.3, § 20, 4-9-2018; Ord. No. 308.5, §§ 8, 29, 35, 4-26-2021)

APPENDIX B HARRON CABLE TELEVISION FRANCHISE AGREEMENT ORDINANCE⁷¹

TITLE

An Ordinance granting a franchise to the Harron Communications Corp. to use the public highways, streets, alleys and other public places in the Charter Township of Harrison for the installation and operation of a cable television system; providing for the duration, renewal, renegotiation, transfer and expiration of such franchise grant; describing the franchise territory and the service areas to be established therein; providing for construction requirements and a construction schedule; providing for extension of service within such franchise territory; providing for the cable television system design; including channel capacity, services, two-way capacity, emergency override and interconnection; providing a time requirement for the delivery of services; providing for technical, construction and performance standards; providing for regulation of the operation of the cable television system, the establishment of rates and charges to subscribers for installation and use of said cable television system and franchise fees payable to the Township, development of a system for handling consumer complaints, a method for resolving disputes between the township and Harron Communications Corp., sanctions and penalties for enforcement of such provisions and requiring the purchase of liability insurance and the posting of performance bonds; providing for necessary governmental approvals and the extension of service to annexed areas, and establishing the rights of the township and Harron Communications Corp. in the event of foreclosure or

⁷¹Editor's note(s)—Printed herein is Ord. No. 170, as adopted by the township board on May 12, 1980, and effective on May 21, 1980. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. 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.

Cross reference(s)—Businesses, ch. 22; cable television, § 82-31 et seq.

receivership; providing for the rights and obligations of individuals using the cable television system; providing for the rights of the township; incorporating by reference any application proposals submitted upon which the township relied in granting such franchise, and repealing any and all other ordinances in conflict therewith.

THE CHARTER OF HARRISON ORDAINS:

Sec. 1. Short title.

This ordinance may be known and cited as the "Harron Cable Television Franchise Agreement Ordinance."

(Ord. No. 325, § 1, 9-28-1998)

Sec. 2. Enabling authority.

This ordinance is adopted pursuant to and in accordance with the authority of the Township granted pursuant to Section 29 of Article VII, Michigan Constitution of 1963 and Title VI of the Communications Act of 1934, being the Cable Communications Policy Act of 1984, Public Law 98-549, 98 stat. 2780, October 30, 1984 (the "Act").

(Ord. No. 277, 3-9-1992)

Sec. 3. Definitions.

As used in this ordinance:

- (a) The term "*access channels*" shall mean specifically designated noncommercial public access channels for public use, for use by local educational authorities, for use by the Charter Township of Harrison and for leased access services. Such access channels shall be noncommercial and available on a first-come, nondiscriminatory basis for which the system shall maintain and have available for public use equipment and facilities necessary for the production of programming for such channels.
- (b) The term "*cablecasting, local origination*" shall mean programming, exclusive of broadcast signals, carried on a cable television system, including programming of local origination, exclusive of broadcast signals, carried on a cable television system over one or more channels, and subject to the exclusive control of the company.
- (c) The term "*cable television system, CATV*" shall mean a facility which receives and amplifies the signals broadcast by one or more television stations and redistributes such signals to subscribing members of the public for a fixed or periodic fee, employing wires or cables passing along, over, under, across and upon streets, highways, alleys, or other public places, including property over which the Charter Township of Harrison has an easement or right-of-way, including facilities which in addition to providing such reception, amplification and redistribution, are also used to originate and distribute program or other material to such subscribers.
- (d) The term "*channel*" shall mean the various classes of cable television channels defined by the Federal Communications Commission.
- (e) The term "*converter*" shall mean an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all signals delivered at designated dial locations.

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- (f) The term "*Federal Communications Commission*" shall mean that federal agency constituted by the Communications Act of 1934, as amended.
- (g) The term "*company*" shall mean the Harron Communications Corp., a New York Corporation, qualified to do business in the State of Michigan.
- (h) The term "*gross revenues*" shall mean all revenue derived directly or indirectly by the company, its affiliates, subsidiaries, parents, and any person in which the company has a financial interest, from or in connection with the operation of the cable television system pursuant to this ordinance, including by way of example and not limitation, advertising, installation and monthly service charges for basic and additional services as well as FM services.
- (i) The term "*person*" shall mean a person, firm, partnership, association, corporation, company, or organization of any kind or nature whatsoever.
- (j) The term "*service: basic and additional*" shall mean:
- (i) "*Basic service*" shall mean the simultaneous delivery by the company to television receivers (or any other suitable type of audio-video communication receivers), of all subscribers and to all locations in the township of all signals of over-the-air-television broadcasters required or allowed by the Federal Communications Commission to be carried by a community and television antenna television system as defined by the Federal Communications Commission; the channels designated for special purposes by the township board or its authorized representatives; education channels, public access channels; lease channels; and additional service at the option of the company; however, pay or subscription television as defined by the Federal Communications Commission shall not be considered part of the basic service.
- (ii) "*Additional service*" means any communications service other than the basic service, provided over its cable television system by the company directly or as a carrier for its subsidiaries, affiliates or any other person engaged in communications services including, by way of example and not limitation, pay or subscription television services, burglar alarms, data or other electronic intelligence transmission, facsimile production, meter reading and home shopping.
- (k) The term "*streets, highways, alleys, and public ways*" shall mean streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, docks, bulkheads, wharfs, piers, alleys, all other public rights-of-way, and public places or waters within or belonging to the Charter Township of Harrison as stated in or as intended by Section 29 of Article VII, Michigan Constitution of 1963.
- (l) The term "*subscriber*" shall mean any person, firm, corporation or other entity receiving for any purpose whatsoever the service of the company herein.
- (m) The term "*township*" shall mean the Charter Township of Harrison, Macomb County, Michigan.
- (n) The term "*township board*" shall mean the governing body of the Charter Township of Harrison, Macomb County, Michigan.
- (o) The term "*two-way capability*" shall mean the subscriber or any location shall have the capability to choose whether or not to respond immediately, or by sequential delay by utilizing any type of terminal equipment whatever, by push button code, dial code, meter, voice, video signal, or by any other means, to any type of electronic, including but not limited to audio and video, electrical or mechanically produced signal, display and/or interrogation.
- (p) The term "*user*" shall mean a person or organization utilizing a system channel for purposes of production and/or transmission of material, as contrasted with receipt thereof, in a subscriber capacity.

