

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

Published by Order of the Township Board

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OFFICIALS

of the

CHARTER TOWNSHIP OF

MUSKEGON, MICHIGAN

AT THE TIME OF THIS CODIFICATION

P. Don Aley

Supervisor

Diane M. Patton

Treasurer

Clarence Glass
Charlotte Rusch
Nora Mae [Toni] Porter
Carol Chaney

Trustees

Harold M. Hermanson

Attorney

Darryl Bartos

Township Clerk

PREFACE

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

Source materials used in the preparation of the Code were the ordinances adopted by the township board. 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 ordinance disposition table appearing in the back of this Code, the reader can locate any ordinance used in this Code.

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.

CODE	CD1:1
CODE COMPARATIVE TABLE	CCT:1
STATE LAW REFERENCE TABLES SLT:1	

CODE INDEX	CDi:1
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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 Allen Z. Paul, Supervising Editor, and Laura Johnson, 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 Darryl Bartos, Township Clerk, P. Don Aley, Township Supervisor, and Diane M. Patton, Township Treasurer, 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 charter township readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the charter township's affairs.

	MUNICIPAL CODE CORPORATION Tallahassee, Florida
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ADOPTING ORDINANCE
ORDINANCE NO. 47

An Ordinance Adopting and Enacting a New Code for the Charter Township of Muskegon; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.

WHEREAS, by the Resolution to adopt and enact a new Code for the Charter Township of Muskegon, passed March 17, 1997, Notices were duly and properly posted in the Clerk's office and five other public places in the Township, setting forth the purpose and nature of the Notice, the Ordinance, the Code to be adopted, the up coming proceedings to pass said Ordinance and Code, and the location of the meetings to pass said codification and Clerk's office to review said Ordinance, and the proposed Code having been published as ordered in said Resolution, by posting and by publication in a local newspaper, and,

WHEREAS, the first reading of the proposed Ordinance to enact a new Code, was held and completed on April 7, 1997 as required by Resolution and statute,

Be It Ordained by the Township Board of the Charter Township of Muskegon:

Section 1. The Code entitled "Code of Ordinances/Charter Township of Muskegon, Michigan," consisting of Chapters 1 through 58, each inclusive, is adopted.

Section 2. All ordinances of a general and permanent nature enacted on or before March 1, 1993, and not included in the Code or recognized and continued in force by reference therein, are repealed.

Section 3. The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance that is repealed by this ordinance.

Section 4. Unless another penalty is expressly provided, every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof, shall be punished by a fine not to exceed \$500.00 or imprisonment not to exceed 90 days or both. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. The penalty provided by this Section, unless another penalty is expressly provided shall apply to the amendment of any Code Section whether or not such penalty is reenacted in the amendatory ordinance. In addition to the penalty prescribed above, the Township may pursue other remedies such as abatement of nuisances, injunctive relief, and revocation of licenses or permits, as the Township so chooses.

Section 5. Additions or amendments to the Code when passed in the form as to indicate the intention of the Township Board to make the same a part of the Code shall be deemed to be incorporated in the Code, so that reference to the Code includes the additions and amendments thereto.

Section 6. Ordinances adopted after March 1, 1993 that amend or refer to ordinances that have been codified in the Code, shall be construed as if they amend or refer to like provisions of the Code.

Section 7. This ordinance shall become effective May 21, 1997.

Section 8. A copy of this ordinance adopting the new Code and of the notice of the codification of the rezoning ordinance shall be published in the Muskegon Chronicle on or before April 30, 1997, to provide notice of the adoption of the codification referenced herein.

Section 9. The Township Clerk shall publish this Ordinance in the manner required by law, and the notice of the fact that complete copies of the Code are available at the Office of the Clerk for inspection by and distribution to the public.

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 47 duly adopted by the Township Board of the Charter Township of Muskegon, County of Muskegon, Michigan, at a regular meeting held on April 21, 1997, at which all Members were present except Timmer, and that public notice of said meeting was given pursuant to MCLA 42.8.

I further certify that Member Bartos moved adoption of said Ordinance and that Member Patton supported said motion.

I further certify that the following Members voted for adoption of said Ordinance Aley, Bartos, Patton, Chaney, Ream & Rusch and that of the following members voted against adoption of said Ordinance None.

I further certify that said Ordinance has been recorded in the Ordinance Book of the Township, and that such recording has been authenticated by the signatures of the Supervisor and Clerk. Darryl Bartos Township Clerk

Passed and adopted by the Charter Township of Muskegon, Township Board this 21st day of April, 1997.

Certificate of Adoption

I hereby certify that the foregoing constitutes a true and complete copy of the ordinance adopted by the Township Board of the Charter Township of Muskegon County, Michigan, at a regular meeting held on April 21, 1997 and that public notice of said meeting were given pursuant to Act No. 267, Public Acts of Michigan, 1976, as amended, and given pursuant to MCLA 42.8 for the publication of proceedings, and as required in the Resolution to adopt and enact a new Code for the Charter Township of Muskegon. Darryl Bartos Township Clerk

SUPPLEMENT HISTORY TABLE

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

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

Ordinance Number	Date Adopted	Include/Omit	Supplement Number
08-01	2- 4-08	Include	10
08-02	2- 4-08	Include	10
08-03	9- 2-08	Include	10
09-01	3-15-08	Include	10
09-02	12- 7-09	Omit	10
09-03	12- 7-09	Omit	10
09-04	12-21-09	Include	10
09-05	12- 4-10	Omit	10
10-01	2- 1-10	Include	10
10-02	3-15-10	Include	10
10-03	4- 5-10	Omit	10
10-04	4-19-10	Include	10
10-05	4-26-10	Include	10
10-06	6-21-10	Include	10
10-07	5- 3-10	Include	10
10-08	5- 3-10	Include	10
10-09	6-21-10	Include	10
10-10	9-20-10	Omit	10
10-11	12- 6-10	Include	10
10-12	12- 6-10	Include	10
10-13	12- 6-10	Include	10
10-14	12- 6-10	Include	10
10-15	12- 6-10	Include	10
11-01	3- 7-11	Include	10
11-02	3- 7-11	Omit	10

Muskegon Chrtr Township, (Muskegon Co.), Michigan, Code of Ordinances
SUPPLEMENT HISTORY TABLE

11-03	3- 7-11	Include	10
11-04	3- 7-11	Include	10
11-05	6- 6-11	Include	10
11-06	6- 6-11	Include	10
11-07	6- 6-11	Include	10
11-08	6- 6-11	Include	10
11-09	6-20-11	Include	10
11-10	8-15-11	Include	11
11-11	11- 7-11	Omit	11
12-01	2-20-12	Include	11
12-02	3-19-12	Include	11
12-03	2-20-12	Include	11
12-04	3-19-12	Include	11
12-05	5- 7-12	Omit	11
12-06	6- 4-12	Include	11
12-07	5-21-12	Omit	11
12-08	6-18-12	Include	11
12-09	9- 4-12	Include	11
12-10	8-20-12	Include	11
12-11	9- 4-12	Include	11
12-12	8- 6-12	Include	11
12-13	10- 1-12	Include	11
12-14	9- 4-12	Include	11
12-15	10-15-12	Include	11
12-16	12-17-12	Include	11
13-01	1-22-13	Include	11
13-02	1-22-13	Omit	11
13-03	4-15-13	Include	11
13-04	4-15-13	Include	11
13-05	4-15-13	Include	11
13-06	7-15-13	Include	11
13-07	7-15-13	Include	11
13-08	9- 3-13	Include	11
13-09	9- 3-13	Include	11
13-10	9-16-13	Include	11
13-11	10-21-13	Include	11
13-12	12-16-13	Include	11
13-13	12- 2-13	Include	11
13-14	10-21-13	Include	11
13-15	12-16-13	Include	11
13-16	12- 2-13	Include	11
13-17	12-16-13	Include	11
14-01	3- 3-14	Include	11
14-02	2- 3-14	Include	11
14-03	5- 5-14	Omit	11

Muskegon Chrtr Township, (Muskegon Co.), Michigan, Code of Ordinances
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14-04	Not Adopted	Omit	11
14-06	8-21-14	Include	11
14-08	10-20-14	Include	11
14-10	10-20-14	Include	11
14-11	12- 1-14	Include	11
14-12	12- 1-14	Include	11
14-13	12- 1-13	Include	11
14-14	12- 1-14	Include	11
14-15	12- 1-14	Omit	11
15-01	2- 2-15	Include	11
15-02	1-20-15	Include	11
15-03	4- 6-15	Include	12
15-04	4-20-15	Include	12
15-06	7-20-15	Include	12
15-07	5-18-15	Include	12
15-09	7-20-15	Include	12
15-12	10- 5-15	Include	12
15-13	10- 5-15	Include	12
15-14	10- 5-15	Include	12
15-15	10- 5-15	Include	12
15-16	10-19-15	Include	12
15-17	12- 7-15	Include	12
16-01	2- 1-16	Include	12
16-02	3- 7-16	Include	12
16-03	3-21-16	Include	12
16-04	4- 4-16	Include	12
16-05	6- 6-16	Include	13
16-06	6-20-16	Include	13
16-07	8-15-16	Include	13
16-08	9-19-16	Include	13
16-09	11- 7-16	Include	13
16-10	12-19-16	Include	13
16-11	12- 5-16	Omit	13
16-12	12- 5-16	Omit	13
17-01	1-17-17	Include	13
17-02	2-21-17	Omit	13
17-03	3-20-17	Include	13
17-05	3-20-17	Include	13
17-06	5- 1-17	Include	13
17-07	6- 5-17	Omit	13
17-08	6- 5-17	Include	13
17-09	8- 7-17	Include	13
17-10	8- 7-17	Include	13
17-11	8- 7-17	Include	13
17-12	10- 2-17	Include	13

Muskegon Chrtr Township, (Muskegon Co.), Michigan, Code of Ordinances
SUPPLEMENT HISTORY TABLE

17-13	10- 2-17	Include	13
17-14	1-16-18	Include	14
17-15	11- 6-17	Omit	14
17-16	11- 6-17	Omit	14
17-17	1-16-18	Include	14
18-2	8- 6-18	Omit	14
18-3	11- 5-18	Omit	14
18-4	12-17-18	Include	14
18-6	12-17-18	Include	14
19-1	6-17-19	Include	14
19-2	4-15-19	Include	14
19-3	6-17-19	Omit	14
19-4	6-17-19	Include	14
19-5	6-17-19	Omit	14
19-6	9-16-19	Include	14
19-7	10- 7-19	Include	15
19-8	10- 7-19	Include	15
19-9	10- 7-19	Include	15
19-10	11-18-19	Omit	15
19-11	11-18-19	Omit	15
19-12	12-16-19	Omit	15
19-13	Date not provided	Include	16
19-44	11- 4-19	Omit	16
19-45	11-18-19	Include	16
20-1	Date not provided	Include	16
20-2	7- 6-20	Omit	16
20-3	9- 8-20	Omit	16
20-09	3-16-20	Omit	16
20-13	6-15-20	Omit	16
20-14	7- 6-20	Omit	16
20-25	11- 2-20	Omit	16
20-26	11- 2-20	Omit	16
21-1	3- 1-21	Omit	16
21-2	2-16-21	Omit	16
21-3	3- 1-20	Omit	16

Chapter 1 GENERAL PROVISIONS

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

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

State law reference(s)—Codification authority, MCL 41.641.

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

It is the legislative intent of the township board, in adopting this Code, that all provisions and sections of this Code be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the township. In the construction of this Code and any amendment thereto, the following rules and definitions shall be observed, unless the context clearly indicates otherwise:

Act means Act No. 236 of the Public Acts of 1961, as amended.

Authorized township official means a police officer or other personnel of the township authorized by ordinance to issue municipal civil infraction citations or municipal civil infraction violation notices.

Bureau means Charter Township of Muskegon municipal ordinance violations bureau as established by this ordinance.

Code or *this Code* shall mean the Code of Ordinances, Charter Township of Muskegon, Muskegon County, Michigan, as designated in section 1-1.

Computation of time shall mean the time within which an act is to be done, as provided in this Code or in any order issued pursuant to this Code. The time, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day be Saturday, Sunday or a legal holiday it shall be excluded; and when the time is expressed in hours, the whole of a Saturday, Sunday or a legal holiday, from midnight to midnight, shall be excluded.

County or the county or this county shall mean the County of Muskegon in the State of Michigan.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

MCL shall mean the Michigan Compiled Laws, as amended.

Month shall be construed to mean a calendar month.

Municipal civil infraction means an act or omission that is prohibited by ordinance of the township, but which is not a crime under this ordinance or other ordinances of the township, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A municipal civil infraction is not a lesser and included offense of a violation of the ordinances of the township, which is deemed 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 at the Charter Township of Muskegon municipal ordinance violations bureau regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Municipal civil infraction determination means a determination that a defendant is responsible for a municipal civil infraction by one of the following:

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- (1) An admission of responsibility for the municipal civil infraction;
 - (2) An admission of responsibility for the municipal civil infraction "with explanation";
 - (3) A preponderance of the evidence at an informal hearing or formal hearing;
 - (4) A default judgment for failing to appear as directed by citation or other notice.

Municipal civil infraction violation notice means a written notice prepared by an authorized township official, directing a person to appear at the Charter Township of Muskegon municipal ordinance violations bureau and to pay the fine and costs, if any, as authorized under Sections 8396 and 8707(6) of the Act.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath, affirmation, sworn, affirmed. The word "oath" shall be construed to include the word "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall be construed to include the word "affirmed."

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

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

Shall, may. The word "shall" is mandatory and the word "may" is permissive.

State, the state or this state shall be construed to mean the State of Michigan.

Tense. Words used in the present or past tense include the future as well as the present and past.

Township shall mean the Charter Township of Muskegon in Muskegon County, Michigan.

Township board, board shall mean the Charter Township Board of Muskegon Township, Muskegon County, Michigan.

Week shall be construed to mean seven days.

Written, in writing may include any form of reproduction or expression of language.

Year shall be construed to mean a calendar year.

(Ord. No. 10-13, § 1, 12-6-10)

Sec. 1-3. Section catchlines and other headings.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be the titles of such sections, nor as any part of the sections, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted. No provision of this Code shall be held invalid by reason of deficiency in any such catchline or in any heading or title to any chapter, article or division.

Sec. 1-4. References and notes.

Cross references, state law references, editor's notes and history notes are by way of explanation only and should not be deemed a part of the text of any section.

Sec. 1-5. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance, when not inconsistent with this Code:

- (1) Promising or guaranteeing the payment of money for the township, or authorizing the issuance of any bonds of the township or any evidence of the township's indebtedness, or any contract or obligation assumed by the township.
- (2) Containing any administrative provisions of the township board.
- (3) Acquiring a specific water and sewer system.
- (4) Granting any right or franchise.
- (5) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the township.
- (6) Making any appropriation.
- (7) Levying or imposing taxes.
- (8) Establishing or prescribing grades in the township.
- (9) Providing for local improvements and assessing taxes therefor.
- (10) Dedicating or accepting any plat or subdivision in the township.
- (11) Prescribing the number, classification or compensation of any township officers or employees.
- (12) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones, and specific stop or yield intersections or other traffic ordinances pertaining to specific streets.
- (13) Pertaining to rezoning.
- (14) Any other ordinance, or part thereof, which is not of a general and permanent nature.

All such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the township clerk's office.

Sec. 1-6. Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance in the township in effect on the date of adoption of this Code.

Sec. 1-7. Amendments to Code.

- (a) Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, Charter Township of Muskegon, Muskegon County, Michigan (or Muskegon Charter Township Code), is hereby amended to read as follows:...." The new provisions shall then be set out in full as desired.
- (b) If a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Code of Ordinances, Charter Township of Muskegon, Muskegon County, Michigan (or Muskegon Charter Township Code), is hereby amended by adding a section, to be numbered _____, which said section reads as follows:...." The new section shall then be set out in full as desired.

Sec. 1-8. Supplementation of Code.

- (a) By contract or by township personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the township board. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly in the Code and will, where necessary, replace pages that have become obsolete or partially obsolete, and 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 this Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions.
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles.
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-9. Severability.

Should any provision or section of this Code be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of any of the remaining provisions or sections, it being the intent of the township board that this Code shall stand, notwithstanding the invalidity of any provision or section thereof. The provisions of this section shall apply to the amendment of any section of this Code, whether or not the wording of this section is set forth in the amendatory ordinance.