Sec. 4. Purpose; grant of franchise.

The Charter Township of Harrison hereby grants to Harron, a nonexclusive franchise to erect, maintain and operate a cable television system in the Charter Township of Harrison, and to utilize the highways, streets, alleys or other public places of the Charter Township of Harrison, as well as any extensions or additions thereto, for the installation and location of poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Charter Township of Harrison of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programming, and other various communications and services to the public. In accepting such franchise grant, Harron acknowledges that its rights hereunder are subject to the Constitution and statutes of the State of Michigan and the police power of the Charter Township of Harrison to adopt and enforce ordinances necessary for the safety and welfare of the public; and, Harron acknowledges and agrees to comply with all applicable ordinances currently in effect and/or subsequently enacted by the township pursuant to such powers. Further this grant of franchise to the company is expressly contingent upon the faithful performance of all of the conditions of this ordinance.

The grant of authority to Harron was preceded by a careful consideration of the legal, technical, financial and character qualifications of Harron and its principles as may be required by the act incident to franchise renewal.

(Ord. No. 277, 3-9-1992)

Sec. 5. Duration, renewal, reporting, transfer and expiration of franchise.

- 5.1. *Duration of franchise.* The duration of the rights, privileges, and authorizations hereby granted to Harron shall be for a period of 15 years from and after the expiration of the current franchise term on May 21, 1995.
- 5.2. *Renewal of franchise.* The franchise herein granted may be renewed within the discretion of the township board upon the expiration thereof and in accordance with the then statutes of the United States and the Constitution and statutes of the State of Michigan.
 - A. In the event the company desires to renew its franchise, written notice of such intent shall be personally delivered to the township supervisor not less than 18 months prior to expiration of the original franchise term.
 - B. Upon receipt of such notice, the township board shall establish a date, time and place for a public hearing to determine whether the company has satisfactorily performed its obligations pursuant to this ordinance. For purposes of this section, "satisfactory performance" shall be determined by the technical developments and performance of the cable television system, programming, services offered, cost of services, availability of programming equipment and personnel to aid access channel users, and examination of the company's cable television system with reference to industry performance on a national basis.
 - C. The township board shall prepare a written report encompassing findings of fact and conclusions relative to the company's satisfactory performance. The township board shall determine whether (1) the company's franchise should be renewed and for what term, and (2) what if any amendments to this ordinance are necessary for such continuation.
 - D. In the event the company is determined by the township board to have performed unsatisfactorily, new applicants shall be sought and evaluated by the township board in accordance with franchising procedures to be established.
- 5.3. *Reporting.* The field of cable communications is a relatively new and rapidly changing field which shall no doubt see many regulatory, technical, financial, marketing and legal changes during the term of the franchise

period. Therefore, in order to provide for a maximum degree of flexibility in this franchise ordinance and to help achieve a continued advanced and modern system for the Charter Township of Harrison, the company shall provide for the following reporting provisions:

- A. The township board and the company shall hold scheduled reporting sessions within 30 days of the fifth and tenth year anniversary dates of the company's obtaining certification for the system from the Federal Communications Commission. All such reporting sessions shall be open to the public and notice thereof shall be published in a newspaper of general circulation at least five days prior thereto.
- B. Special reporting sessions may be held at any time during the term of the franchise, provided that both the township board and the company shall mutually agree on the time, place and topics to be discussed.
- C. The following topics shall be discussed at every scheduled reporting session: service rate structure; free or discounted services; application of new technology; system performance; services provided; programming offered; customer complaints; privacy and human rights; and judicial and Federal Communications Commission rulings.

Topics in addition to those listed above may be added if agreed upon by both parties.

5.4. *Transfer, assignments.*

- A. No transfer or assignment of effective ownership or control of the cable television system may take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the township board, which shall not be reasonably refused. The notice shall include full identifying particulars of the proposed transaction, and the township board shall act by resolution.
- B. For purposes of this section, a "transfer of effective ownership or control" shall be taken to mean and include the acquisition, within any consecutive period of 36 months, of more than a 30 percent interest in the company's voting capital stock, franchise, plant, equipment or other property used in the conduct of the business, or more than a 30 percent representation on the company's board of directors, by any person or group of persons acting in consort who before that period did not enjoy such interest or representation; but such definition shall not include:
 - (1) A pledge or hypothecation of mortgage or similar instrument transferring conditional ownership of all or part of the systems assets to a lender or creditor in the ordinary course of business so long as the lender does not thereby acquire the right to control the systems operation; but no such transfer of conditional title can be made absolute without prior approval of the township board; or
 - (2) The disposition of facilities or equipment no longer required in the conduct of business.
- C. For the purpose of determining whether it shall consent to such transfer or assignment, the township board may inquire into the qualifications of the prospective controlling party, and the company shall assist the township board in any such inquiry. Such inquiry shall include legal, technical, financial and character qualifications of the prospective transferee or assignee to perform the obligations of the company as set forth in this ordinance shall be the overriding standard by which such inquiry is conducted.
- D. Notwithstanding anything to the contrary herein, no transfer or assignment shall be permitted prior to completion of construction and installation of the cable television system; and in no event prior to two years from and after the effective date of this ordinance.