Sec. 1-10. General penalty for violation of Code; continuing violations.

- (a) Unless another penalty is expressly provided by this Code for any particular provision or section, every person convicted of a violation of any provision of this Code, or any rule or regulation adopted or issued pursuant thereto, shall be punished by a fine of not more than \$500.00, plus costs, or by imprisonment for not more than 90 days, or by both such fine and imprisonment. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.
- (b) In addition to the penalties provided in subsection (a), the township may enjoin or abate any violation of this Code by appropriate action.

State law reference(s)—Limitation on penalties, MCL 41.183.

Sec. 1-11. Appearance tickets.

- (a) Officers, employees and other individuals employed by and in the service of the township who are authorized by state law and/or the provisions of the ordinances of the township to enforce the provisions of such ordinances, including, but not limited to, the zoning and ordinance enforcement officers, building inspector, fire inspector, fire officer, firefighters, police officers and their assistants are hereby specifically authorized in accordance with state law, including MCL 764.9 et seq., to issue and serve upon a person an appearance ticket if the officer, employee or other individual employed by or in the service of the township has reasonable cause to believe that the person has committed a violation of the provisions of the ordinances of the township or state law, except where the issuance of such an appearance ticket is expressly prohibited by the provisions of the ordinances or applicable state law.
- (b) An appearance ticket, as used above, means a complaint or written notice issued and subscribed by a police officer or other officer, employee or individual employed by or in the service of the township who is by law or ordinance authorized to issue it, directing a designated person to appear in the designated local criminal court at a designated future time in connection with his alleged commission of a designated violation or violations of state law or local ordinance for which the maximum permissible penalty does not exceed 90 days in jail and a fine of \$500.00. The appearance ticket shall be numbered consecutively, be in such form as determined by the attorney general, the state court administrator and the director of the department of state police and shall consist of the following parts:
 - (1) The original, which shall be a complaint or notice to appear by the officer, employee or other individual filed with the court.
 - (2) The first copy, which shall be an abstract of court records.
 - (3) The second copy, which shall be retained by the appropriate local enforcement agency.
 - (4) The third copy, which shall be delivered to the alleged violator.

With the prior approval of such state officials, the appearance ticket may be appropriately modified as to content or number of copies to accommodate the law enforcement agency and local court procedures and practices.

Sec. 1-12. Municipal civil infraction action; commencement.

A municipal civil infraction 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 violation notice directing the alleged violator to appear at the Charter Township of Muskegon municipal ordinance violations bureau.

Sec. 1-13. 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 on a citation shall be within a reasonable time after the citation is issued.
- (2) The place for appearance specified on a citation shall be the district court, unless the person cited for a municipal civil infraction is under the age of 17 at the time of the occurrence of the violation, in which case the matter shall be referred to the probate court.
- (3) Each citation shall be numbered consecutively, shall be in the form approved by the state court administrator and shall consist of the following parts:
 - (a) The original, which is a complaint and notice to appear, shall be filed with the district court;
 - (b) The first copy shall be retained by the township and/or the ordinance enforcing agency;
 - (c) The second copy shall be issued to the alleged violator if the violation is a municipal civil infraction; and
 - (d) The third copy shall be issued to the alleged violator if the violation is a misdemeanor.
- (4) A citation for a municipal civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief."
- (5) An authorized township official who witnesses a person commit a municipal civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copy of a citation.
- (6) An authorized township official may issue a citation to a person if:
 - (a) Based upon investigation, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction; or
 - (b) Based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction.
- (7) Municipal civil infraction citations shall be served by an authorized township official as follows:
 - (a) Except as provided in subsection (7)(b) below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
 - (b) If the municipal civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the municipal civil infraction 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 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. A citation served in accordance with this subsection for a violation involving the use or occupancy of land or a building or other structure shall be processed in the same manner as a citation served personally upon a defendant.

Sec. 1-14. Municipal civil infraction citations; contents.

- (1) A municipal civil infraction citation shall contain the name of the township and the name and the 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) A municipal civil infraction 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, in person, or by representation by the time specified for appearance.
 - (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. A party requesting a formal hearing shall notify the court and the township or other named party or parties of the request at least ten days before the hearing date, which request may be made in person, by representation, by mail or by telephone.
- (3) The citation shall also inform the alleged violator of all of the following:
 - (a) 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.
 - (b) 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 to appear for a hearing, unless a hearing date is specified on the citation.
 - (c) That a hearing shall be an informal hearing unless a formal hearing is requested by the alleged violator or the township.
 - (d) 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.
 - (e) That 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. Return of the citation with an admission of responsibility and with full payment of applicable civil fines and costs, return of citation with an admission of responsibility with explanation and with full payment of applicable civil fines and costs, or timely application to the court for a scheduled date and time for an appearance under subsection (3)(a), or a hearing under subsection (3)(b), constitutes a timely appearance.

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- (5) If an authorized township official issues a citation as set forth in this section, the court may accept an admission with explanation or an admission or denial of responsibility without the necessity of a sworn complaint. If the defendant denies responsibility for the municipal civil infraction, further proceedings shall not be held until a sworn complaint is filed with the court. A warrant for arrest for failure to appear on the municipal civil infraction citation shall not be issued until a sworn complaint relative to the municipal civil infraction is filed with the court.

(Ord. No. 10-13, § 4, 12-6-10)

Sec. 1-15. Municipal ordinance violations bureau.

- (1) The township hereby establishes a municipal ordinance violations bureau (the "Bureau"), as authorized under Section 8396 of the Act, to accept admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by ordinance. The expenses of operating the bureau shall be borne by the township, and the personnel of the bureau shall be township employees.
- (2) The bureau shall be located at the Muskegon Charter Township hall, and shall be under the supervision and control of the township treasurer. The township treasurer, subject to the approval of the township board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified township employees to administer the bureau.
- (3) The bureau may dispose only of municipal civil infraction violations for which a fine has been scheduled and for which a municipal civil infraction violation notice (as compared with a citation) has been issued. Nothing in this chapter shall prevent or restrict the township from issuing a municipal civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a municipal civil infraction violation at the bureau and may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- (4) The scope of the bureau's authority shall be limited to accepting admissions of responsibility for municipal civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (5) The bureau clerk or other designated township official/employee shall retain a copy of all municipal ordinance violation notices, and shall account to the township board once a month, or at such other intervals as the township board may require, concerning the number of admissions and denials of responsibility for ordinance violations within the jurisdiction of the bureau and the amount of fines/costs collected with respect to such violations.

The civil fines/costs collected shall be delivered to the township treasurer at such intervals as the treasurer shall require and shall be deposited in the general fund of the township.

(Ord. No. 10-13, § 5, 12-6-10)

Sec. 1-16. Municipal civil infraction notices; contents, issuance and service.

- (1) An authorized township official may issue and serve a municipal civil infraction violation notice instead of a citation under the same circumstances and upon the same persons, as provided, for service of municipal civil infraction citations. In addition to any other information required by this chapter or other ordinances, the

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violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may 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.

- (2) 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.
- (3) If an authorized township official issues and serves a municipal ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, are not paid at the bureau at such time of admission, 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 the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by Sections 8705 and 8709 of the Act, but shall consist of a sworn complaint containing the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation.

(Ord. No. 10-13, § 6, 12-6-10)

Sec. 1-17. Municipal civil infractions; sanctions, continuing violations, injunctive relief.

- (1) The sanction for a violation which is a municipal civil infraction shall be a civil fine in the amount as provided, plus any costs, damages, expenses and other sanctions, as authorized under Chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.
 - (a) Unless otherwise specifically provided for a particular municipal civil infraction violation by resolution, the civil fine for a violation shall be not less than \$50.00, plus costs and other sanctions, for each infraction.
 - (b) Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this chapter. As used in this section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision (i) committed by a person within any 24-month period (unless some other period is specifically provided by ordinance), and (ii) for which the person admits responsibility or is determined to be responsible. The repeat violation shall be determined on the basis of the date of the violation. Unless otherwise specifically provided by ordinance for a particular municipal civil infraction violation, the increased fine for a repeat offense shall be as follows:
 - (i) The fine for any offense which is a first repeat offense shall be no less than \$100.00, plus costs.
 - (ii) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be no less than \$500.00, plus costs.
- (2) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by ordinance; and any omission or failure to act where the act is required by ordinance.
- (3) Each day on which any violation of ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
- (4) In addition to any remedies available at law, the township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of township ordinance.

(Ord. No. 10-13, § 7, 12-6-10)

Sec. 1-18. Authorized township official.

The following personnel are authorized to issue municipal civil infractions ordinance violation notices and/or municipal civil infraction citations:

- (1) Any Muskegon Charter Township police officer.
- (2) Fire department officers.
- (3) Building official or other duly authorized code inspector or officer.
- (4) Ordinance enforcement officer.
- (5) Township zoning administrator.

The township board may by resolution authorize such other personnel to issue municipal civil infractions ordinance violation notices or municipal civil infraction citations as it deems necessary and proper.

(Ord. No. 10-13, § 8, 12-6-10)

Chapter 2 ADMINISTRATION¹

ARTICLE I. IN GENERAL

Secs. 2-1—2-25. Reserved.

ARTICLE II. TOWNSHIP BOARD²

Secs. 2-26—2-45. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES³

Secs. 2-46—2-65. Reserved.

¹Cross reference(s)—Cable communications, ch. 14; offenses affecting governmental functions, § 30-31 et seq.

State law reference(s)—Townships generally, MCL 41.1 et seq., MSA 5.1 et seq.; charter townships, MCL 42.1 et seq., MSA 5.46(1) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.; freedom of information act, MCL 15.231 et seq., MSA 4.1801(1) et seq.

²State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

³State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.

ARTICLE IV. BOARDS AND COMMISSIONS⁴

Secs. 2-66—2-85. Reserved.

ARTICLE V. EMPLOYEE BENEFITS⁵

Secs. 2-86—2-105. Reserved.

ARTICLE VI. FINANCES⁶

Sec. 2-106. Fiscal year.

The fiscal year of the township shall extend from January 1 of each year until December 31 of the following year.

(Ord. No. 42, § 1, 2-19-78)

State law reference(s)—Similar provisions, MCL 41.72, MSA 5.64.

Chapter 3 ALCOHOLIC BEVERAGES

Article I. In General

Article II. Liquor License Regulations

ARTICLE I. IN GENERAL

Secs. 3-1—3-20. Reserved.

ARTICLE II. LIQUOR LICENSE REGULATIONS

⁴State law reference(s)—Standards of conduct and ethics, MCL 15.341 et seq., MSA 4.1700(71) et seq.; open meetings act, MCL 15.261 et seq., MSA 4.1800(11) et seq.

⁵State law reference(s)—Retirement systems and insurance for township personnel, MCL 41.110b, MSA 5.159(2).

⁶State law reference(s)—Borrowing money, purposes, MCL 41.416 et seq., MSA 5.2416 et seq.

Sec. 3-21. Purpose.

This article is established to cause the greatest benefit to the township in its use of powers with regard to the issuance, transfer, renewal or revocation of liquor licenses within its jurisdiction. 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 liquor licenses or any matter relating thereto, for the sale or dispensation of alcoholic beverages within the township, and each person who desires such a license, or the approval or renewal of the same, shall comply with this article.

(Ord. No. 02-2, § 2, 3-4-02)

Sec. 3-22. Definitions.

As used in this article:

Alcoholic beverages means any spirituous, vinous, malt or fermented liquor or compound, whether or not medicated, proprietary or patented, and by whatever name called, which contains one-half of the one percent or more of alcohol by volume and which is fit for use for beverage purposes.

Person means and includes any person or legal entity of any kind, either non-profit or for-profit, that desires to have or is already in possession of any license issued by the state for the sale and dispensation of alcoholic beverages in the township pursuant to a liquor license of any kind.

(Ord. No. 02-2, § 2, 3-4-02)

Sec. 3-23. Applications for new licenses.

- (a) *Submission to state before township.* An applicant for a liquor license under this article shall first submit an application for a liquor license to the state liquor control commission before submitting an application for liquor license approval to the township. No application for a liquor license will be considered by the township until the township has been notified by the state liquor control commission that it has received such an application.
- (b) *Submission to township.* The applicant for a liquor license under this article shall submit a current and fully completed application to: Township Clerk, Charter Township of Muskegon, 1990 E. Apple Avenue, Muskegon, Michigan 49442.
- (c) *Required information.* The township application shall be signed by the applicant, if an individual, or by a duly authorized agent thereof, if a partnership or corporation, and shall include at least the following information:
 - (1) The name, age and address of the applicant, in the case of an individual, or, in the case of a co-partnership, the persons entitled to share in the profits thereof, or, in the case of a corporation, the names and addresses of the officers and directors thereof, and, if an aggregate of more than ten percent of the stock of such corporation is owned by any one person or his or her nominee, the name and address of such person;
 - (2) The type of license desired;
 - (3) The nature of the business of the applicant and in the case of a corporation, the object for which it was formed;
 - (4) A written statement as to the applicant's character, experience and financial ability to meet the obligations and business undertakings for which the license is to be issued, including the period of time

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- such applicant has been in the business of that nature or, in the case of a corporation, the date when its certificate or incorporation was issued;
- (5) The location and description of the premises which is to be operated under such license;
 - (6) If the business of the applicant is to be operated or conducted by a local manager or agent, the name and address of such manager or agent;
 - (7) A statement as to whether or not the applicant has, prior to the application, applied for a license to sell beer and wine or spirits and, if so, the date, place and disposition of such application;
 - (8) A statement that the applicant has never been convicted of a felony and is not disqualified from receiving approval for a license by reason of any matter or thing contained in this chapter or the laws of the state;
 - (9) A statement that the applicant will not violate any of the ordinances of the township or laws of the state or of the United States in the conduct of his or her business;
 - (10) A statement that the applicant, should any of the information provided in his or her application or any attachment thereto change during the term of the license or any renewal thereof, will notify the township clerk, in writing, within 30 days of such change;
 - (11) A site plan showing the entire structure, premises and grounds, specific areas where the license is to be utilized, the relationship of the proposed structure to the surrounding property and land use, adequate off-street parking, lighting and refuse disposal facilities and, where appropriate, adequate plans for screening and noise control;
 - (12) Any other information pertinent to the application and to the operation of the proposed facility as may be required by the board by prior notice to the applicant.
- (d) *Fee.* The application shall be accompanied by a nonrefundable fee, in an amount determined by the board, to cover the cost of investigation, review and inspection by the township of the application.
 - (e) *Administrative recommendations.* Following receipt of the fully completed application, the fee and such other information as may be requested by the township, the township clerk shall forward the application to the police department, fire department, and such other department as required by the township supervisor, which departments shall make their recommendations prior to consideration of the application by the board. In making its review, the township may request from the applicant other pertinent information.
 - (f) *Placement on township agenda.* Upon receipt by the township clerk's office of the recommendation of the police department, the fire department, and other departments as required, the clerk shall cause the application to be placed upon the agenda of the township board after receipt of the same in his or her office. All applications are subject to the final approval of the township board.
 - (g) *Township board action.* At the initial meeting before the board to consider the application, the board shall take one of the following steps:
 - (1) Recommend to the state liquor control commission approval of the application above all others for the issuance of a liquor license;
 - (2) Reject the application stating the reasons for such rejection;
 - (3) Ask the applicant to proceed with the submitted plans so that a more detailed and complete proposal may be heard by the board at a later date, provided, however, that this action by the board shall not be interpreted to mean approval of the application or the general details of the proposal; or
 - (4) Postpone action on the application for a period not to exceed 60 days. The 60-day limitation for postponement of action may be waived by the applicant if the postponement is for the purpose of

supplying the board with additional information requested of the applicant by the board, when the applicant is unable to supply the requested information within the stated time period.

- (h) *Decision criteria.* The board, in making its decision, shall consider the following criteria on the application:
- (1) The applicant's management experience in the alcohol/liquor business;
 - (2) The applicant's general business management experience and reputation;
 - (3) The applicant's financial status and ability to build and/or operate the proposed facility on which the proposed liquor license is to be located;
 - (4) Past criminal convictions of the applicant for crimes involving moral turpitude, violence or alcoholic beverages;
 - (5) The effect that the issuance of a license would have upon the economic development of the surrounding area;
 - (6) The effect that the issuance of a license would have on the health, welfare and safety of the general public;
 - (7) The recommendation of the local law enforcement agency, the township building official, the county health department and/or the fire department with respect to the proposed facility;
 - (8) The uniqueness of the proposed facility when contrasted against other existing or proposed facilities;
 - (9) The number of liquor licenses issued by the township within the past 12 months;
 - (10) Whether the facility to which the proposed liquor license is to be issued complied, or will comply, with the building, plumbing, electrical, fire prevention and zoning codes of the township and any other building, plumbing, electrical, fire prevention and zoning statutes and articles applicable to the township;
 - (11) The effect that the business facility to which the proposed license is to be issued will have upon vehicular and pedestrian traffic in the area;
 - (12) Such other considerations as the board may deem proper.
- (i) *Applicant qualification and grounds for denial/nonrenewal.* Notwithstanding any other section of this article to the contrary, no license shall be approved or renewed for:
- (1) A person, for any location which the board determines, by a majority vote, is unsuitable for on-premises consumption of beer and wine or spirits, considering:
 - a. The distance from public or private schools for minors, playgrounds, public parks or churches;
 - b. The proximity of an inconsistent zoning classification or land use;
 - c. Traffic safety;
 - d. The accessibility to the site from abutting roads;
 - e. The capability of abutting roads to accommodate the commercial activity; and
 - f. Such other relevant factors as the board may deem appropriate;
 - (2) A person, for any premises which the board determines, by a majority vote, does not or will not, within six months of the approval of the license by the board, or prior to the commencement of business, whichever occurs first, have adequate off-street parking, lighting, refuse disposal facilities, screening or noise or nuisance control, provided, however, that upon timely request and for good cause shown, the board may extend any deadline established by this paragraph;

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- (3) A person, for any premises which does not comply with applicable building, electrical, mechanical, plumbing, fire prevention, zoning or public health codes and regulations provided, however, that the board may approve an application subject to compliance with the applicable codes and regulations within 60 days;
 - (4) A person who does not own the premises for which the license approval is sought or does not have a lease therefor for the full period for which the license is to be issued;
 - (5) A law enforcement public official or a member of the board and no such official shall be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic beverages;
 - (6) A person who, at the time of the application for such approval, transfer or renewal, is delinquent in the payment of any taxes, fees or other charges owed to or collected by the township;
 - (7) A person whose liquor license has been revoked or not renewed for cause under this chapter, or a comparable city or township article, of state law, whether in Michigan or otherwise;
 - (8) A co-partnership, unless all of the members of such co-partnership qualify for approval of a license;
 - (9) A corporation, if any officer, manager or director thereof, or a stock owner or stockholders owning in the aggregate more than ten percent of the stock of such corporation, would not be eligible to receive approval for a license hereunder for any reason;
 - (10) A person whose place of business is operated or conducted by a manager or agent unless such manager or agent possesses the same qualifications required by the licensee;
 - (11) A person who has been convicted of a crime punishable by imprisonment in excess of one year under the law under which he or she was convicted, or of a crime involving theft, dishonesty, or false statement (included tax evasion) regardless of punishment, or of crime or administrative violation of a federal or state law concerning the manufacture, possession or sale of alcoholic beverages or controlled substances; or
 - (12) A person based upon such other relevant factors as the board may deem appropriate.
- (j) *Consideration of conditional approval.* Once an applicant who has been asked to proceed by presenting a more detailed and complete proposal has sufficiently completed his or her plans, and obtained site plan, engineering, zoning, planning and other necessary approvals from the township, the applicant may then request consideration by the board of a conditional approval. Upon the receipt of a written notice by an applicant that he or she requests consideration of a conditional approval, the township clerk shall cause the application to be placed on the agenda of the board for their consideration. At that meeting, the applicant shall be prepared to discuss the following:
- (1) Cost estimates for the buildings, furnishings and fixtures as part of the proposal;
 - (2) Site plan information, including landscaping and other aesthetic features of the proposal;
 - (3) Estimates of the number of employees required for the operation;
 - (4) Information on the individuals expected to manage the operation, as well as information as to how the facility would actually be managed;
 - (5) Information about any entertainment or dancing that might be involved; and
 - (6) Answers to any related questions about the proposed improvements and/or general operation of the facility.
- (k) *Disposition of request for and contingencies of conditional approval.* Following this presentation by the applicant, the board may conditionally approve, above all others, the application, and postpone consideration for a reasonable period or reject the application. Conditional approval will be contingent upon

obtaining building permits and any other necessary permits, licenses or approvals from the township within six months from the date of such conditional approval, including the correction of any existing noncompliance with codes and regulations referred to in subsection (i)(3) of this section. The construction of new buildings and alterations of existing buildings shall commence within six months after the date of the conditional approval, with a completion date or not more than one year after the issuance of the relevant building permit. Extensions for completion of construction or alternations may be granted by the board for good cause. The applicant shall execute in writing an acknowledgment and acceptance of all conditions under which the board has determined to recommend approval of licensure for the applicant.

- (l) *Change of approval requirements for conditional approved applicants.* After receipt of a conditional approval by the board, no floor plan, building elevation, site plan, seating arrangement, kitchen layout or other pertinent facts, drawing or document submitted to the board shall be changed without the applicant first receiving approval from the board. Conditional approval by the board shall not be transferable by applicant. A change of partners in a partnership or a change of ten percent or more of the stock ownership of a corporation shall be deemed a transfer hereunder. A transfer made without prior approval by the board shall cause revocation, without further action by the board, or conditional approval, and the applicant shall be required to resubmit *ab initio* its application.
- (m) *Recommendation of conditionally approved applicant to state liquor control commission.* Upon completion of the building and in accordance with the prior conditional approval of the board, they shall recommend the applicant, above all others, to the state liquor control commission for approval of the liquor license.
- (n) *Reservation of authority.* No applicant for a liquor license has a right to the issuance of such license to him or her. The board reserves the right to exercise the maximum discretion as is allowed by law to determine who, if anyone, shall be entitled to the issuance of such a license.
- (o) *Criteria for selecting among qualified applicants.* When any such license is available for issuance to a new applicant, either by lapse or a current license or by the authorization and allocation of additional licenses to the board, and there exist more qualified applicants for such licenses than the number of new licensee available for issuance, the board shall choose the most qualified applicant and applicants for approval based upon the following criteria:
 - (1) The location of the proposed new business and its desirability in light of its location, the surrounding land uses and its proximity to other premises licenses for on-premises consumption;
 - (2) The experience of the applicant;
 - (3) The other uses proposed to be included on the premises or in the development (e.g. a restaurant or motel);
 - (4) The cost and size of the overall project and the number of new jobs to be created or current jobs retained;
 - (5) The relative suitability of the design and size of the business to the property on which it is proposed to be located, as evidenced by any building and grounds layout diagram required to be submitted with the application;
 - (6) The overall development or redevelopment of the township; and
 - (7) Such other relevant factors as the board may deem appropriate.

In making its determination under this section, the board may weigh variously the above factors under the circumstances of each application.

(Ord. No. 02-2, § 2, 3-4-02)

Sec. 3-24. Transfer of existing licenses.

The transfer of any existing liquor license covered under this article shall be subject to each of the requirements, criteria and procedures, including fees, set forth in this article for the granting of a new liquor license. In addition, the transferee-applicant shall agree, and sign releases if necessary for that purpose, to allow the township, its agents or employees, to review and inspect any and all records and files which may be in the possession of the state liquor control commission or the possession of the applicant regarding the commission's investigation of the transferee as a present licensee or as a previous licensee, or of a business or other legal entity in which the transferee has had an interest.

(Ord. No. 02-2, § 2, 3-4-02)

Sec. 3-25. Objections to renewal and requests for revocation.

- (a) *Board action.* The board may object to a renewal of a liquor license or request the revocation of a liquor license by the state liquor control commission.
- (b) *Procedure.* Before filing an objection to a renewal or a request for revocation of a license with the state liquor control commission, the board shall serve the license holder, by first class mail, mailed not less than ten days prior to the hearing, a notice of such hearing, which shall contain the following information:
 - (1) Notice of the proposed action;
 - (2) The reasons for the proposed action;
 - (3) The date, time and place of such hearing; and
 - (4) A statement that the licensee may present evidence and testimony, may confront witnesses and may be represented by a licensed attorney.
- (c) *Hearing.* Such hearing may be conducted by the board as a whole or by a hearing officer appointed by the board for such purpose. If a hearing officer is appointed, it shall be that officer's duty to undertake such hearing and to hear and take evidence and testimony of the licensee or of witnesses on his or her behalf or in the opposition to such licensee. The licensee may, at his or her expense, employ a reporter to transcribe the testimony given at the hearing and make a transcript of the testimony. After such hearing, the hearing officer shall make a recommendation to the board for the latter's ultimate final review and decision. The board shall submit to the license holder and the state liquor control commission a written statement of its ultimate findings and determination.
- (d) *Criteria for nonrenewal or revocation.* The board may recommend nonrenewal or revocation of a license upon a determination by it that, based upon the evidence presented at the hearing, any of the following exists:
 - (1) A violation of any of the restrictions on licenses set forth in section 3-23;
 - (2) Maintenance of a nuisance upon the premises;
 - (3) Failure to comply with the requirements of the state liquor control act or the administrative rules of the liquor control commission;
 - (4) Failure to comply with any of the requirements of this article;
 - (5) A violation of any law or ordinance in the conduct of the licensee's business; and
 - (6) Failure to comply with any promise or representation made by the applicant to the board or with any condition imposed upon the applicant as a basis for the approval.

(Ord. No. 02-2, § 2, 3-4-02)

Sec. 3-26. Applicability.

This chapter shall apply only to applications for licenses to sell beer, wine or spirits for on-premises consumption, including, but not limited to, Class "B" licenses, Class "C" licenses, resort licenses, tavern licenses, club licenses and hotel licenses.

(Ord. No. 02-2, § 2, 3-4-02; Ord. No. 05-02, § 1, 5-2-05)

Sec. 3-27. Fees.

The board may from time to time, by resolution, set fees to be paid to the township license transfers, issuance of original licenses, and investigation of applicants, provided same shall not be in conflict with statute of the state or rule or regulation adopted by the state liquor control commission.

(Ord. No. 02-2, § 2, 3-4-02)

Chapter 4 ANIMALS

Sec. 4-1. Dangerous animals defined.

The term "dangerous animals" means and includes the following:

- (1) Any mammal, amphibian, reptile or fowl which is of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being or property, including, but not limited to, lions, tigers, leopards, panthers, bears, wolves, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles and snakes which are poisonous or otherwise present a risk of serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors;
- (2) Any dog or cat having a disposition or propensity to attack or bite any person or animal without provocation; and
- (3) Any pit bull dog. The term "pit bull dog" means any and all of the following dogs:
 - a. The Staffordshire bull terrier breed of dogs;
 - b. The American Staffordshire terrier breed of dogs;
 - c. The American pit bull terrier breed of dogs;
 - d. The bull terrier breed of dogs; and
 - e. Dogs which have the appearance and characteristics of being predominately of the breeds of dogs known as Staffordshire bull terrier, American pit bull terrier, American Staffordshire terrier, or bull terrier.

(Ord. No. 10-1, § 3, 2-1-10)

Sec. 4-2. Exceptions.

Any person or organization which falls into one of the following categories shall be permitted to own, harbor or have charge, custody, control or possession of any animal described in section 4-1:

- (1) The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
- (2) The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
- (3) The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;
- (4) Commercial establishments possessing such animals for the purpose of sale or display; or
- (5) The keeping of such animals, the purpose or use of which is intended to provide security for commercial or business premises. Commercial establishments possessing such animals shall keep them muzzled by a device as described in section 4-3(1) or confined as described in 4-3(2) during business hours.

(Ord. No. 10-1, § 3, 2-1-10; Ord. No. 13-14, § 2, 10-21-13)

Sec. 4-3. Keeping of dangerous animals.

The keeping of a dangerous animal as defined in section 4-1(2) or (3), shall be subject to the following mandatory requirements of this section:

- (a) *Leash and muzzle.* No person shall permit a dangerous animal to go outside its kennel or pen unless such dangerous animal is securely leashed with a leash no longer than four feet in length. No person shall permit a dangerous animal to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dangerous animals may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all dangerous animals on a leash outside the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dangerous animals from biting persons or other animals.
- (b) *Confinement.* All dangerous animals shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as provided in subsection (a) of this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine dangerous animals must be locked with a key or combination lock when such animals are within the structure. Such structures must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in the ground no less than two feet. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
- (c) *Confinement indoors.* No dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the dangerous animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows or screen doors are the only obstacle preventing the dangerous animal from exiting the structure.
- (d) *Signs.* All owners, keepers or harborers of dangerous animals within the township shall display in a prominent place on their premises, within ten days of the effective date of the ordinance from which this article is derived, a sign easily readable by the public using the words "Beware of Dangerous Animal." In addition, a similar sign is required to be posted on the kennel or pen of such animal.

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- (e) *Insurance.* All owners, keepers or harborers of dangerous animals must provide proof to the township clerk of public liability insurance in a single-incident amount of \$50,000.00 for bodily injury to or death of any person or for damage to property owned by any persons which may result from the ownership, keeping or maintenance of such animal. At the time of initial registration the owner, keeper or harborer must present proof to the township clerk of the required insurance. At the time of subsequent registration, the owner, keeper or harborer must show proof of insurance for the present registration period and proof that there was insurance coverage throughout the period of the prior registration year. In the event the liability insurance is canceled or lapses, or for any other reason becomes nonenforceable, the owner, keeper or harborer shall be in violation of the provisions of this article and subject to the penalties provided herein.
 - (f) *Identification photographs.* All owners, keepers or harborers of dangerous animals must provide to the township clerk, at registration or within ten days of the effective date of the ordinance from which this article is derived, two color photographs of the animals clearly showing the color and approximate size of the animal.
 - (g) *Reporting requirements.* All owners, keepers or harborers of dangerous animals must report the following information in writing to the township clerk, within ten days of one of the following incidents:
 - (1) The removal from the township or death of a registered dangerous animal;
 - (2) The birth of offspring of a registered dangerous animal; or
 - (3) The new address of the dangerous animal owner should the owner move.
 - (h) *Animals born of registered dangerous animals.* All offspring born of dangerous animals registered with the township must be registered with the township within six weeks of the birth of such animal.
 - (i) *Failure to comply.* Any person, owner, keeper or harborer of a dangerous animal located within the township who fails to comply with the requirements and conditions set forth in this article shall be guilty of a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense. Any dangerous animal found to be the subject of a violation of this article shall be subject to immediate seizure and impoundment. In addition, failure to comply with the requirements and conditions set forth in this article shall result in the revocation of the approved registration and authorization to possess such animal, resulting in the immediate removal of the animal from the township.

(Ord. No. 10-1, § 3, 2-1-10; Ord. No. 13-07, § 2, 7-15-13 ; Ord. No. 13-14, § 2, 10-21-13)

Sec. 4-4. Exemptions.

The provisions of this article shall not apply to the transportation of such animals through this township, when such transporter has taken adequate safeguards to protect the public and has notified the local enforcement agency of the proposed route of transportation and the time therefor.

(Ord. No. 10-1, § 3, 2-1-10)

Sec. 4-5. Notice of keeping dangerous animals.

Upon the written complaint of any person that a person owns or is keeping or harboring a dangerous animal in violation of this article in the township, the police department or its authorized deputy shall forthwith cause the matter to be investigated; and if after investigation the facts indicate that such person named in the complaint is in fact the owner or is keeping or harboring any such dangerous animal in the township, they shall forthwith send

written notice to the person, requiring such person to safely remove the animal from the township within five days of the date of the notice. Notice as herein provided shall not be required where such dangerous animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the police department shall cause the animal to be immediately seized and impounded according to the provisions of section 4-6, or killed if seizure and impoundment are not possible without risk or serious physical harm or death to any person.

(Ord. No. 10-1, § 3, 2-1-10)

Sec. 4-6. Seizure and impounding of dangerous animals.

- (a) The police department or its authorized deputy shall forthwith cause to be seized and impounded any dangerous animal, where the person owning, keeping or harboring such animal has failed to comply with the notice sent pursuant to section 4-5. Upon seizure and impoundment, the animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor such animals.
- (b) If, during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, such person authorized by the police department may render the animal immobile by means of tranquilizers or other safe drugs; or, if that is not safely possible, then the animal may be killed.