5.5. *Expiration of franchise.*

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- A. Upon expiration of the franchise herein granted, the township shall have the right to require the company to remove the cable television system from within the boundaries of the community and the company shall have the obligation to do so within 60 days after notification thereof.
 - B. Alternatively, should the township not elect to renew the franchise upon expiration of the franchise term, the township may acquire ownership of the cable system or effect a transfer of ownership of the system to another person, provided, however, that any such acquisition or transfer shall be at fair market value, determined on the basis of the cable system valued as a going concern, but with no value allocated to the franchise itself. This provision shall not be construed as vesting the township with the right to purchase said system, nor obligate Harron to sell said system to the township.
 - C. In the period between expiration of the franchise term, and the transfer of the cable television system to a successor company, the company herein shall continue to provide service to the public as if its franchise were still in effect, but in the capacity of a trustee for its successor in interest and subject to an accounting for net earnings or losses during this interim period.

(Ord. No. 277, 3-9-1992)

Sec. 6. Franchise territory, construction requirements, extensions of service.

- 6.1. *Franchise territory.* The territory for which this franchise is granted shall consist of all the incorporated areas of the Charter Township of Harrison, Macomb County, Michigan.
- 6.2. *Service areas.* For purposes of this ordinance, the service area of the township shall be the same as the franchise territory defined in section 6.1.
- 6.3. *Construction requirements.* The company shall construct and install a cable television system throughout the franchise territory so as to provide service to all parts of such territory having a density of at least 30 residential dwelling units per linear mile of cable installed.

(Ord. No. 277, 3-9-1992)

Sec. 7. System design.

The cable television system to be installed in the township shall be of a radial hub design.

- 7.1. *Channel capacity.* The cable television system to be installed by company shall have a minimum capacity of 35 channels, including satellite channels, and the technical capacity for 52 channels. The company shall install and maintain a cable television system in keeping with the latest technological state of the art as measured against industry standards nationwide.
- 7.2. *Services.* The company shall provide not less than the number of local broadcast channels and satellite channels currently provided, and such other cable delivered services as may be approved by the company in accordance with Section 624 of the Act.
- 7.3. *Two-way capacity.* The company shall provide a cable television system having the future technical capacity for two-way nonvoice return communications. In the event two-way communications are incorporated into the cable television system, this ordinance shall be amended within 60 days thereafter to provide for the right to privacy of all subscribers.
- 7.4. *Emergency audio override.* The cable television system installed by the company shall include an "emergency alert" capability which will permit a designated official of the township to override, by remote control, the video and/or audio of all channels.

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(Supp. No. 31)

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- 7.5. *Interconnection.* The company may be required to interconnect its system with any other broad band communications facility operating in an adjacent territory, if such interconnection is technically feasible. Such interconnection shall be made within 60 days of a request made by the township. For good cause shown, the company may request and the board may grant reasonable extensions of time to comply with the requirements.
- 7.6. *Time requirement for services.* The company shall commence transmission and amplification of television signals on a regular basis to subscribers not less than 14 months from and after the effective date of this ordinance. The term "television signals" shall mean the services described in [sub)section 7.2(3)—(11) inclusive. Notwithstanding anything contained in this ordinance to the contrary, the failure of the company to commence transmission as herein stated within the prescribed period shall constitute a material breach of the franchise and provide the township with just cause to commence revocation proceedings as set forth in [sub)section 9.10.

(Ord. No. 277, 3-9-1992)

Sec. 8. Technical performance and construction standards.

- 8.1. *Technical standards.* The company shall strictly adhere to all applicable technical standards established by the Federal Communications Commission at all times during the duration of this franchise grant. Said technical standards are hereby incorporated by reference as the same are currently in effect, or as hereafter are changed, altered or modified.
- 8.2. *Construction codes.* The company shall at all times comply with the construction codes adopted by ordinance and applicable in the Charter Township of Harrison. Further, the company shall comply with said construction codes as the same may be changed, modified or altered during the duration of this franchise grant. The company shall also comply with any and all applicable ordinances of the township during the duration of this franchise grant. The company shall also comply with any and all applicable ordinances of the township during the duration of this franchise grant and with any and all rules and regulations of the Federal Communications Commission relative to construction.
- 8.3. *Performance measurement.* Within 60 days from the effective date of this ordinance, the company shall provide the township written statement as to system testing procedures to be utilized so as to insure adherence to the technical standards required by the Federal Communications Commission. Results of system performance and tests should be submitted annually to the township to insure the systems qualify, including measurements of signals at the headend and throughout the system, quantitative analysis of all picture quality parameters, and subjective evaluation of picture quality. Failure of the company to submit the results of system performance and tests shall be deemed a material breach of this franchise grant. The company shall provide as-built plans upon completion of the cable television system in the Charter Township of Harrison to the board.
- 8.4. *Overhead and underground construction requirements.* Where existing facilities and equipment exist for the overhead installation of the company's cable, the same may be utilized. Where such facilities and equipment are unavailable, the company's cable shall be installed underground. The township board may vary the requirement for underground cable installation if the company establishes to the satisfaction of the township board that underground installation cannot be accomplished due to undue hardship and/or practical difficulties.
- 8.5. *Tree trimming.* Upon approval of other governmental agencies having jurisdiction over the public highways, streets, alleys or other public places within the Charter Township of Harrison, such as the Macomb County Road Commission, the company shall have the authority at its expense to trim trees upon and overhanging all public highways, streets, alleys or other public places within the Charter Township of Harrison so as to prevent the branches of such trees from coming into contact with the facilities of the company. The company

shall defend, hold harmless and indemnify the Charter Township of Harrison from any and all actions, causes of action or damages caused as the result of such activity.

- 8.6. *Relocation to accommodate public and private improvements.* In the event that at any time during the period of this franchise, the township or any other municipal corporation shall lawfully elect to alter or change the grade of any highway, street, alley or other public place, the company, upon reasonable notice by the township or such other municipal corporation, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. The company shall, on the request of any person holding an appropriate permit issued by the township, temporarily raise or lower its lines to permit the moving of any building or other structure. The expense of such temporary raising or lowering shall be paid by the person requesting the same and the company shall have the right to require such payment in advance. The company shall be given not less than seven days advance notice to arrange for such temporary raising and lowering.
- 8.7. *Right of inspection and restoration.* In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the company shall, at its own cost and expense and in a manner approved by the township, replace and restore all paving, sidewalks, driveways or other surface of any street or other alley disturbed, in as good condition as before said work was commenced. All such work shall be subject to the inspection by the township authorities and the company shall pay all applicable inspection fees.
- 8.8. *Company to exercise reasonable care and diligence.* Company shall, at all times during construction of its facilities and operation of the cable television system, exercise reasonable care and diligence. The standard of conduct of such company and the exercise of such activity shall be that of a reasonable and prudent person under like and/or similar circumstances.