(Ord. No. 10-1, § 3, 2-1-10)

Sec. 4-7. Nuisance.

- (a) Any dangerous animal or any animal which barks, howls or yelps with such frequency and at such times as to disturb and irritate persons residing in the neighborhood in which it is kept is hereby declared to be a nuisance.
- (b) No person shall keep an animal in the township in such a manner as to permit such animal to become a nuisance.

(Ord. No. 10-1, § 3, 2-1-10)

Chapter 5 MARIHUANA LICENSING

Sec. 5-1. Title.

This chapter shall be known and cited as the Muskegon Charter Township Marihuana Licensing Ordinance.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-2. Purpose.

The purpose of this chapter is to regulate and license the conduct of activity pursuant to the Michigan Regulation and Taxation of Marihuana Act of 2018, the Michigan Marihuana Act, Public Act 1 of 2008 as amended, the Marihuana Facilities Licensing Act, Public Act 281 of 2016 as amended, and the Marihuana Tracking Act, Public Act 282 of 2016 as amended (the Acts) in order to:

- (1) Protect the health, safety, and welfare of the general public.

(Supp. No. 16)

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- (2) Establish a set of rules and regulations which are fair and equitable for those interested in establishing marihuana facilities in compliance with the Acts:
 - (3) Provide reasonable regulation pursuant to the charter township general police power granted to townships by the Michigan Constitution of 1963 and the Township Ordinances Act, MCL 41.181 et seq.

The charter township does not intend that registration and regulation under this chapter be construed as a finding that such businesses and activities are legal under federal law. By requiring registration and compliance with requirements as provided in this chapter, the charter township intends to protect, to the extent possible, the public health, safety and welfare of the residents of and visitors to the charter township from harm that may result from the activities of persons who unilaterally or on the advice of their own attorney determine that they may legally operate a business involved in the cultivation, possession, use, manufacture, distribution, transport, processing or dispensing of marihuana.

Nothing in this chapter is intended to grant, nor shall it be construed as granting, immunity from criminal prosecution, for cultivation, possession, use, manufacture, distribution, transport, processing or dispensing of marihuana not in strict compliance with the Acts.

This chapter permits authorization for certain activities based on the Acts. Nothing in this chapter shall be construed as allowing persons to engage in conduct that endangers others or causes a public nuisance, or to allow use, cultivation, possession, use, manufacture, distribution, transport, processing or dispensing of marihuana not in strict accordance with the express authorization of the Act and this chapter; and, nothing in this chapter shall be construed to undermine or provide immunity from federal law as it may be enforced by the federal or state government relative to the cultivation, distribution, or use of marihuana. Thus, the authorization of activity, and the approval of a license under this chapter shall not have the effect of superseding or nullifying federal law applicable to the cultivation, use, and possession of marihuana, and all applicants and grantees of licenses are on notice that they may be subject to prosecution and civil penalty, including forfeiture of property.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-3. Legal basis.

This chapter is enacted pursuant to the statutory authority granted by MCL 41.181 et seq authorizing the charter township to adopt licensing ordinances and regulations to secure the public health, safety and general welfare.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-4. Definitions.

For purposes of this chapter, terms and words defined by the Acts shall have the same meaning as provided in those Acts.

Additionally, certain terms and words used herein shall have the following meaning:

Act or Acts mean the Michigan Regulation and Taxation of Marihuana Act of 2018, the Michigan Marihuana Act, Public Act 1 of 2008 as amended, the Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016, and all related Michigan Administrative Rules, as amended.

Applicant means a person who applies for a license under this chapter and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

Licensee means a person holding a license from the charter township under this chapter and also holding a state operating license.

Marihuana means marihuana grown, used, tested, or transferred for use as defined by the Acts.

Marihuana grower means a licensee that is a commercial entity located in the charter township that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

Marihuana provisioning center means a licensee that is a commercial entity located in the charter township that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to end users. Provisioning center includes any commercial property where marihuana is sold at retail to end users. 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 Michigan Marihuana Act is not a provisioning center for purposes of this chapter.

Marihuana facility means a location at which a license holder is licensed to operate under this chapter.

Marihuana processor means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Marihuana safety compliance facility means a licensee that is a commercial entity that receives marihuana from a marihuana facility, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Marihuana secure transporter means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-5. Regulations for marihuana growers.

Marihuana grower shall comply at all times with the following:

- (1) A marihuana grower shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- (2) A marihuana grower shall have at all times a valid license, pursuant to this chapter, from the charter township.
- (3) A marihuana grower shall have at all times a valid license from the state marihuana licensing board created by the Acts.
- (4) No distribution of marihuana to any end users may take place at a marihuana grower.
- (5) A marihuana grower may grow no more marihuana plants than allowed pursuant to its license from the state marihuana licensing board for one of the following classes:
 - a. Medical class A — 500 marihuana plants (or as amended by the Acts or state regulation).
 - b. Medical class B — 1,000 marihuana plants (or as amended by the Acts or state regulation).
 - c. Medical class C — 1,500 marihuana plants (or as amended by the Acts or state regulation).
 - d. Recreational class A — 100 marihuana plants (or as amended by the Acts or state regulation).
 - e. Recreational class B — 500 marihuana plants (or as amended by the Acts or state regulation).

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- f. Recreational class C — 2,000 marihuana plants (or as amended by the Acts or state regulation).
- (6) A marihuana grower may only transfer marihuana plants to a grower by means of a secure transporter pursuant to the Acts. A grower license authorizes a grower to transfer marihuana without using a secure transporter to a processor or provisioning center if both of the following are met:
 - a. The processor or provisioning center occupies the same location as the grower and the marihuana is transferred using only private real property without accessing public roadways.
 - b. The grower enters each transfer into the statewide monitoring system.
 - (7) All marihuana plants or products must be contained within the marihuana grower's facility. The plants must be in an enclosed, locked facility that restricts and prevents access by any persons other than those allowed and meeting all state requirements.
 - (8) Any artificial lighting must be shielded to prevent glare and light trespass and must not be visible from neighboring properties, adjacent streets or public right of ways.
 - (9) All activities shall be conducted so as not to create or permit trespass of spillage of dust, glare, sound, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways.
 - (10) All activities shall be conducted so as not to be visible in any way from neighboring properties, adjacent streets or public right of ways.
 - (11) A marihuana grower is subject to administrative inspection at any time by a law enforcement officer, fire inspector, building official or zoning administrator to determine compliance with the Acts, International Fire Code, Michigan Building Code and Muskegon Charter Township Code of Ordinances.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-6. Regulations for marihuana provisioning center.

A marihuana provisioning center shall comply at all times with the following:

- (1) A marihuana provisioning center shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- (2) A marihuana provisioning center shall have at all times a valid license, pursuant to this chapter, from the charter township.
- (3) A marihuana provisioning center shall have at all times a valid license from the state marihuana licensing board created by the Acts.
- (5) A provisioning center may transfer marihuana to or from a safety compliance facility for testing.
- (6) All transfers to or from a separate marihuana facility must be by means of a secure transporter.
- (7) No use of marihuana shall be allowed at a provisioning center.
- (8) A provisioning center is subject to administrative inspection at any time by a law enforcement officer, fire inspector, building official or zoning administrator to determine compliance with the Acts, International Fire Code, Michigan Building Code and Muskegon Charter Township Code of Ordinances.
- (9) Provisioning centers shall not be open for retail business between the hours of 10:00 p.m. and 8:00 a.m.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-7. Regulations for marihuana processor.

A marihuana processor shall comply at all times with the following:

- (1) A marihuana processor shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- (2) A marihuana processor shall have at all times a valid license, pursuant to this chapter, from the charter township.
- (3) A marihuana processor shall have at all times a valid license from the state marihuana licensing board created by the Acts.
- (4) A processor may only purchase marihuana from a grower and may only sell marihuana-infused products or marihuana to a provisioning center or another processor.
- (5) A processor may only transfer marihuana by means of a secure transporter.
- (6) A marihuana processor is subject to administrative inspection at any time by a law enforcement officer, fire inspector, building official or zoning administrator to determine compliance with the Acts, International Fire Code, Michigan Building Code and Muskegon Charter Township Code of Ordinances.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-8. Regulations for marihuana secure transporter.

A marihuana secure transporter shall comply at all times with the following:

- (1) A marihuana secure transporter shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- (2) A marihuana secure transporter shall have at all times a valid license, pursuant to this chapter, from the charter township.
- (3) A marihuana secure transporter shall have at all times a valid license from the state marihuana licensing board created by the Acts.
- (4) A secure transporter may store and transport marihuana and money associated with the purchase or sale of marihuana between marihuana facilities for a fee upon request of a person with legal custody of that marihuana or money.
- (5) A secure transporter may not transport to a end user.
- (6) No secure transporter or investor therein may have an interest in a grower, processor, provisioning center or safety compliance facility and must not be a registered primary caregiver or a registered qualifying patient.
- (7) A secure transporter is subject to administrative inspection at any time by a law enforcement officer, fire inspector, building official or zoning administrator to determine compliance with the Acts, International Fire Code, Michigan Building Code and Muskegon Charter Township Code of Ordinances.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-9. Regulations for marihuana safety compliance facility.

- (a) A marihuana safety compliance facility shall comply at all times with the Acts and Administrative Rules, as they may be amended from time to time.
- (b) A marihuana safety compliance facility shall have at all times a valid license, pursuant to this chapter, from the charter township.
- (c) A Marihuana safety compliance facility shall have at all times a valid license from the state marihuana licensing board created by the Acts.
- (d) A safety compliance facility may receive marihuana from, test marihuana for, and return marihuana to a marihuana facility only.
- (e) A safety compliance facility must be accredited or have a variance pursuant to the Acts.
- (f) No safety compliance facility owner or investor may have an interest in a grower, secure transporter, processor, or provisioning center.
- (g) A safety compliance facility must have a secured laboratory space that cannot be accessed by the general public.
- (h) A safety compliance facility is subject to administrative inspection at any time by a law enforcement officer, fire inspector, building official or zoning administrator to determine compliance with the Acts, International Fire Code, Michigan Building Code and Muskegon Charter Township Code of Ordinances.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-10. License required.

- (a) No marihuana facility, whether proposed, or existing at time of enactment of this chapter, shall be permitted within the charter township unless such location shall have obtained a current license under this chapter as follows:
 - (1) A complete site plan approved by the charter township planning commission pursuant to chapter 58 article VIII of the Muskegon Charter Township Code of Ordinances.
 - (2) A charter township commercial medical and/or recreational marihuana license issued by the charter township board pursuant to chapter 58 article XI of the Muskegon Charter Township Code of Ordinances.
 - (3) The exact location of a facility used for the marihuana shall be clearly identified on the license;
 - (4) The license requirement applies to all marihuana facilities that are proposed or existing on the effective date of this chapter.
- (b) Issuance of a license does not waive any other licensing and permitting requirement imposed by any other state or local law.
- (c) A license shall be valid for the period specified in section 5-11(10), unless revoked for violation(s), in which case it is considered to be null and void.
- (d) No license is transferable or assignable to any other location.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-11. License application.

Any license issued under this chapter is specific to the licensed person(s) and location. Any change in ownership in any manner requires a license transfer of ownership application and approval by the charter township board of trustees. Any change in location requires forfeiture of existing license and application for a new license pursuant to section 5-10. Applicants shall make application to the zoning administrator and applications shall include the following:

- (1) The address and legal description of the premises which is to be used as a marihuana facility.
- (2) Describe the facility, and all enclosed, locked areas within the facility as required by Michigan law.
- (3) If a provisioning center, describe all locations in the premises where the sale or transfer to a consumer shall take place (i.e. a detailed floor plan).
- (4) If a Grower, specify the Class under which the Grower seeks the license. Include a statement attesting and consenting that all activities will be conducted so as not to create or permit trespass or spillage of dust, glare, sounds, noise, vibrations, fumes, odors, or light, onto neighboring properties, adjacent streets or public right of ways and consenting that all artificial lighting must and will be shielded to prevent glare and light trespass and must not and will not be visible, from neighboring properties, adjacent streets or public rights-of-way.
- (5) The name and address of all owners of the real property where the marihuana facility is located, including a statement by each owner attesting to their knowledge, understanding, and approval of such activity upon their property.
- (6) Name, address, and other contact information of all applicants as defined above. A statement attesting whether an applicant has been indicted for, charged with, arrested for, or convicted of, pled guilty or nolo contendere to, forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or controlled substance related misdemeanor, not including traffic violations, regardless of whether the offense has been reversed on appeal or otherwise, including the date, the name and location of the court, arresting agency, and prosecuting agency, the case caption, the docket number, the offense, the disposition, and the location and length of incarceration.
- (7) Documentation demonstrating that the proposed marihuana facility meets the requirements of all other local, state and federal ordinances and codes.
- (8) Verification of prequalification from the State of Michigan for Marihuana Facilities License.
- (9) Payment of a non-refundable license fee, which shall be determined by resolution of the charter township board.
- (10) All new licenses issued will be for the remainder of the calendar year plus one year, regardless of the date of issuance. License holder must make renewal application pursuant to section 5-13. Renewed licenses will be for a calendar year January 1 to December 31.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-12. License standards.

The standards for approval of all marihuana facilities are as follows:

- (1) The facility complies with zoning.
- (2) A marihuana grower's facility shall occur inside of an enclosed, locked facility within the confines of a building, and such activities shall occur only in locations not visible to the public and adjoining uses.

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- (3) The application meets all requirements found in this licensing ordinance.
 - (4) An applicant shall meet all requirements found in the Acts, including issuance of a current, valid state license.
 - (5) The applicant has signed and sworn that the applicant has not knowingly submitted an application containing false information.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-13. Renewal or amendment to license.

The same procedures for application and issuance of a new license shall apply to the renewal or amendment, of an existing license, subject also to the following:

- (1) To renew an existing license, the licensee shall submit an application with full supporting documentation, in the same manner and degree as is required to apply for a new license, no sooner than 90 days before the expiration date and no later than 60 days before the expiration date. If there are no changes of any kind to the prior year's application and approval, planning commission review is not necessary and the charter township board shall consider the renewal for approval or denial.
- (2) An amended application shall be submitted when there is a change in any information the applicant was required to provide in the most recent application on file.
- (3) An application to change the location of an existing license shall require forfeiture of the existing license and a new application, with full supporting documentation. It must meet all requirements and shall be processed in the same manner as provided for the issuance of a new license.
- (4) The applicant or existing licensee has used the property or land in accordance with any prior approved application for that property.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-14. License revocation.

- (a) A license issued under this chapter may be revoked for any of the following violations:
 - (1) Any person required to be named on the application for the license is convicted of or found responsible for violation of any provision of this chapter;
 - (2) The application contains any misrepresentation or omission of any material fact, or false or misleading information, or the applicant has provided the charter township with any other false or misleading information;
 - (3) Marihuana is transferred or otherwise distributed on the premises in violation of this chapter or any other applicable state or local law, rule or regulation;
 - (4) The facility is operated or is operating in violation of the specifications of the license, or any additional applicable conditions or approvals from the charter township, Muskegon County, or the State of Michigan.
- (b) The procedure for revocation shall be as follows:
 - (1) The zoning administrator shall issue a notice to the licensee, in writing, through certified mail, that the township intends to revoke the license.

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- (2) The licensee may request a hearing before the township board to show cause as to why the license should not be revoked within 14 days of service of the notice.
- (3) If a hearing is timely requested, then the zoning administrator shall inform the licensee, and township board of the time and place of the hearing.
- (4) The licensee may present evidence and reasons arguing why the license should not be revoked. The township board shall review and either revoke the license or allow the license to continue.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-15. Revocation not exclusive penalty.

Nothing in this chapter shall be deemed to prohibit the charter township from imposing other penalties authorized by this code or other ordinances, including filing a public nuisance action or any other legal action in a court of competent jurisdiction.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-16. Civil infraction.

Any person, firm, or corporation who violates any of the provisions of this chapter shall be deemed to be responsible for a municipal civil infraction as defined by Michigan statute which shall be punishable by a civil fine for each violation in accordance with the schedule set forth herein or by resolution of the charter township, along with costs which may include all expenses, direct or indirect, which the township incurs in connection with the municipal civil infraction. A violator of this chapter shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation continues to exist shall constitute a separate violation of this chapter. The charter township zoning administrator may issue appearance ticket citations for violations of this chapter. The provisions of this chapter may also be enforced by suit for injunctive relief.