Sec. 9. Local regulatory framework.

- 9.1. *Procedure for day-to-day regulation.* The township board shall establish a cable television committee consisting of three persons having authority to act for and in behalf of the township in matters relating to the day-to-day operation of the cable television system as set forth herein. The township board may increase or decrease the number of committee members, or change the membership of such committee, or alter the authority and power of such committee from time to time as it may be deemed necessary and desirable. The company shall cooperate with the committee with respect to those matters set forth herein as well as matters of local origination and access programming.

The committee shall have the following powers:

- (1) In cases where customer complaints are unsatisfied by the company's responses to complaints of service failures, poor service, inferior audio or video signals, the committee shall have the power and the company shall accept and give recognition to the committee's recommended adjustments which may take the form of the following:
 - (a) Require the company to adjust billing charges for service deficiencies in whole or in part, based on the committee's evaluation of the deficiencies and the equities involved.
 - (b) Require the company to make reasonable refunds.
- (2) In cases where requests for service have been ignored or unfulfilled for whatever reason, the committee shall have the power to require the company to provide service in response to all reasonable requests as the committee may determine based upon its determination of the intent of this ordinance, subject, however, to appeal by the company to the township board if, in its opinion, the requests made are unreasonable.
- (3) The committee shall be compensated for meetings attended and such other duties performed as determined by resolution by the Charter Township of Harrison Board.

9.2. *Functions to be regulated.*

- A. *Provision of service upon consumer demand.* Upon the reasonable request for service by any person located within the township, the company shall, within 60 days, furnish the requested service to such person.
- B. *Maintenance and alteration of the system after construction.* If, after examination of a report provided by an independent technical advisor, the township board determines, giving due regard to technological limitations, that any part or all of the cable television system should be improved or upgraded (including, without limitation, the increasing of channel capacity, the furnishing of improved converters, and the institution of two-way transmission), it may request such improvement or upgrading of the cable television system, to be effected by the company within a reasonable time thereafter. The company may elect to install such improvements or upgrade the cable television system in its sole discretion, based upon economic or other factors. The township board shall meet with representatives of the company on the fifth and tenth anniversary of the commencement of the renewal term for the purpose of comparing the cable system with reference to the then available current technology, and to explore the economic feasibility of improving or upgrading the cable system.
- C. *Rates.* The township board recognizes that it is currently without authority to regulate rates where six or more broadcast signals are provided and significantly viewed in the franchise territory thus affording effective competition for cable services. Such rule, as promulgated by the Federal Communications Commission and in accordance with the act, effectively preempts the field of rate regulation for cable services. In the event the United States Congress and/or the Federal Communications Commission abandons such preemption or delegates to a local franchising authority the power to regulate such service, then, and in such event, any increase or decrease of cable television rates existing at the time of such abandonment or delegation shall be subject to prior approval of the township board consistent with applicable standards.

The company shall not, in its rates or charges, or in making available the services or facilities of the cable television system, or in its rules and regulations, or in any other respect, make or grant preference or advantages to any subscriber or potential subscriber to the cable television system, or to any user or potential user of the system; and shall not subject any such persons to any prejudice or disadvantage. This provision shall not be deemed to prohibit promotional campaigns to stimulate subscriptions to the cable television system or other legitimate uses thereof. Nothing in this ordinance shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

The company shall, without charge for installation, maintenance, or service, make single installations of its cable facilities at each fire and police station, public and private school within the township. The company shall, without charge for installation, maintenance, or service, make single installations of its cable facilities to the township hall and other township-owned buildings. Such installation shall be made at such reasonable locations as shall be requested by the township board or boards of education. Any charge for relocation of such installation shall be made at such reasonable locations as shall be requested by the township board or boards of education. Any charge for relocation of such installation at the same location may be made at cost plus ten percent. No monthly service charges shall be made for distribution of the company's signals within such publicly owned buildings.

The company may require subscribers to pay for each month of basic service in advance at the beginning of each month. No other advance payment or deposit of any kind shall be required by the company for basic subscriber service. No deposit or advance payment of any kind shall be charged for the provision of any converter without prior approval of the township board.

There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay properly due monthly subscriber fee or any other properly due fee or charge, the company may disconnect the subscriber service outlet, provided, however, that such disconnection shall not be effected until 45 days from and after the due date of said delinquent fee or charge and shall include ten-days' written notice of such intent to disconnect delivered to the subscriber in question. If the subscriber pays 45 days after payment is due and after notice of disconnection has been given, the company shall not disconnect. After disconnection, upon payment in full of the delinquent fee or charge and the payment of the reconnection charge, the company shall promptly reinstate the subscriber's cable service.

If the company fails to provide any service requested by subscriber or user, the company shall, after being afforded a reasonable opportunity to provide the service, not to exceed 30 days, promptly refund all deposits or advance charges paid for service in question by said subscriber or user. If any subscriber terminates, for personal reasons, any monthly service prior to the end of a prepaid period, a pro rata portion of any prepaid subscriber service fee, including the number of days as a basis, shall be refunded to the subscriber by the company.

- 9.3. *Franchise fees.* The company shall pay, as compensation to the township, an annual fee of five percent of its gross revenue as herein defined. Gross revenues shall include revenue from Huron-Clinton Metropolitan Authority and all other governmental units including those located at Selfridge Air National Guard Base. In the event it is determined that the Federal Communications Commission lacks the jurisdiction to impose a limitation upon franchise fees, or that the limit is raised, then the franchise fee shall be subject to renegotiation in addition to the reporting required in [sub)section 5.3. In the event that the parties cannot agree upon a new franchise fee, the matter will be submitted to arbitration. Any resulting award shall be retroactive. It is the intent of the township to utilize franchise fees, for any purpose the township deems necessary and to defray the cost of local regulation of the company, to support the development of the public access channel, and to generally encourage development of the system.

All franchise fees shall be paid annually and in advance. Upon the effective date of this ordinance, the company shall pay the township the one time sum of \$5,000.00 as a franchise license fee for the 15-year term of the franchise, over and above the five percent of gross revenues provided for herein. Thereafter semiannually from the effective date of this ordinance, the company shall pay to the township the required franchise fee for the ensuing six months based upon its gross revenues for the preceding six months as determined by the company and subject to the audit of the company's records by duly authorized agent of the township. It is understood and agreed that such payment shall be subject to a final actual determination of gross revenues as determined from the company records and audit. The township shall have the right, at its own expense, to audit the records of gross revenues of the company for any six months' period at any reasonable time.

- 9.4. *Equal employment requirements.* The company shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, or sex. The company shall strictly adhere to the equal employment opportunity requirements of the Federal Communications Commission, as expressed in Section 76.13(a)(8) and 76.311 of Chapter 1 of Title 47 of the Code of Federal Regulations. The company shall comply at all times with all other applicable federal, state, township and county laws and/or ordinances, and all executive and administrative orders relating to nondiscrimination. The company shall make a positive effort to hire racial minorities, women, and other protected groups as subcontractors if available and qualified.

- 9.5. *Consumer complaints.*

- A. The company shall maintain a bills paying facility in the towns which shall be open during all usual business hours, have a publicly listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received on a 24-hour basis.

- B. The company shall maintain a repair and trouble shooting force capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. No direct charge shall be made to the subscriber for this service.
- C. The company shall insure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing of any complaint. The township, through its cable television committee, shall work closely with the company and members of the public, to establish procedures for handling and settling complaints. The company shall present to the township, no later than six months after the effective date of this ordinance, a set of rules, regulations, and procedures concerning the handling and settling of complaints.
- 9.6. *Pole attachments.* To the extent possible, the company shall make attachments to poles already in existence within the boundaries of the township. To the extent that existing poles are insufficient for its purposes, or if the company is unable to negotiate agreements satisfactory to it providing for the use of existing poles, the company shall have the right to erect and maintain its own poles as necessary for the construction and maintenance of the cable television system, the location of which poles shall be subject to approval by the township board and other governmental units having appropriate jurisdiction. The company shall have the right, authority, power and privilege to attach any of its system facilities to any existing or future poles, towers or other electrical facilities owned by the township, in a manner which will not interfere with the use of such poles, towers or other electrical facilities by the township. In the event the attachments, at any time, interfere with the use of such poles, towers or other electrical facilities, the township will promptly remove the attachment at company expense. The company hereby agrees to pay to the township the same fee per year, per pole owned by the township and used by the company, arrived at by negotiation and contract with the Detroit Edison Company and/or Bell of Michigan for the use of their poles. This provision shall not be construed as authorizing the company to utilize the poles owned by the Detroit Edison Company and/or Bell of Michigan, the sole authority for granting a utilization of said poles being vested in said public utilities. The company shall extend to the township free of expenses, joint use of any and all poles owned by it for any proper municipal purposes insofar as may be accomplished without interference with the use and enjoyment of the company's own wires and fixtures.
- 9.7. *Method for resolving disputes.* Any matter expressly made arbitrable under provisions of this ordinance shall be resolved in favor of the party making the determination on such matter, unless arbitration shall be demanded by the other party within 30 days after the receipt of written notice of such determination. Notice of such determination or demand for arbitration shall be mailed by certified mail, return receipt requested and by depositing the same in the United States mail with postage fully prepaid addressed as follows; or as the township or company may hereafter designate.

Township:	Charter Township of Harrison
	38151 L'Anse Creuse Road
	Mount Clemens, Michigan 48045
Company:	Harron Communications Corporation
	2750 Alger Road
	Port Huron, Michigan 48060

In the event that arbitration shall be demanded, three arbitrators shall be appointed. One arbitrator shall be appointed by the township board, one arbitrator shall be appointed by the company and the third arbitrator shall be appointed by the two appointed. The arbitrators shall be paid a reasonable sum of money per day for their services as mutually agreed by the company and the township. Expenses of the arbitration and the compensation of the arbitrators shall be borne by the company and the township in such manner as the

arbitrators provide in their award, but in no event shall the township be obligated to pay more than one half the expenses.

The arbitration award shall be determined by a majority of the arbitrators and shall be binding on the parties. The arbitrators shall follow the rules and procedures of the American Arbitration Association except where in conflict with an express provision of this ordinance.

9.8. *Records and reports.* No later than December 31 of each year, the company shall submit a written report to the township which shall include:

- (1) A summary of the previous years activities and development of the cable television system, including, but not limited to, services begun or dropped, subscribers gained or lost.
- (2) A financial statement including a statement of income, balance sheet, and a statement of sources and applications of funds, covering all years since the beginning of the franchise;
- (3) The current statement of cost of construction by component categories;
- (4) A projected income statement, balance sheet, statement of sources and applications of funds and statement of construction for the next two years, if any;
- (5) A reconciliation between previously projected estimates and actual results;
- (6) A summary of complaints, identifying the number and nature of complaints and their dispositions;
- (7) A list of officers and members of the board of the company and parent corporation, if any;
- (8) A list of all stockholders holding three percent or more of the voting stock of the company and parent corporation;
- (9) Reports on other topics the township board may direct;

9.9. *Sanctions, penalties and enforcement.* After notice and hearing, the township may reduce any and all of the subscriber rates or shorten the duration of the franchise term if the company fails to provide adequate service or delays construction of the cable television system beyond the deadlines required by this ordinance. Such penalties and the circumstances under which the same may be imposed are:

- A. In the event that its service to any subscriber is interrupted for 48 or more consecutive hours, except in circumstances for which the prior approval of the interruption is obtained from the township, the company shall provide a ten percent rebate of the monthly fees to affected subscribers.
- B. In the event the system fails to meet any technical and performance standards required in [sub]sections 8.1 and 8.3 for a full three-month period, the company shall reduce all subscribers fees by 25 percent until all performance standards are met. The township board shall notify the company during the first month of the three month period that the system has failed to meet performance standards.
- C. For failure to commence transmission in accordance with [sub]section 7.6, unless the township board approves the delay because of reasons beyond the control of the franchisee, the franchise term shall be reduced one year per each three-month delay.
- D. For failure to complete construction and installation of the cable television system as provided for in [sub]section 6.3, unless the township board approves the delay because of reasons beyond the control of the franchisee, the franchise term shall be reduced one year for each three months' delay. The township board shall notify the grantee during the first month of the three-month period that the system has failed to meet the performance standards.