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-17. Civil fines for municipal infractions.

Civil fines for municipal civil infractions under this chapter shall be assessed in accordance with the following schedule:

	Fine and Suspension
Per violation	\$500.00

(Ord. No. 19-7 , § 1, 10-7-19)

Sec. 5-18. Severability.

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

(Ord. No. 19-7 , § 1, 10-7-19)

Chapter 6 BUILDINGS AND BUILDING REGULATIONS⁷

ARTICLE I. IN GENERAL

Sec. 6-1. Building and code enforcement.

The main purpose of the Muskegon Charter Township Inspection Department is to insure the health, safety and welfare of the citizens of the township. The inspection department oversees and inspects all construction, alterations and building projects within the township. Other functions are to review building plans, issue building, electrical, plumbing and mechanical permits and conduct inspections on work performed. The inspection department shall enforce the current codes most recently adopted by the State of Michigan. The complete copy of the codes are available in the office of the building official of Muskegon Charter Township.

(Ord. No. 16-01 , § 2, 2-1-16)

Secs. 6-2—6-25. Reserved.

ARTICLE II. MOVING OF BUILDINGS

Sec. 6-26. Permit—Required.

No building of any kind shall be moved from one point in the township to another or from any point outside the township to a location in the township, or from a location in the township to a point outside the township by any person unless a permit has been issued by the building inspector of the township upon proper application.

(Ord. No. 41, § 2, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-27. Same—Application.

An application for a permit under this article shall contain a complete description of the building to be moved, its location and the legal description and street address of the property to which it is to be moved, together with the street address of the property from which the building is being moved, and any other data which the building inspector deems to be appropriate for the purpose of protecting the health, safety, and welfare of the citizens of the township, as well as providing for proper and safe use of the roads of the township, and achieving the purpose of ensuring that buildings erected or moved within the township comply with all codes, rules, laws and regulations of the township regarding building, health and safety requirements as well as such other laws and regulations of the county, state or federal governments as may apply.

⁷Cross reference(s)—Fire prevention and protection, ch. 22; subdivisions, ch. 42; taxation, ch. 46; utilities, ch. 54; zoning, ch. 58.

State law reference(s)—State construction code act, MCL 125.1501 et seq.

(Ord. No. 4I, § 3, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-28. Same—Examination of property, site, etc.; determination of issuance or denial.

Upon receipt of an application for a permit under this article the building inspector shall forthwith make examination of the property to which the building is to be moved, including the exact site to which it is to be moved, and shall cause such exhibits, pictures or other data to be deposited with him for the purpose of making a determination that the permit should be issued. This permit shall also be conditioned upon obtaining proper certification and approval from the township police department.

(Ord. No. 4I, § 4, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-29. Same—Fees.

Permit fees for moving buildings under this article shall be as set by resolution of the township board from time to time.

(Ord. No. 4I, § 9, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-30. Compliance with applicable codes, ordinances, etc.; certificate of occupancy.

- (a) No permit shall be issued under this article unless the building, after it has been moved to the proposed site, shall be in compliance with the provisions of the building, electrical, plumbing, mechanical and energy codes, as well as the zoning ordinances and any other applicable ordinance of the township, together with any rules, regulations, ordinances or statutes of the county, the state or the United States. The building inspector may require the applicant to submit such plans, specifications or other material which will ensure compliance with this requirement. In addition, the building inspector may require the applicant to obtain the requisite permits under such codes for the purpose of erecting or altering or in other ways reconstructing or setting the building on the proposed site.
- (b) The permit to be issued shall be conditioned upon the commitment of the applicant to obtain a certificate of occupancy before occupying or using the building, and complying in every respect with the codes, laws, rules, and regulations set forth in subsection (a) of this section.

(Ord. No. 4I, §§ 5, 6, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-31. Bond.

In connection with a permit application under this article, the applicant shall file a performance bond or completion bond in at least the penal sum of \$5,000.00, conditioned upon the completion of the building after the move to its new location according to the applicable codes as set forth in section 6-30, and in accordance with the specifications and requirements submitted by the applicant. In the event of the failure of the applicant to complete the building within the time specified in the permit, the bond shall be forfeited to the township.

(Ord. No. 4I, § 7, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-32. Liability insurance.

As a further condition of the issuance of a permit under this article, the applicant shall submit proof of public liability insurance containing limits not less than the following:

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(1) For bodily injury: \$250,000.00 per person injured, and \$500,000.00 per incident.

(2) For property damage: \$100,000.00 per incident.

(Ord. No. 4I, § 8, 5-17-82; Ord. No. 16-01 , § 3, 2-1-16)

Sec. 6-33. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any other provision of this chapter shall be guilty of a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 4I, § 8, 5-17-82; Ord. No. 12-04, § 4, 3-19-12; Ord. No. 16-01 , § 3, 2-1-16)

Secs. 6-34—6-55. Reserved.

ARTICLE III. HOUSING CODE

Sec. 6-56. Adoption.

The International Conference of Building Officials Code, known as the Uniform Housing Code, 2009 Edition, including all amendments and appendixes thereto, are hereby adopted by reference.

(Ord. No. 4 U.H.C.-1991, § 1, 2-3-92; Ord. No. 6-III, § 1, 3-6-95; Ord. No. 98-4, § 1, 4-20-98; Ord. No. 11-03, § 2, 3-7-11)

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

Secs. 6-57—6-75. Reserved.

ARTICLE IV. BUILDING CODE

Sec. 6-76. Adoption.

Certain documents, a copy of which is on file and open for inspection of the public in the office of the clerk of the township, being marked and designated as the 2015 Michigan Residential and Building Codes and applicable appendixes are hereby adopted as the code of the township and made a part hereof as if fully set out in this article.

(Ord. No. 4-U.B.C., U.B.C. Stds. 1991, § 1, 2-3-92; Ord. No. 4, § 1, 3-1-93; Ord. No. 6-IV, § 1, 3-6-95; Ord. No. 98-5, § 1, 4-20-98; Ord. No. 11-03, § 2, 3-7-11; Ord. No. 19-13 , § 1, Adoption date not provided)

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

Sec. 6-77. Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or cause or permit the same to be done in violation of this Code.

(Ord. No. 4-U.B.C. and U.B.C. Stds. 1991, § 2, 2-3-92; Ord. No. 6-IV, § 2, 3-6-95; Ord. No. 98-5, § 1, 4-20-98)

Sec. 6-78. Agency designated.

Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, the building official of the Charter Township of Muskegon is hereby designated as the enforcing agency to discharge the responsibility of the Charter Township of Muskegon under Act 230, of the Public Acts of 1972, as amended, State of Michigan. The Charter Township of Muskegon assumes responsibility for the administration and enforcement of said Act through out the corporate limits of the community adopting this article.

(Ord. No. 15-07 , § 1, 5-18-15)

Sec. 6-79. Code appendix enforced.

Pursuant to the provisions of the state construction code, in accordance with section 8b(6) of Act 230, of the Public Acts of 1972, as amended, Appendix G of the Michigan Building Code shall be enforced by the enforcing agency within the jurisdiction of the community adopting this article.

(Ord. No. 15-07 , § 2, 5-18-15)

Sec. 6-80. Designation of regulated flood prone areas.

The federal emergency management agency (FEMA) flood insurance study (FIS) entitled "Muskegon County, Michigan (All Jurisdictions)" and dated July 6, 2015 and the Flood Insurance Rate Map(s) (FIRMS) panel numbers of 26121C; 0144D, 0163D, 0164D, 0165D, 0170D, 0276D, 0277D, 0278D, 0279D, and 0285D dated July 6, 2015 are adopted by reference for the purposes of administration of the Michigan Construction Code, and declared to be a 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. 15-07 , § 3, 5-18-15)

Secs. 6-81—6-100. Reserved.

ARTICLE V. ONE- AND TWO-FAMILY DWELLING CODE

Sec. 6-101. Adoption; amendment.

The township adopts the 2009 Michigan Residential Code with the following amendments: basement egress windows required as described in section 310 of the Uniform Building Code of 2009. Buildings regulated by this division shall be designed and constructed to comply with the requirements of the Council of American Building Officials (CABO) One- and Two-Family Dwelling Code, 2009 Edition, and Appendix A. Please accept chapters and

appendixes regulating plumbing, mechanical, electrical and energy code systems, promulgated jointly by the International Conference of Building Officials, the Building Officials and Code Administrators International and the Southern Building Code Congress International. All ordinances, or parts of ordinances, in conflict with this section are hereby rescinded.

(Ord. No. CABO 4, 2-3-92; Ord. No. 4, 3-1-93; Ord. No. 11-03, § 2, 3-7-11)

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

Secs. 6-102—6-120. Reserved.

ARTICLE VI. DANGEROUS BUILDINGS

Sec. 6-121. Adoption.

The International Conference of Building Officials Code, known as the Abatement of Dangerous Buildings Code, 1997 Edition, including all amendments and appendixes thereto, are hereby adopted by reference.

(Ord. No. 4-U.C.A.D.B.-1991, § 1, 2-3-92; Ord. No. 6-VI, § 1, 3-6-95; Ord. No. 98-3, § 1, 4-20-98)

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

Secs. 6-122—6-140. Reserved.

ARTICLE VII. PLUMBING CODE

Sec. 6-141. Adoption.

That certain documents, three copies of which are on file in the office of the clerk and the township, being marked and designated as International Plumbing Code, including Appendix B, C, D, E, F, and G except G 104.18, as published by the International Code Council be and is hereby adopted as the code of the charter township for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the charter township and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of such International Plumbing Code, 2009 Edition, published by the International Code Council on file in the office of the township are hereby referred to, adopted and made a part hereof as if fully set out in this article.

The following sections are hereby revised:

Section 101.1. Insert: Muskegon Charter Township

Section 106.5.2. Insert: On file and shall be determined by resolution adopted from time to time by the Muskegon Charter Township Board

Section 106.5.3. Insert: 2. 80% 3. 80%

Section 305.6.1 Insert: Twelve-inch minimum and thirty-six inches.

Section 904.0. Insert: Six-inch minimum

Chapter 14, Codes. Insert: I.C.B.O. 1997 U.B.C., I.C.B.O. 1994 U.M.C., I. M.C. 1997 Appendix G
G104.18 testing of piping

Gas pipe system test, from meter or regulator to appliance shutoff valve shall be:

15 p.s.i.g. minimum for 15 minutes on systems up to 1,000 cubic inches

15 p.s.i.g. minimum for 30 minutes on systems up to 4,000 cubic inches

15 p.s.i.g. minimum for 60 minutes on systems over 4,000 cubic inches

60 p.s.i.g. minimum for 60 minutes on systems of welded pipe

Or pressure and time deemed necessary by the Mechanical Inspector.

(Ord. No. UPC 1991, § 1, 3-1-93; Ord. No. 6-VII, § 1, 3-6-95; Ord. No. 98-2, § 1, 4-20-98; Ord. No. 11-03, § 2, 3-7-11)

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

Sec. 6-142. Penalties.

Any person, firm, or corporation violating any provision of the Uniform Plumbing Code as adopted in section 6-141 shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punishable by a fine and/or imprisonment as set forth by the governing laws of the jurisdiction. Each separate day or any portion thereof, during which any violation of this code occurs or continues, shall be deemed to constitute a separate offense.

(Ord. No. UPC 1991, § 2, 3-1-93; Ord. No. 6-VII, § 2, 3-6-95)

Secs. 6-143—6-165. Reserved.

ARTICLE VIII. MECHANICAL CODE

Sec. 6-166. Adoption.

[Pursuant to MCL 125.1508B(6), the 2012 Michigan Mechanical Code is hereby adopted by reference as is fully set forth herein.]

(Ord. No. UMC-4C, § 1, 8-4-92; Ord. No. 6-VIII, § 1, 3-6-95; Ord. No. 98-6, § 1, 4-20-98; Ord. No. 11-03, § 2, 3-7-11; Ord. No. 13-09, § 2, 9-3-13)

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

Sec. 6-167. Violations.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use or maintain mechanical systems or equipment or cause or permit the same to be done in violation of this code.

(Ord. No. UMC-4C, § 2, 8-4-92; Ord. No. 6-VIII, § 2, 3-6-95)

Secs. 6-168—6-190. Reserved.

ARTICLE IX. ELECTRICAL CODE

Sec. 6-191. Scope.

- (a) The provisions of this article shall apply to electrical wiring, equipment and appliances and to the installation of same.
- (b) The provisions of this article are not intended to prevent the use of any electrical material, equipment or method of installation not specifically prescribed herein, provided any such alternate has been approved. The electrical inspector, or the electrical board of examiners as hereinafter provided, may approve such alternate, provided that for the use intended it is at least equivalent to that prescribed in this article in quality, strength, effectiveness, durability and safety. The electrical inspector or board of examiners shall require that sufficient evidence or proof be submitted to substantiate any claims that may be made regarding its use.
- (c) The electrical inspector may require tests to substantiate claims for such alternate materials, equipment or method of installation under such conditions as he may prescribe. Such tests shall be made at the expense of the owner or his agent, by an approved agency.
- (d) The provisions of this article shall not apply to wiring, equipment and appliances when installed and used as a function of a company such as a public utility.
- (e) The installation of all electrical wiring and all electrical apparatus and equipment and its installation shall comply with the provisions of the National Electrical Code, 2009 Edition, as published by the National Fire Protection Association. This code is hereby adopted as the electrical code of the township. The code, a copy of which is on file and available for public inspection at the office of the township clerk, is hereby referred to, and made a part of this article as if fully set forth herein.

(Ord. No. 8, § 1, 8-17-70; Ord. No. 6-IX, 1-3-00; Ord. No. 11-03, § 2, 3-7-11)

Sec. 6-192. Permits.

- (a) No person shall install, construct, alter or repair any electrical wiring or equipment in this township, or cause the same to be done, without first obtaining a separate permit for each installation, repair or alteration from the electrical inspector as hereinafter provided. No permit will be required for minor repairs and replacement of parts for proper maintenance when such work is approved by the electrical inspector.
- (b) The permit holder or his agent shall notify the electrical inspector when the wiring and/or work is ready for the inspections provided for herein.
- (c) No wiring shall be covered or concealed in any manner whatever, connected to the electrical supply system or a meter installed without first obtaining the approval of the electrical inspector.
- (d) If the amount of work to be done on a job is unknown at the start, a permit for the minimum fee as set by resolution of the township board shall be obtained. This permit shall be considered permission for the contractor to proceed with the work and will serve as a notice to the electrical inspector that the job is started. A permit for the remainder of the work shall be obtained when the amount of such work is known.
- (e) The electrical inspector may require plans and specifications and other information reasonably necessary.

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- (f) The issuance or granting of a permit or approval of plans and specification shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this article. No permit presuming to give authority to violate or cancel the provisions of this article shall be valid, except insofar as the work or use which it authorizes is lawful.
 - (g) The issuance of a permit shall not prevent the electrical inspector from thereafter requiring the correction of errors in plans or specifications or from preventing work being done thereunder when in violation of this article or of any other ordinance of the township or any state law.
 - (h) Every permit issued by the electrical inspector under the provisions of this article shall expire by limitation if the work authorized by such permit is not commenced within 60 days from the date of such permit, or if the work authorized by such permit is suspended or abandoned at any time after the work is commenced continuously for a period of 60 days. Before such work is recommenced a renewal permit shall be first obtained. The fee therefor shall be as set by resolution of the township board, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one year.
 - (i) When work for which a permit is required by this article is started prior to obtaining the permit, the fee shall be doubled, but the payment of such double fee shall not relieve any person from fully complying with the requirements of this article in the execution of the work or from any penalties prescribed herein.
 - (j) No permit for electrical work shall be issued until a permit fee has been paid to the township inspection department as set forth in the fee schedule.

(Ord. No. 8, § II, 8-17-70)

Sec. 6-193. Persons to whom permits shall be issued.