The sanctions and penalties set forth in [subsection] A may be imposed in addition to adjustments made by the cable television committee.

The company is not responsible for failure to provide adequate service or for delays in construction which are caused by acts of God, strikes, governmental, or military action, or like conditions beyond its control.

9.10. *Revocation of franchise.*

- A. The township may revoke and cancel any franchise granted pursuant to the provisions of this ordinance in the event of the willful failure, refusal or neglect by the company to do or comply with any material requirements or limitations contained in this ordinance.
- B. The township supervisor may make a written demand that the company do or comply with any such requirement or limitation. If the failure, refusal, or neglect of the company continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the township supervisor may place his request for revocation of the company franchise upon the next regular township board meeting agenda. The township supervisor shall cause to be served upon the company at least 20 days prior to the date of such township board meeting, a written notice of his intent to request such revocation, the time and place of the meeting, and a detailed statement of the reasons and grounds for revocation.
- C. The township board shall consider the request of the township supervisor and shall hear any person interested therein, and shall determine, in its discretion, whether or not any failure, refusal or neglect by the company was with just cause.
- D. If such failure, refusal or neglect by the company was with just cause, the township board shall direct the company to comply within such time and manner and upon such terms and conditions as are reasonable.
- E. If the township board shall determine such failure, refusal, or neglect by the company was without just cause, then the township board may, by resolution, declare the franchise of such company to be revoked, terminated and forfeited unless there be compliance by the company within such period as the township board may fix. Such resolution shall contain specific findings of fact to justify such revocation.
- F. The revocation of the company's franchise shall in no way affect the rights of the township under the franchise or any provision of law.
- G. In the event the township revokes the franchise for cause, and the township acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be at an equitable price. In the event the township revokes the franchise, the township may purchase the cable television system at a price not to exceed its then fair value. Failure of the township to acquire the cable system shall not be construed as a waiver of its authority to supervise the transfer of ownership as provided by [sub]section 5.4 herein. This provision shall not be construed as vesting the township with the right to purchase said system, nor obligate Harron to sell said system to the township.
- H. In the period between revocation of the franchise and the transfer of the cable television system to a successor company, the company herein shall continue to provide service to the public as if its franchise were still in effect, but in the capacity of a trustee for its successor in interest and subject to an accounting for net earnings or losses during this interim period.

9.11. *Indemnification, insurance, liability for damages and performance bond.*

- A. Except for any liability which may accrue to the township with regard to its programming on any township access channel, the company shall defend, indemnify and hold the township harmless from all liability, damage, cost or expense (including reasonable attorney fees) arising from claims for injury to persons or damage to property occasioned by reason of any conduct undertaken by reason in this

ordinance. The township shall not and does not by reason of this ordinance assume any liability of the company whatsoever for injury to persons or damage to property.

- B. Within 30 days after the effective date of this ordinance, the company shall file with the township and maintain on file throughout the duration of the franchise period a comprehensive general liability and comprehensive automobile liability policy issued by a company duly authorized to do business in the State of Michigan, insuring the township and the company, with respect to the installation, operation and maintenance of the system.
- (1) For bodily injury, including death in:
- (a) the minimum amount of \$1,000,000.00 for any one person, and,
- (b) the minimum amount of \$1,000,000.00 for any one occurrence, and,
- (2) For property damage in the minimum amount of \$500,000.00.
- C. Except for any liability which may accrue to the township with regard to its programming on any township access channel, the company shall indemnify and hold the township harmless from all liability, damage, cost or expense (including reasonable attorney fees) arising from any claims against the township which it may legally be required to pay as a result of the granting of this franchise to the company or from the operations conducted by the company in the boundaries of the township. The damages and penalties shall include but shall not be limited to copyright infringements and all other damages arising out of the installation, operation or maintenance of the cable television system authorized, whether or not such act or omission complained of is authorized, allowed or prohibited by this ordinance.
- D. Company shall carry worker's compensation insurance, with statutory limits and employer's liability insurance with limits of no less than \$100,000.00, which shall cover all operations to be performed by company as a result of this ordinance.
- E. Company's worker's compensation, comprehensive general liability and comprehensive automobile liability insurance shall be written by an insurance company with a capital and/or surplus of not less than \$3,000,000.00, and company agrees to furnish township with certified copies of certificates of insurance of said policies, which shall provide that insurance shall not be canceled unless ten-days' prior written notice shall first be given to the township.
- F. The company within 45 days after the effective date of this ordinance shall file with the township an irrevocable bank letter of credit, approved by the township, in the amount of \$50,000.00 payable to the township conditioned on the company's completion of the system and provision of the required services within the time schedule set forth in [sub]sections 6.3 and 7.6, hereof, except for delays of installation of cable or equipment caused by acts beyond the control of the company such as acts of God, floods, fires, earthquakes, strikes, determinations of the board or governmental agencies and like acts or failures to act of someone other than the township, and on events over which the company has no control. Upon completion of the system in accordance with [sub]section 6.3 hereof, said letter of credit shall be released by the township; provided if the system is not completed the Charter Township of Harrison shall forthwith deposit said \$50,000.00 to its general account for liquidated damages for material breach of this franchise ordinance.
- The company shall maintain during the term of this ordinance and during any renewal or extension thereof an irrevocable bank letter of credit running to the benefit of the township, approved by the township, in the sum total of \$25,000.00, conditioned upon the faithful performance of the company in accordance with the terms of this ordinance.
- G. If company should commit a breach of this ordinance and not remedy such breach within 60 days after having received written notice from the township board to do so, then the township board, at its

discretion, may declare a portion of the letter of credit equivalent to the amount of damages sustained by the township which are directly attributable to such breach forfeited and company shall thereupon be required (1) to remedy the breach with reasonable dispatch; and (2) within 60 days of such forfeiture replace the forfeited portion of the letter of credit. Notwithstanding the foregoing, nothing contained in this paragraph shall serve to absolve company of any of its obligations under this ordinance or the rules and regulations of the Federal Communications Commission. This remedy shall be in addition to other remedies available to the township established by this ordinance.

- H. The company shall keep the letter of credit in full force and effect at all times throughout the term of this ordinance and during the removal of all poles, wires, cables, underground conduits, manholes, and other conductors, converters, equipment and fixtures subsequent to the termination of this ordinance. The letter of credit shall contain a provision that it shall not be terminated or otherwise allowed to expire prior to 60 days after written notice to that effect is given to the township board.
- I. Resident company and agent. All insurance policies as are required of the company in this ordinance shall be written by a company or companies authorized and qualified to do business in the State of Michigan, certificates of coverage required shall be promptly filed by the company with the township board.
- J. Application for permit. Within 60 days after the effective date of this ordinance, the company shall file with the Federal Communications Commission such request, petition, or other application as is then proper to secure from said Federal Communications Commission any and all necessary permits, licenses, waivers, or the like as may be necessary to be secured from said Federal Communications Commission to fully comply with the terms of this ordinance. The company shall thereafter diligently pursue such application with the Federal Communications Commission and shall do all reasonable things necessary and proper to secure any such permit, license, waiver, approval or the like from it. The company shall keep the township advised, from time to time, of the progress of such application.

9.12. *Governmental approvals; annexation.*

- A. Upon grant of this ordinance to construct and maintain a cable television system in the township, and in furtherance of the company's execution of contracts with the public utility companies or any other owner or lessee of any poles located within or without the township or to whatever extent such contract or contracts shall be expedient and of advantage to the company for use of poles and posts necessary for proper installation of the system, the company shall obtain a right-of-way permit from appropriate state, county and federal officials necessary to cross highways or roads under their respective jurisdiction to supply main trunk lines from the company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers, and obtain whatever other permits a city, county, state or federal agency may require. The company shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company and restored to serviceable condition.
- B. In the event that the township shall annex further territory as may now or hereafter be authorized by law, or in the event that it shall be consolidated with part or all of any other now or hereafter existing municipality, and if such additional lands are not then serviced by a cable television system, the company shall extend energized trunk cable to the remaining portions of the township so annexed or the municipality with which it is consolidated, within a reasonable time thereafter, unless additional time is granted by the township upon request of the company for good cause shown. This extension of service shall be in accordance with, and subject to, all of the provisions of this ordinance.

9.13. *Foreclosure, receivership.*

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- A. *Foreclosure.* Upon the foreclosure or other judicial sale of all or a substantial part of the cable television system, or upon the termination of any lease covering all or a substantial part of the cable television system, the company shall notify the township board of such fact, and such notification shall be treated as a notification that a change in control of the company has taken place, and provisions of [sub]section 5.4 of this ordinance, governing the consent of the township board to such change in control of the company shall apply.
 - B. *Receivership.* The township board shall have the right to cancel this franchise grant 120 days after the business of the company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said 120 days, or unless:
 - (1) Within 120 days after his election or appointment, such receiver or trustee shall have fully complied with all of the provisions of this ordinance and remedied all defaults thereunder; and,
 - (2) Such receiver or trustee within 120 days shall have executed an agreement duly approved by the court having jurisdiction in the premises whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance.

(Ord. No. 206, 3-1-1984; Ord. No. 277, 3-9-1992)

Sec. 10. Rights and obligations of individuals using the cable television system.

- A. Company shall not permit the transmission of any signal, aural, visual, or digital, including "polling" the channel selection, from any subscriber's premises without first obtaining written permission of the subscriber. This provision is not intended to prohibit the use of transmission of signals useful only for the control or measurement of system performance.
- B. Company shall not permit the installation of any specific terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual, or digital signals without first obtaining written permission of the subscriber.
- C. It shall be unlawful for any person to attach or affix or to cause to be attached or affixed any equipment or device which allows access or use of the cable television service without payment to the company for same.
- D. The company is hereby prohibited from distributing to any person, firm or corporation a list of its subscribers unless for a limited purpose approved by the township board.
- E. The company, any and all of its officers, agents and employees, are specifically prohibited from engaging in the sale, service, rental or leasing of television receivers, radio receivers, or television or radio receiver related parts and accessories with any person, anywhere in the township whether for a fee or charge or not. The company shall prohibit any of its officers, agents and employees from violating the terms of this section at all times, whether in the performance of duties of the company or otherwise.
- F. The company shall not allow its cable or other operations to interfere with television reception of persons not served by the company, nor shall the cable television system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the township.

(Ord. No. 277, 3-9-1992)

Sec. 11. Rights of township.

- 11.1. *Township.* The township reserves the right to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the

police power, provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted, and shall not be in conflict with the applicable laws of the State of Michigan or the United States.

11.2. *Use of system by township.*

- A. The township shall have the right, authority, power and privilege to attach any of its facilities for a traffic control system and/or a police and fire alarm system to any existing or future poles, towers, or other electrical facilities owned by the company, including conduits, in a manner which will not interfere with the use of such poles, towers, or other electrical facilities by the company. In the event the attachments, at any time, interfere with the use of such poles, towers, or other electrical facilities, the township will promptly remove the attachments at township expense.
- B. At its sole expense, and upon the request of the township board, the company shall videotape all regular meetings of the township board and transmit such videotape throughout the cable system within the franchise territory or the local origination channel, public access channel or local government access channel, at the election of the company.