The following persons shall be issued permits to perform electrical work:

- (1) A holder of an electrical contractor license.
- (2) A person who employs a licensed journeyman electrician to actively supervise the new installation of electrical equipment on premises owned or occupied and used by the applicant in the conduct of his business, and at which premises the licensed electrician performs his duties in those instances where business or industrial procedures require the regular employment of a licensed journeyman electrician. However, an affidavit form furnished by the township clerk shall be signed by both the employer and the licensed journeyman electrician. The affidavit shall be kept on file in the offices of the township clerk and shall contain all of the following:
 - a. The name and address of the person who employs the licensed journeyman electrician.
 - b. The name, address, and current license number of the licensed journeyman electrician.
 - c. The license number for two previous years, and the name of the licensing authority in order to establish the holding of a license for not less than two years.
 - d. A statement to the effect that the employer and the licensed journeyman electrician will comply with the provisions of the code regulating the installation of electrical equipment in the state. A new affidavit shall be filed before permits are issued if the licensed journeyman electrician terminates his employment.
 - e. A homeowner who comes under the jurisdiction of the code.

Sec. 6-194. Electrical board of appeals.

- (a) In order to determine the suitability of alternate materials, methods of installations, qualifications of persons, and to provide for reasonable interpretations of this article, there shall be and is hereby created a board of electrical appeals consisting of four members who are qualified by experience and training to pass on matters pertaining to electrical installations, equipment and appliances, referred to herein as "the board."
- (b) The board members shall be appointed by the township supervisor with the approval of the township board, which shall fix their compensation. Each member shall hold office at the pleasure of the township board.
- (c) The board members shall consist of:
 - (1) A representative of the utility company supplying current in the township.
 - (2) An electrical contractor representative.
 - (3) A journeyman or a master electrician.
 - (4) A representative of a manufacturing industry employing an electrical journeyman or electrical engineer.
- (d) The electrical inspector shall be an ex officio member and shall act as secretary of the board.
- (e) The board shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the electrical inspector and may recommend to the township board such new legislation as is consistent therewith.

(Ord. No. 8, § III, 8-17-70)

Sec. 6-195. Homeowners.

It is a homeowner's constitutional privilege and nothing contained herein shall prohibit any bona fide owner from personally installing electrical wiring in his single-family residence provided that the owner shall:

- (1) Apply for and secure an electrical permit.
- (2) Pay the required fees.
- (3) Do the work himself in accordance with this article.
- (4) Apply for inspections.
- (5) Receive approval of work by the township electrical inspector.

(Ord. No. 8, § VI(4), 8-17-70)

Sec. 6-196. Electrical inspector; enforcement.

- (a) The township supervisor shall appoint the electrical inspector with the approval of the township board. He shall serve at the discretion of the township board.
- (b) The electrical inspector shall be a competent licensed electrician, well versed in the approved methods of electrical construction for safety to life and property and shall be registered with the state board as an electrical inspector.
- (c) The electrical inspector's compensation shall be fixed by the township board.

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- (d) The electrical inspector is hereby authorized and directed to enforce all the provisions of this article. For such purpose he shall have the powers of a police officer.
 - (e) Upon presentation of proper credentials, the electrical inspector or his authorized representatives may enter at reasonable times any building, structure or premises in the township to perform any duty imposed upon him by this article.
 - (f) Whenever any electrical work is being done contrary to the provisions of this article or any other ordinance or state law, the electrical inspector may order the work stopped by notice in writing served on any person engaged in doing such work, or causing such work to be done, or by posting at the job site. The work shall not proceed until authorized by the electrical inspector.
 - (g) All electrical wiring, equipment and/or appliances which are unsafe or which constitute a hazard to safety or health by reason of poor construction, insufficiency, inadequate maintenance, dilapidation or obsolescence are, for the purpose of this section, all declared to be public nuisances and shall be abated by repair, replacement or removal as is provided in this section.
 - (h) The electrical inspector shall examine or cause to be examined every electrical installation and any equipment or appliance or portion thereof reported as dangerous or damaged and, if found to be unsafe as defined in this section, he shall give the owner of the premises written notice stating the defects thereof. This notice shall require the owner, within 30 days, to commence either the repair, replacement or removal of such defective or unsafe installations, equipment or appliances. If necessary, such notice shall require such unsafe or defective installations to be disconnected from the source of power and not reconnected until the requirements are completed, inspected and approved by the electrical inspector. Proper service of such notice shall be by personal service or by registered mail. Notice of such defective equipment or unsafe conditions, or both, shall be posted by the electrical inspector at the location by a card or tag condemning such installation or appliances, and such card or tag condemning such installation or appliances shall not be removed except by the electrical inspector.
 - (i) The electrical inspector may disconnect any electrical installation, equipment or appliance or order the company supplying the power to the premises to disconnect the service therefrom, or both, whenever such installation, equipment or appliance is found to be unsafe.
 - (j) The electrical inspector, when requested, after final inspection of the work shall, if such work complies with the provisions of this article, issue a certificate of approval to the permit holder and also to the company supplying electrical service to the premises.
 - (k) A permit for temporary service may be issued by the electrical inspector for a period not to exceed one year from the date of the permit.
 - (l) It shall be unlawful for any power company or person furnishing electric current to make connection to and furnish electric current to any new or altered installation of electrical wiring, cable, appliance or equipment until the company or person is given permission to do so by the electrical inspector; except, in case of an emergency, the connection may be made on a temporary basis and the condition reported to the electrical inspector.

(Ord. No. 8, § VII, 8-17-70)

Sec. 6-197. Standards of electrical installation and equipment; adoption of code.

- (a) The installation of all electrical wiring and all electrical apparatus and equipment and its installation shall comply with the provisions of the National Electrical Code, 1993 Edition, as amended from time to time, and as published by the National Fire Protection Association. This code is hereby adopted as the electrical code of

the township. The code, which is on file and available for public use and inspection at the office of the township clerk, is hereby referred to, and made a part of this article as if fully set forth herein.

- (b) No electrical materials, devices or appliances shall be sold or offered for sale, used or installed in the township unless they are in conformity with the provisions of this article, the statutes of the state, the rules and regulations issued by the state public utilities commission under authority of the state statutes, and unless they are in conformity with approved methods of construction for safety to life and property. Conformity of electric materials, devices and appliances with the standards of Underwriters' Laboratories, Inc., as approved by the United States Standards Institute, and other standards approved by the United States Standards Institute shall be prima facie evidence that such electrical materials, devices and appliances comply with the requirements of this article. The maker's name, trademark or other identification symbol should be placed on all electric materials, devices and appliances used or installed under this article.

(Ord. No. 8, § VIII, 8-17-70; Ord. No. 6-IX, § 1, 2-21-95)

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

Secs. 6-198—6-220. Reserved.

ARTICLE X. TRAILER COACHES, MOBILE HOMES, RECREATIONAL UNITS

Sec. 6-221. Occupancy.

Travel trailers, other than those parked in trailer parks licensed by and operated in conformity with the laws of the state, shall not be occupied in any district in the township as dwellings, and their occupancy as dwellings is hereby prohibited; provided, however, that nothing herein contained shall prohibit the parking of not more than one occupied travel trailer on the premises of any occupied dwelling, provided that the occupant or operator of such travel trailer shall within three days of his arrival make application to the building inspector of the township for a permit, and pay a fee therefor as set by resolution of the township board from time to time. The permit, if granted, shall limit the time of such parking to a period not longer than 21 days from the date of application therefor. The permit shall not be granted in any case where the occupied dwelling on the premises where the travel trailer is temporarily parked is either a travel trailer, a mobile home, a dwelling which does not conform substantially to the minimum construction standards of township building code, or a dwelling whose sanitary facilities are not available to the occupants of the travel trailer, unless in the opinion of the building or zoning official an emergency situation exists, and the temporary unit is a self-contained travel trailer.

Secs. 6-222—6-245. Reserved.

ARTICLE XI. STREET ADDRESSES

Sec. 6-246. Purpose.

In order to ensure access by public safety personnel, and to ensure proper utility services, the township declares that the purpose of these regulations is to ensure that the public health and safety of its residents is enhanced by designating and approving addresses for existing and future parcels of property located within the township.

(Ord. No. 02-6, § 1, 7-15-02)

Sec. 6-247. Designation.

The township assessor shall be responsible for designating and approving all street addresses for existing and future parcels of property located within the township.

(Ord. No. 02-6, § 2, 7-15-02)

Sec. 6-248. Approval.

The owner of any parcel of property located within the township must seek and receive the written approval of its township assessor before designating or using an address for a particular parcel of property.

(Ord. No. 02-6, § 3, 7-15-02)

Sec. 6-249. Use.

Buildings constructed upon existing and future parcels shall have the approved address numbers placed in a position to be plainly legible and visible from the street or road or private right-of-way, alley, or easement, fronting the property. The numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches high with a minimum stroke width of one-half inch.

(Ord. No. 02-6, § 4, 7-15-02)

Secs. 6-250—6-270. Reserved.

ARTICLE XII. PROPERTY MAINTENANCE CODE⁸

Sec. 6-271. Adoption.

The township hereby adopts by reference the International Property Maintenance Code, 2009 Edition, as promulgated by the International Code Council, Inc.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any other provision of this chapter shall be guilty of a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 02-4, § 1, 6-4-02; Ord. No. 11-03, § 2, 3-7-11; Ord. No. 12-04, § 7, 3-19-12)

Cross reference(s)—Adoption of Housing Code, § 6-56; adoption of Building Code, §§ 6-76, 66-77; adoption of Dangerous Buildings Abatement Code, § 6-121; attractive nuisances, §§ 18-1—18-4.

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

⁸Editor's note(s)—Ord. No. 02-4, §§ 1, 2, adopted June 4, 2002, set out provisions adopting the International Property Maintenance Code. Said ordinance did not specify manner of codification; hence, inclusion herein as Art. XII, §§ 271, 272, was at the discretion of the editor.

Sec. 6-272. Amendments.

The International Property Maintenance Code, 2000 Edition, is hereby revised in the following fashion:

101.1. Title. Insert: Charter Township of Muskegon.

103.6. Fees is amended so that it reads as follows:

The fees for activities and services performed by the department responsible for carrying out the responsibilities promulgated by this Code shall be established by the duly adopted resolution of the Township Board.

202. General Definitions is hereby amended to include the following:

UNSAFE BUILDING:

1. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.
2. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.
3. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.
4. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location.
5. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
6. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.
7. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
8. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay; (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
9. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
10. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

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11. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
 12. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (i) an attractive nuisance to children; (ii) a harbor for vagrants, criminals or immoral persons; or as to (iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 13. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code or Housing Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings.
 14. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
 15. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
 16. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.
 17. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

303.14 Insert: April 1st until October 1st.

602.3 Insert: October 1st until April 1st.

602.4 Insert: October 1st until April 1st.

(Ord. No. 02-4, § 2, 6-4-02)

ARTICLE XIII. RENTAL PROPERTY

Sec. 6-273. Purpose.

The Charter Township of Muskegon recognizes a compelling interest in establishing standards for the maintenance of sanitary and safe residential rental structures in the township as an important factor for the general health, safety and welfare for all its citizens by creating a new article XIII, "Rental Property" and article XIV, "Appeals" of chapter 6 of the Code of Ordinances to promote the continued maintenance of quality and safe rental properties and to enhance and maintain property values.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-274. Scope.

Article XIII shall apply to any dwelling or part thereof, or any other structure or part thereof, which is occupied by persons other than the owner, pursuant to any oral or written rental or lease agreement and/or receipt of other valuable compensation or services for the purpose of residing therein or thereon. Dwellings shall include, but not be limited to, single-family dwellings, multiple-family dwellings, rooming houses, boarding houses, or any other structure, building or property used for residential dwelling purposes.

This article does not apply to hospitals, nursing homes, convalescent homes, foster homes or temporary group shelters provided by legal not-for-profit agencies which are inspected, certified, and licensed by the State of Michigan.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 11-10, § 1, 8-15-11 ; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-275. Registration of rental dwellings.

- (1) *Required.* All rental dwellings shall be registered annually with the township. If the owner does not reside within a 30 mile radius of the township, he shall designate a responsible local agent who resides within a 30 mile radius of the township and who shall be responsible for operating such dwelling in compliance with the law, including this division. All official notices may be served on the responsible agent, and any notice so served shall be deemed to have been served upon the owner of record. Each owner or responsible local agent shall maintain a current list of the number of occupants of each rental dwelling for which he is responsible. A rental unit certificate of compliance shall not be issued if the registration provisions of this division are not complied with. The 30-mile radius under this subsection shall be determined by using a map created and maintained by the inspection department of Muskegon Charter Township and such radius shall be measured from the location of the Muskegon Charter Township hall.
- (2) *Deadline for registration; failure to comply.* All rental dwellings existing as of the effective date of the ordinance from which this division is derived shall be registered no later than six months after the effective date of this division and shall be registered annually thereafter. The township shall order registration prior to that date for any dwelling cited in a notice required by this division. Failure to comply with such an order is a violation of this division subject to fines and/or penalties as established by the township board of trustees.
- (3) *Registry of new rental dwellings.* The owner of a new rental dwelling or of any dwelling newly converted to a rental dwelling shall register the rental dwelling prior to allowing occupancy of any new rental units. Failure to comply with such an order is a violation of this division subject to fines and/or penalties as established by the township board of trustees.
- (4) *Change in register information.* The owner of rental dwellings already registered with the township or his responsible local agent shall register within 30 days after any changes in registered information. A new owner of a registered dwelling shall register the dwelling within 30 days of assuming ownership. Failure to comply with such an order is a violation of this division subject to fines and/or penalties as established by the township board of trustees.
- (5) *Application; contents.* Application for registration shall be made in such form and in accordance with such instructions as may be provided by the administrator and shall include:
 - (a) The address of the rental dwelling.
 - (b) The number of dwelling units, the number of rooming units and the number of hotel units in the dwelling.
 - (c) The name, date of birth, drivers license number, residence address, business address, business phone number and personal phone number of the owner.

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- (d) The name, date of birth, drivers license number, residence address, business address, business phone number and personal phone number of the manager and responsible local agent designated by the owner.
 - (e) The address where the owner or responsible local agent will accept notices or orders from the township.
 - (f) Emergency contact information for the property owner and the local agent/manager, if so designated.
- (6) *Inaccurate or incomplete register information.* It shall be a violation of this division for an owner or a responsible local agent to provide inaccurate information for the register of rental dwellings or to fail to provide information required by the township under subsection (5) of this section. In those cases in which the owner or responsible local agent is not a natural person, the information required for the register shall be provided for the organization owning the rental dwelling and for the president, general manager or other chief executive officer of the organization. Where more than one natural person has an ownership interest, the required information shall be provided for each owner. Violations under this subsection shall be subject to fines and/or penalties as established by the township board of trustees.
- (Ord. No. 10-14, § 1, 12-6-10; Ord. No. 11-09, § 1, 6-20-11, Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-276. Certificate of compliance for rental dwellings.

- (1) *Required.* Rental dwellings shall not be occupied without a certificate of compliance or a temporary certificate of compliance issued under this article.
- (2) *Inspection.* All rental units shall be inspected, maintained and approved under the Muskegon Charter Township Code of Ordinances, including any applicable adopted codes referenced within this chapter of the Code of Ordinances, prior to the issuance of a certificate of compliance.
 - (a) An inspection that is scheduled and cannot be completed due to the owner's or owner representative's action, failure to act, failure to appear, or refusal to permit an inspection shall subject the owner or owner's representative to a failure to complete inspection fee as established by the township board of trustees. Such fee shall be paid in full before a certificate of compliance can be issued.
 - (b) The township board of trustees shall establish a fee for any subsequent inspections required because of failure to pass the certificate of compliance inspection or additional inspections required because of noted violations. Such inspection fees shall be paid in full before a certificate of compliance shall be issued.
 - (c) Except as provided in subsection (2)(d), an inspector, or team of inspectors, shall request and receive permission before entering a rental unit regulated by this chapter. Inspections should occur during normal business hours unless prior arrangements have been made for an after hours inspections. In case of an emergency, or upon presentment of a warrant, the inspector or team of inspectors may enter at any time.
 - (d) The township may require the owner of a leasehold to do one or more of the following:
 - (i) Provide the township access to the rental unit if the lease provides the owner a right of entry.
 - (ii) Provide access to areas other than a rental unit or areas open to public view, or both.
 - (iii) Notify a tenant of the township's request to inspect a rental unit, make a good faith effort to obtain permission for an inspection, and arrange for the inspection. If a tenant vacates a rental unit after the township has requested to inspect that rental unit, an owner of the rental unit shall notify the township of that fact within ten days after the rental unit is vacated.
 - (e) All units in multiple dwelling complexes shall be inspected, except where:

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- (i) The property owner has a valid certificate of compliance for the property and contacts the township for a certificate of compliance inspection within 90 days prior to the expiration of the current certificate; and
 - (ii) The property owner registers the property prior to the current certificate of compliance expiration date.

If both of the above conditions are met, only 50 percent of the units shall be inspected. The units inspected shall be chosen at random by the inspector. For each unit where a violation is discovered, an additional unit shall be added to the total number of units inspected. This section does not apply to the initial application for a certificate of compliance for a multiple dwelling complex. For purposes of this subsection, a multiple dwelling complex is defined as any building or group of buildings with five or more units per building, or a group of at least five duplex structures, which are located on the same parcel or on contiguous parcels.

(3) *Issuance.* The township shall issue a certificate of compliance for a rental dwelling when the township finds that the rental dwelling, its units and accessory structures and yards comply with the standards set forth in this division and the adopted property maintenance code as amended. However, no certificate of compliance shall be issued until all of the following fees and debts to the township have been paid in full:

- (a) Certificate of compliance application/registration fee and all inspection fees;
- (b) All previously billed property taxes or payments-in-lieu-of-taxes;
- (c) All current or past due special assessment installments;
- (d) Water, sewer and/or sanitation service bills outstanding;
- (e) All charges against the property for mowing, cleanup, weed or debris removal and similar charges by the township;
- (f) Any fees, fines, penalties or debts of any sort arising from the provisions or enforcement of this division;
- (g) The property owner or agent has completed and returned the annual safety survey within 30 days of receipt, if applicable;
- (h) The property complies with all other sections of this Code of Ordinances and is approved upon inspection.

(4) *Temporary certificates.*

- (a) Where a certificate of compliance is required, the township may issue a temporary certificate of compliance for the following reasons only:
 - (i) For a newly registered rental dwelling until such time as the township is able to make a compliance inspection;
 - (ii) To enable the township to balance compliance inspection work loads;
 - (iii) To coincide with compliance time periods set forth in a notice citing violations of this division if such periods extend beyond the expiration date of a certificate.
 - (iv) No temporary certificate of compliance shall be issued if any of the amounts set forth in subsections (3)(b)—(3)(h) of this section are unpaid and are not the subject of a bona fide timely appeal, or if there are significant health and safety defects present on the premises constituting an imminent danger to life, health or property.
- (b) No temporary certificate of compliance shall be issued if any of the amounts set forth in subsections (3)(b)—(3)(f) of this section are unpaid and are not the subject of a bona fide timely appeal, or if there

are significant health and safety defects present on the premises constituting an imminent danger to life, health or property.

- (5) *Validity.* A certificate of compliance shall be valid for no more than two years for all rental units. The rental housing supervisor may authorize up to six additional months on the certificate of a dwelling for the sole purpose of balancing inspection workloads for the township. In the case of a first time certificate of compliance, the initial term may be extended to three years if needed to correspond with the expiration dates of the landlord's other certificates.
- (a) *Two-year certificate of compliance.* A two-year certificate of compliance may be issued provided:
- (i) The property owner or agent has complied in full with the annual registration requirements on or before the annual due date;
 - (ii) The property is in compliance with section 6-276(3)(a)—(3)(h) of this article;
 - (iii) The property is in compliance with section 6-276(3)(a)—(3)(f) of this article;
 - (iv) The property owner or agent has completed and returned the annual safety survey within 30 days of receipt if applicable;
 - (v) The property complies with all other sections of this Code and is approved upon inspection.
- (b) *One-year certificate of compliance.* A one-year certificate of compliance may be issued if:
- (i) The property owner or agent has failed to comply in full with the annual registration requirements prior to the expiration date of the existing certificate of compliance;
 - (ii) The property has more than six recorded or verified violations either since the last certification or for a first time certificate, unless it is a multiple dwelling complex, as defined in subsection 6-276(2)(e). A multiple dwelling complex property will qualify if it has an average defect count of all the inspected units, of more than three recorded or verified defects since the last certification.
 - (iii) The property owner or agent has completed and returned the annual safety survey within 30 days of receipt if applicable;
 - (iv) The property complies with all other sections of this Code of Ordinances and is approved upon inspection;
- (6) *Expiration.* Certificates of compliance and temporary certificates of compliance may not be extended beyond their expiration dates except as may be permitted in subsection (4) or (5) of this section to enable the rental housing supervisor to balance inspection workloads.
- (7) *Suspension.* The rental housing supervisor may suspend a certificate of compliance if the owner or responsible local agent has not complied with a complaint notice or has failed to properly file their annual registration of rental dwelling(s) as requested. The rental housing supervisor shall issue a notice of suspended certification to the owner or responsible local agent. The notice of suspended certification will inform the owner or responsible local agent:
- (a) That the certificate of compliance has been suspended as of the date of the notice.
 - (b) Of the reason for the suspension.
 - (c) That it is unlawful for any rental unit to continue to be occupied for more than 30 days after the date of suspension of the certificate of compliance, or, if substantial and immediate danger to life, health or safety exists, that no occupancy may occur after the suspension and the property shall be immediately vacated.

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- (d) That any rental unit which is vacant at the time of suspension or which becomes vacant during the period of suspension shall not be rented or reoccupied until the certificate of compliance is reinstated or a new certificate of compliance is issued.
 - (e) Failure to comply with the terms of suspension as set out in this subsection shall be a violation of this division and shall result in immediate action necessary to force compliance.
 - (f) Of possible fees incurred with suspension.
- (8) *Reinstatement of suspended certificate of compliance.* A suspended certificate of compliance shall be reinstated if the township determines that a rental dwelling has been brought into compliance with the standards of this division and that any charges under subsection (3) of this section have been paid. The township shall notify the owner or responsible agent by regular mail, noting the reinstatement of the certificate of compliance of the rental dwelling. Reinstatement of the certificate shall not extend or change the expiration date of the certificate. A reinstatement fee and all inspection fees and amounts to be determined by the township board of trustees shall be paid by the owner prior to reinstatement of the certificate.
 - (9) *Appeal.* Suspension of a certificate of compliance may be appealed to the housing board of appeals as provided for in article XIV of this chapter.
 - (10) *Notifying tenants of suspended certificate.* The township shall send a copy of a notice of suspended certificate to each dwelling unit within a certified rental dwelling. The copy shall be addressed to "occupant" and shall be sent by regular mail. Failure of an occupant to receive a copy shall not invalidate any other proceedings authorized by this division. In addition, the notice of suspended certificate shall be posted on the exterior of the dwelling in a conspicuous manner.
 - (11) *Certification fees.* The township board of trustees shall establish a uniform and reasonable fee as part of the township's fee schedule for certification under this division.
 - (12) *Scope of authority.* Nothing herein shall be construed as to limit the scope of authority otherwise granted the building official or inspector by this Code of Ordinances, state statutes, or adopted codes.
 - (13) *Costs of compliance.* The township's costs of ensuring compliance with this article, including but not limited to court costs, legal fees, witness fees and staff time, shall be the responsibility of the property owner. Such responsibility shall be deemed recognized and agreed to by the property owner with the submission of a certificate of compliance application.
- (Ord. No. 10-14, § 1, 12-6-10; Ord. No. 11-09, § 2, 6-20-11; Ord. No. 11-10, § 2, 8-15-11 ; Ord. No. 12-08, § 2, 6-18-12 ; Ord. No. 12-14, § 2, 9-4-12 ; Ord. No. 13-16, § 2, 12-2-13 ; Ord. No. 14-02, § 2, 2-3-14)

Sec. 6-277. Amendments, deletions and additions to the International Property Maintenance Code.

- (1) Section 111 of the International Property Maintenance Code is deleted in its entirety.
- (2) Section 202 of the Property Maintenance Code shall be amended to include the definition "rental dwelling."
Rental dwelling. Any rental unit, as provided for in section 6-274 of the Muskegon Township Rental Property Ordinance, whether presently vacant or not, that is not occupied as a residence by the owner.
- (3) Section 302.4 of the International Property Maintenance Code is deleted in its entirety.
- (4) Section 302.8 of the International Property Maintenance Code is deleted in its entirety.
- (5) Section 304.3 of the International Property Maintenance Code shall be amended to read as follows:

304.3 Premises Identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street and/or road fronting the property. These numbers shall contrast from their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4" (102mm) high with a minimum stroke width of 0.5 inch (12.7mm). A rental housing inspector can determine that numbers be required on both the building face and at, or near, the road right-of-way.

- (6) Section 305 of the International Property Maintenance Code shall be amended to include a Section 305.7.

305.7 Floors. Floors shall be capable of supporting normal loads and shall be maintained in good sanitary conditions. Floors in rooms where a water supply is present shall be protected by a waterproof barrier, such as tile, linoleum or carpet if using a water resistant underlayment, unless the floor is of concrete. A painted floor is not an acceptable method of waterproofing. All flooring shall be in good condition, complete and cleanable.

- (7) Section 602.3 of the International Property Maintenance Code shall be amended to read as follows:

602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets a Residential Rental Structure on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply facilities capable of providing heat to the occupied areas at all times necessary to maintain a temperature of 65 degrees F (18 degrees C) in all habitable rooms, bathrooms and toilet rooms.

- (8) Section 603 of the Property Maintenance Code shall be amended to include the following Section 603.7.

Section 603.7 HVAC Certification Requirement. All heating equipment in a residential rental structure shall be serviced and inspected by a licensed mechanical contractor. The mechanical contractor shall provide certification of inspection minimally every 4 years. The certification shall be on a form approved by the Code Official. Inspectors or the Code Official may require cleaning and service more frequently based on observations made during the inspections.

- (9) Section 604 of the Property Maintenance Code shall be amended to include the following Section 604.4.

Section 604.4 Fuses. All fuse panels serving the dwelling unit shall be fitted to accept only S-type fuses for the branch circuits.

- (10) Section 605 of the Property Maintenance Code shall be amended to include the following Section 605.2.1.

Section 605.2.1 Ground Fault Circuit Interrupter (GFCI's).

1. Receptacle outlets within six feet (6') of a sink or water location or any exterior installed outlets shall be provided with ground-fault circuit interrupter (GFCI) protection with the exception of dedicated outlets for the exclusive use of a refrigerator, stove, freezer, dishwasher, garbage disposal, washer, dryer or similar appliance(s) that are not readily accessible are also excluded from the GFCI requirement.
2. The requirements of this Section include but are not limited to outlets in the kitchen, bathroom, garage, any outdoor area, cellars, crawl space and unfinished basements. Service upgrades require GFCI protection for all kitchen receptacles installed to serve the countertop surfaces.

(Ord. No. 11-09, § 3, 6-20-11; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-278. Responsibility of owners and occupants.

- (1) Regardless of provisions of the adopted property maintenance code to the contrary, it shall ultimately be the responsibility of the owner to keep and maintain each dwelling unit in compliance with the minimum basic requirements of this article and the property maintenance code, to receive and maintain a certificate of compliance.

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- (2) It shall be the responsibility of the occupant to operate with and assist the owner to keep and maintain the dwelling in a safe and sanitary condition and shall notify the owner of any damages that occur to the premises.

(Ord. No. 11-09, § 4, 6-20-11; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-279—6-285. Reserved.

ARTICLE XIV. APPEALS

Sec. 6-286. Housing board of appeals.

- (1) *Creation and purpose.* A housing board of appeals is created for the purpose of hearing and deciding appeals concerning the application or interpretation of the provisions of the standards of this chapter as provided for in this article.
- (2) *Membership, appointments and terms of members.* The housing board of appeals for the township shall have the general duties and powers conferred upon it by law and this article. The housing board of appeals shall consist of five members appointed by the supervisor and confirmed by the township board. Special qualifications, required licenses or certifications of some or all of the board members shall be at the discretion of the board. Each member of the housing board of appeals shall be a resident of the township during his entire term. Terms of members shall be for three years.
- (3) *Board officers.* Housing board of appeals members will elect a president, vice president and such other officers as are deemed desirable by the housing board of appeals.
- (4) *Meetings.* Meetings of the housing board of appeals shall be scheduled as needed. All meetings and notices of meetings of the housing board of appeals and its committee shall comply with the Open Meetings Act (MCL 15.261 et seq.). Board members may be compensated for attendance at such meetings as set forth by resolution of the township board.
- (5) *Interest conflicts.* No member of the housing board of appeals shall speak or vote on any appeal in which the member has any direct personal or financial interest, nor shall any member participate in any matter where participation is prohibited by the township's charter or state law.
- (6) *Board rules of procedure.* The housing board of appeals may adopt rules of procedure required to carry out the responsibilities and the provisions of this article.
- (7) *Summary of rulings.* The housing board of appeals shall report a summary of its findings and rulings to the township board annually. The report shall include a summary of recurrent appeals or recurrent problems along with resultant recommendations for modifications of this article.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 11-09, § 6, 6-20-11; Ord. No. 13-16, § 2, 12-2-13 ; Ord. No. 15-01, § 2, 2-2-15)

Sec. 6-287. Appeal authorized.

Except as otherwise provided in this article, any person issued an order by the township in the course of enforcement of the provisions of this chapter or any other person affected by a township order or ruling issued pursuant to authority granted by this chapter, has the right to appear before the housing board of appeals to appeal the decision or interpretation made by the township. All appeals shall be filed, heard and decided in accordance with the provisions of this article.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-288. Time period for filing an appeal.

An appeal must be filed within 20 days of the date of any order or ruling being appealed. However, if an order required the correction of a cited violation within a shorter period of time, the appeal must be made within such shorter period. The housing board of appeals shall not have the power to extend the time limits provided for in this article.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-289. Effect of appeal on correction time limits.

An owner, occupant or responsible local agent who has been ordered to correct a violation within a specified period of time shall not be held accountable for any time which elapses between the time of filing an appeal and the time a decision is made by the housing board of appeals.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-290. Procedure for filing an appeal.

Any person wishing to make an appeal must fill out a claim of appeal form setting forth the order or ruling being appealed. The appellant must file the form with the township at a place to be designated by the housing board of appeals and which shall be noted on the claim of appeals form. The township will send a notice to the appellant regarding the date the appeal will be heard by the housing board of appeals. Notices of the hearing date will be by regular mail sent to the address stated on the claim of appeal. Failure of any owner, occupant or responsible local agent to receive notice will not cause the hearing or the decision of the housing board of appeals to be defective. The township shall notify the occupants of the affected premises of the hearing by regular mail or by placing a notice in the entryway of the dwelling unit. Any person requesting a claim of appeal form shall be notified of the hearings procedures established in section 6-292 and the standards for housing board of appeals decisions set out in section 6-294.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-291. Appeal fee.

An appeal fee established by resolution of the township board shall be submitted with any claim of appeal.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-292. Hearing procedures.

At any hearing of the housing board of appeals, the following procedures shall be followed:

- (1) Testimony of the appellant, the township and any witnesses shall be recorded.
- (2) The appellant or authorized agent of the appellant and the township employee who issued the order, notices or ruling shall be present.
- (3) A quorum of the housing board of appeals shall be present.

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- (4) Minutes shall be prepared which identify all parties present, accurately summarize all pertinent statements made, include all evidence and records submitted and show all motions and actions and records of the vote of each member of the housing board of appeals.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-293. Decision by the appeals board.

After all evidence and testimony has been presented, the housing board of appeals shall affirm, modify or reverse the order or ruling being appealed. Any decision of the housing board of appeals modifying or reversing an order or ruling by the township shall require the concurring vote of a quorum.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-294. Standard for appeals board decisions.

A decision by the housing board of appeals shall include the reasons for the decision in the language of the decision. Any decision of the housing board of appeals not complying with this section shall be void. Any decision to reverse or modify any order or ruling to the township shall:

- (1) Include any necessary special conditions to carry out the intent of the provisions being appealed.
- (2) Determine that the decision is necessary to avoid causing undue hardship to the appellant which is not applicable to others to whom the same provision is applied.
- (3) Determine that the order or ruling was an incorrect interpretation of a standard of this article.
- (4) Determine that an alternative proposed by an appellant meets the minimum standards for housing as expressed in this article.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-295. Abatement.

An appeal shall not stay any enforcement action necessary to abate a condition posing a threat of imminent danger to the life, safety or health of any person or of the public.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-296. Compliance with decisions.