11.3. *Liability.* The township shall not be liable for any damage occurring to the property of the company caused by employees of the township in the performance of their duties, other than that caused by negligence or misconduct of its employees. The township shall not be liable for the interruption of services by action of township employees in the performance of their duties, other than that caused by negligence or misconduct of its employees, nor shall the township be held liable for the failure of the company to be able to perform normal services due to acts of God or other factors beyond the control of the township.

11.4. *No property right.* Nothing in this ordinance is intended nor shall it be construed to grant to the company any right of ownership in any publicly owned property, nor shall the township be compelled to maintain any of its property any longer than, or in any fashion other than in the township's judgment that its own business or need may require.

11.5. *Construction approval by township.* Except for individual service drops, the company shall not erect any pole, install any underground lines or conduits, run any line, make any attachment nor engage in construction of any kind without the prior approval of the Charter Township of Harrison Building Department, or such other department or engineering consultants as the township may from time to time determine is appropriate. Such approval will not be unreasonably withheld and the township shall have and maintain the right to inspect the construction, operation and maintenance of the system to insure the proper performance and compliance with the regulatory provisions of this ordinance.

(Ord. No. 277, 3-9-1992)

Sec. 12. Application proposal incorporated by reference.

- A. *[Incorporated.]* The application proposal submitted by Harron Communications Corp. to the Charter Township of Harrison is hereby incorporated by reference and shall be deemed to be a part of this ordinance as if the same were set forth herein except that if any provisions therein are in conflict with this ordinance, this ordinance shall prevail.
- B. *Collateral documents.* Any letters or other documents furnished the township by the company during renewal negotiation or coincident with approval of the renewal agreement or adoption of this amendment are expressly incorporated herein by reference and shall be deemed a part of this agreement and ordinance amendment.
- C. *Publication costs.* The company shall pay all costs of publication of a summary of this ordinance amendment within 15 days after demand for payment is made to the company by the township.

(Ord. No. 277, 3-9-1992)

Sec. 13. Program content restrictions.

The company shall not, however, program X-rated motion pictures or similar programs either as part of its basic cable or pay cable service.

Sec. 14. Repeal of conflicting provisions-affirmation of rights and obligations.

All provisions of Ordinance No. 17, as amended, in conflict with the provisions of this amendment are to the extent of such conflict, hereby repealed. Any and all other resolutions, ordinances or parts thereof in conflict with the provisions of Ordinance No. 170, as amended by this ordinance, are to the extent of such conflict hereby repealed. Any and all other provisions of Ordinance No. 170, as amended, are hereby expressly reaffirmed by both the township and the company.

(Ord. No. 277, 3-9-1992)

Sec. 15. Severability.

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this ordinance; provided, however, that in the event the Federal Communications Commission declares any section of this ordinance invalid, then, and in such event, such section or sections shall be renegotiated by the township board and the company.

Sec. 16. Effective date.

This ordinance shall take effect the day following publication of a true copy or a summary thereof in a newspaper circulating within the Charter Township of Harrison, as heretofore provided by section 6.

Adopted: May 12, 1980

Effective: May 21, 1980

APPENDIX C CONSUMERS ENERGY COMPANY GAS FRANCHISE ORDINANCE⁷²

An ordinance, granting to Consumers Energy Company, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways,

⁷²Editor's note(s)—Ord. No. 381, §§ 1—11, adopted Nov. 12, 2013, repealed the former Appendix C in its entirety, and enacted a new appendix as set out herein. The former Appendix C pertained to Consumers Power Gas Franchise and derived from Ord. No. 207, adopted on March 12, 1984. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. 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.

Cross reference(s)—Businesses, ch. 22.

(Supp. No. 31)

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streets, alleys, bridges, waterways, and other public places, and to do a local gas business in the Charter Township of Harrison, Macomb County, Michigan, for a period of 30 years.

The Charter Township of Harrison ordains:

Sec. I. Grant, term.

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

Sec. II. Consideration.

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

Sec. III. Conditions.

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

Sec. IV. Hold harmless.

Said grantee shall at all times keep and save the charter township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the charter township on account of the permission herein given, said grantee shall, upon notice, defend the charter township and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

Sec. V. Extensions.

Said grantee shall construct and extend its gas distribution system within said charter township and shall furnish gas to applicants residing therein in accordance with applicable laws, rules and regulations.

Sec. VI. Franchise not exclusive.

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

Sec. VII. Rates.

Said grantee shall be entitled to charge the inhabitants of said charter township for gas furnished therein, the rates as approved by the Michigan Public Service Commission, to which commission or its successors authority and jurisdiction to fix and regulate gas rates and rules regulating such service in said charter township, are hereby

granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said charter township, acting by its charter township board, or by said grantee.

Sec. VIII. Revocation.

The franchise granted by this ordinance is subject to revocation upon 60 days' written notice by the party desiring such revocation.

Sec. IX. Michigan Public Service Commission, jurisdiction.

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

Sec. X. Repealer.

This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas ordinance adopted by the Charter Township Board on March 12, 1984 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to lay, maintain and operate gas mains, pipes and services on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas business in the CHARTER TOWNSHIP OF HARRISON, MACOMB COUNTY, MICHIGAN.

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

Sec. XI. Effective date.

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

CODE COMPARATIVE TABLE 1988 COMPILED ORDINANCES

This table gives the location within this Code of those sections of the 1988 Compiled Ordinances, as updated through December 7, 1994 which are included herein. Sections of the 1988 Compiled Ordinances, as supplemented, not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

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This table gives the location within this Code of those ordinances adopted since the 1988 Compiled Ordinances, as updated through December 7, 1994, which are included herein. Ordinances adopted prior to such date were incorporated into the 1988 Compiled Ordinances, as supplemented. Ordinances adopted since December 7, 1994 and not listed herein have been omitted as repealed, superseded or not of a general and permanent nature.

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