It shall be a violation of this article for an owner, occupant or responsible local agent to fail to comply with special conditions which are a part of a housing board of appeals decision modifying or reversing an order or ruling of the township.

All decisions of the housing board of appeals shall be final, except that the aggrieved person or persons, or any department, board or commission, or the state shall have the right to appeal within 30 days after the receipt of notice of the decision, to the circuit court in the county in which the land is located on questions of law and fact.

(Ord. No. 10-14, § 1, 12-6-10; Ord. No. 13-16, § 2, 12-2-13)

Sec. 6-297. Temporary waiver.

The housing board of appeals may grant a structure a temporary waiver from a specified provision of this article provided the housing board of appeals:

- (1) Has determined there is undue hardship as set forth in section 6-294;
- (2) Finds there is an original structural arrangement which cannot be brought to compliance without unreasonable reconstruction; and
- (3) Determines that the continuation of the existing condition will not constitute a threat to the health of the occupants.

A waiver granted under this article shall continue until such time as the specified condition no longer exists or two years from the date the waiver is granted, whichever occurs first.

(Ord. No. 10-14, § 1, 12-6-10)

Secs. 6-298—6-310. Reserved.

ARTICLE XV. SIDEWALKS⁹

Sec. 6-311. Maintenance standards.

Property owners are required to maintain, repair and keep safe all sidewalks which are adjacent to or upon their property so that all pedestrians, including people with disabilities, can travel safely and independently.

It is the duty of all property owners to maintain all sidewalks which have been heretofore or hereafter laid upon, or adjacent to their property, in good repair and free from ice, snow, and all other dangerous obstructions and conditions.

A sidewalk is considered to be in need of repair in the following instances, but not limited to:

1. There is a fault or other discontinuity greater than one-half-inch in width or two-inch height differential in the sidewalk.
2. Any piece of the sidewalk can be moved with ordinary foot pressure.
3. If in the view of Michigan Department of Transportation, the grade or slope of the sidewalk creates a concern for safe pedestrian passage.

Any property owner who allows a sidewalk upon or adjacent to his/her property to remain in disrepair or in an unsafe condition shall be liable for injuries and damages arising out of the disrepair or unsafe condition of said sidewalk. Such owner shall fully indemnify the township for any and all liability, costs and expenses which the township might incur as a result of the defective or dangerous sidewalk. The foregoing liability shall apply without notice or hearing on the same.

⁹Editor's note(s)—Ord. No. 12-02, § 2, adopted March 19, 2012, set out provisions intended for use as §§ 6-290—6-294. To prevent duplication of section numbers, and at the editor's discretion, these provisions have been included as §§6-311—6-315.

Sidewalks shall be kept free of all obstructions, including but not limited to obstructions from structures, vehicles, equipment, debris and vegetation.

No person shall dump or deposit, or allow to be dumped or deposited, any snow, ice or slush in or on any sidewalk.

No person shall dump or deposit, or allow to be dumped or deposited, any grass clippings, leaves, lawn rakings, tree or bush trimmings, tree trunks, stumps, ashes, soil, dirt or household debris in or on any sidewalk.

No person shall suspend any sign, banner, printed leaflet or similar object above a sidewalk, nor shall any person tape or affix any sign, banner, printed leaflet or similar object to a sidewalk, without the prior written permission of an authorized township representative.

(Ord. No. 12-02, § 2, 3-19-12 ; Ord. No. 12-04, § 3, 3-19-12 ; Ord. No. 15-12 , § 2, 10-5-15)

Sec. 6-312. Construction and repair specifications.

All sidewalks or portions thereof hereafter constructed or repaired shall comply with specifications as set forth by the Michigan Department of Transportation.

(Ord. No. 12-02, § 2, 3-19-12)

Sec. 6-313. Defects.

Where sidewalk defects are caused by condition existing upon abutting property such as, but not limited to, a) trees or other growth; b) surface drainage; c) on-site construction or vehicular traffic; or d) other on-site activities, the abutting property owner shall be responsible for its repair, maintenance and safe condition and shall be liable for all injuries, damages, expenses and/or costs resulting from the defective condition. Such liability shall include full indemnification of the township for any and all damages, costs and expenses resulting from the defective condition. The foregoing liability shall apply without notice or hearing on the same.

(Ord. No. 12-02, § 2, 3-19-12)

Sec. 6-314. Use of sidewalks.

No person shall operate an automobile, truck, tractor, moped, snowmobile, motorcycle, or any other motor vehicle upon any sidewalk except to enter or leave adjacent property. This section does not apply to persons using motorized wheelchairs.

(Ord. No. 12-02, § 2, 3-19-12)

Sec. 6-315. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any other provision of this chapter shall be guilty of a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

Any property owner failing to comply with this article shall be liable for all attorney fees and costs associated with the township's enforcement of the article. If unpaid, such attorney fees and costs may be assessed as a tax against the real property and collected as provided by law.

(Ord. No. 12-02, § 2, 3-19-12)

Chapter 7 SOLICITORS, PEDDLERS AND ITINERANT MERCHANTS

Article II. Licenses

ARTICLE I. IN GENERAL

Sec. 7-1. 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:

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

Peddler means any person, whether a resident of the township or not, traveling by foot, wagon, automotive vehicle or other type of conveyance from place to place, from house to house or street to street, carrying, conveying or transporting goods, wares, merchandise, foods or food products, offering and exposing the same for sale, or making sales and delivering articles to purchasers, who, without traveling from place to place, shall sell or offer the same for sale from a wagon, automotive vehicle, railroad car or other vehicle or conveyance and further provided that one who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a peddler subject to the provisions of this chapter. The term "peddler" shall also include the terms "hawker" and "huckster."

Religious solicitor means a person who carries on the activities of a charitable solicitor, but on behalf of a religious organization duly incorporated or permitted to operate in the state and having one or more established locations or places of worship.

Transient merchant or itinerant vendor means any person, firm or corporation whether as owner, agent, consignee or employee, whether a resident of the township or not, who engages in a temporary (30 days or less) business of selling and delivering goods, wares and merchandise within the township; and who, in furtherance of such purpose, hires, leases, any structure, motor vehicle, tent, railroad boxcar, public room in motels or hotels, apartment shop, street or alley, or other place within the township for the purpose of exhibition and sale of such goods, wares and merchandise, either privately or at a public auction.

(Ord. No. 10-07, § 1, 5-3-10)

Sec. 7-2. Exemption.

The provisions of this chapter shall not apply to:

- (a) Any newsboy or newspaper delivery personnel;
- (b) Veterans qualifying for a state peddlers license issued by the county clerk pursuant to Public Act No. 359 of 1921 (MCL 35.441 et seq.);

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- (c) Farmers, truck gardeners, or their employees or affiliates, selling merchandise and farm products in established farmers' markets;
 - (d) Persons participating or selling merchandise or food, or advertising at organized athletic events, conventions, or at community celebrations or events, or on behalf of public or private schools, or recognized youth athletic organizations;
 - (e) Those involved in the Boy or Girl Scouts of America.
 - (f) Those involved in school functions.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-3. Loud noises and speaking devices.

No transient merchant or itinerant vendor or any solicitor, canvasser or peddler, nor any person in his behalf, shall shout, make any outcry, blow a horn or ring a bell, except for small tinkle bells which are not audible for over 200 feet, or use any sound device, including any loud-speaking radio or sound amplifying system, upon any of the streets, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell.

(Ord. No. 10-07, § 1, 5-3-10)

Sec. 7-4. Use of streets.

No transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler shall have an exclusive right to any location in the public right-of-way nor shall they be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced.

No transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler shall be permitted to operate in any parking lot in any way that would violate any section of the Muskegon Charter Township Zoning Ordinance.

No transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler shall be permitted to place any storage trailer or tent in any parking lot in any way that would violate any section of the Muskegon Charter Township Zoning Ordinance.

No transient merchant or itinerant vendor, religious solicitor or any solicitor, canvasser or peddler shall be permitted to store goods, wares, merchandise or personal property in any site approved by Muskegon Charter Township for temporary sales in such a way that is not secured. Security plans shall be submitted at the time of site plan submittal.

Transient merchants, itinerant vendors, religious solicitors or any solicitor, canvasser or peddler must comply with all other pertinent Federal, State and local laws and regulations.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 12-10, § 2, 8-20-12)

Sec. 7-5. Penalty.

Any person violating provisions of this chapter shall be responsible for a municipal civil infraction.

(Ord. No. 10-07, § 1, 5-3-10)

Secs. 7-6—7-9. Reserved.

ARTICLE II. LICENSES

Sec. 7-10. Required and duration.

It shall be unlawful for a transient merchant, itinerant vendor, religious solicitor or any solicitor, canvasser or peddler to engage in such business within the corporate limits of the township without first obtaining a license therefore in compliance with the provisions of this article. The township police department shall conduct all background investigations required by the terms and conditions of this article for applicants prior to the issuance of a license. A license shall be good for a period of 30 consecutive days. The license may not be renewed or extended without the written approval of the township police chief and clerk.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-11. Application.

Applicants for licenses under this article shall file an application with the township clerk, giving the following information:

- (a) Name of the business, names and dates of birth of each individual that will be assisting the applicant in any way;
- (b) Permanent home address and telephone number of applicant and local address of the business;
- (c) A brief description of the nature of the business and the goods to be sold, and in the case of farm products, whether produced or grown by applicant;
- (d) The length of time for which the right to do business is desired.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 12-10, § 3, 8-20-12 ; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-12. Fees.

At the time the application for a license required by this article is approved, a license fee as currently established or as hereafter adopted by resolution of the township board from time to time in accordance with this section shall be paid to the treasurer to cover the cost of investigation and servicing of this article. Each motor vehicle involved shall also be licensed upon the same schedule as each person. No fee shall be required of one selling products of the farm or orchard actually produced by the seller or of one selling products of a charitable organization.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-13. Investigation of applicant; denial of license.

Upon receipt of an application for a license required by this article, the same shall be referred to the chief of police, who shall cause such investigation of such person's or persons' business responsibility or moral character as defined and regulated in Public Acts No. 381 of 1974 (MCL 338.41 et seq.), to be made as he deems necessary to the protection of the public good. If, as a result of the investigation, the character and business responsibility are found to be unsatisfactory, and the licensing of such applicant may pose a risk to the health, safety and welfare of

the citizens of the township, the application shall be denied. The chief of police shall endorse on such application his disapproval and his reasons for the same and return the same to the township clerk, who shall notify the applicant that his application is disapproved and no license will be issued.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-14. Approval.

If, as result of the investigation described in section 7-13, the character and responsibility of the applicant are found to be satisfactory, and the licensing of such applicant does not appear to pose a risk to the health, safety and welfare of the citizens of the township, the chief of police shall endorse on the application his approval; and upon such approval, the township clerk shall, upon payment of the prescribed license fee to the treasurer, deliver to the applicant the license. Such license shall contain the signature and seal of the issuing officer and shall show the name and address of the licensee; the class of the license issued and the kind of goods to be sold thereunder; the amount of fee paid and the date of issuance; and the length of time the same shall be operative as well as the license number and other identifying description of any vehicle used by the applicant. The clerk shall keep a permanent record of all licenses issued and copies on file.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-15. Exhibition of license.

Transient merchants and itinerant vendors, religious solicitors and any solicitors, canvassers or peddlers are required to exhibit their licenses at the request of any officer or agent of the township or any person with whom they are transacting or attempting to transact any business.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-16. Revocation.

- (a) Licenses issued under the provisions of this article may be revoked by the township after notice and hearing by the township board for any of the following causes:
 - (1) Fraud, misrepresentation or false statement contained in the application for a license;
 - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business;
 - (3) Any violation of this chapter;
 - (4) Conviction of any crime or misdemeanor involving moral turpitude; or
 - (5) Conducting of business in an unlawful manner or in such a manner as to constitute a breach of peace or to constitute a menace to the health, safety or general welfare of the public.
- (b) Notice of hearing for the revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least four days prior to the date set for hearing. The clerk, upon the recommendation of the chief of police or building official, may suspend a license issued under the provisions of this article if it is determined that continued activity would jeopardize the health, safety or well-being of the citizens of the township. In any case in which a license is suspended, the hearing shall be held not later than 30 calendar days from the date of the suspension.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Sec. 7-17. Appeal of denial, revocation or written complaint.

Any person aggrieved by the action of the chief of police or the township clerk taken pursuant to this chapter shall have the right of appeal to the township board. Such appeal shall be taken by filing with the township clerk, within 14 days after the action complained of, a written statement setting forth the grounds of the appeal. The board shall set a time and place for a hearing on such appeal, which shall not be later than the next regularly scheduled township board meeting held at least four days after the filing of the application for appeal. Notice of such hearing shall be given to the appellant in the same manner as provided in section 7-16. The decision and order of the board on such an appeal shall be final and conclusive.

(Ord. No. 10-07, § 1, 5-3-10; Ord. No. 14-10, § 2, 10-20-14)

Chapter 10 BUSINESSES¹⁰

ARTICLE I. IN GENERAL

Sec. 10-1. 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:

Business means any trade, occupation, profession, work, commerce or other activity owned or operated for profit by any person within the township, excluding, however, political, charitable or religious establishments.

Licensing agent means the township clerk or such other township official or employee as may be designated by the township board.

(Ord. No. 16-C, § II, 5-5-75)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 10-2. Purpose.

The purpose of this chapter is to assist the township in providing more adequate police and fire protection; more equal and equitable real and personal property taxation; better efficiency and economy in furnishing public utility services within the township; more comprehensive and informed planning and zoning for uses of land and structures within the township; and a registry of businesses operating within the township for the general information of the public and for the promotion of the township.

(Ord. No. 16-C, § III, 5-5-75)

Sec. 10-3. License fees.

Applicants for business activity licenses shall pay the fee set by resolution of the township board from time to time.

¹⁰Cross reference(s)—Zoning, ch. 58.

(Ord. No. 16-B, § 1, 3-6-72)

Sec. 10-4. License requirements.

No person may commence or continue a business within the township without having first obtained a township license therefor as hereinafter provided and without maintaining such license in current effect during any business operation or activity. Any person or business obtaining a new business license from January 1 through April 30 shall not be required to renew until the following calendar year. Peddlers, hawkers and door-to-door salesman are also to be licensed as are home occupations.

(Ord. No. 16-C, § IV, 5-5-75; Ord. No. 17-03 , § 2, 3-20-17)

Sec. 10-5. Procurement process for license.

No license to commence or continue a business shall be issued until the owner or operator thereof shall have first submitted an application to the licensing agent of the township on a form provided by the licensing agent for such purposes. A fee set by resolution of the township board from time to time shall accompany the application. Peddlers, hawkers and door-to-door salesman shall apply for a license. Upon the filing of a properly completed application, upon payment of the fee and upon approval of a designated official, the licensing agent shall issue a license to the person to commence or continue the business designated in the application if the business complies with the terms of this article. If the license fee is not paid by May 1, the fee shall be increased to a fee set by resolution of the township board.

(Ord. No. 17-03 , § 3, 3-20-17)

Editor's note(s)—Ord. No. 17-03 , § 3, adopted March 20, 2017, amended § 10-5 in its entirety to read as herein set out. Former § 10-5 pertained to procurement procedure for license and derived from Ord. No. 16-C, § V, adopted May 5, 1975.

Sec. 10-6. Conditions of license.

The license issued under this article shall be effective until April 30 of the succeeding year with renewals of the same to be issued upon application and payment of the fee therefor in the same manner as set forth herein for the original issuance of the license. No license shall be issued by the licensing agent where the existing or proposed business would be illegal under any law or ordinance of the United States of America, the state, the county having jurisdiction thereof or the township. No license may be transferred by the holder to any other person except upon prior approval of the township board. The licensing agent shall have the right of inspection of the business premises to ensure compliance with township ordinances. In the event of any noncompliance with the provisions of the ordinances after a license has been issued, the license may be revoked by order of the licensing agent until the noncompliance has been corrected as determined by the agent.

(Ord. No. 16-C, § VI, 5-5-75)

Sec. 10-7. Exemptions.

No license shall be required of any political, charitable or religious establishment. The provisions of this article are not applicable to any agency of the United States of America, the state, or any political subdivisions thereof.

(Ord. No. 16-C, § VII, 5-5-75)

Sec. 10-8. Penalty.

Any violation of this chapter or any part thereof shall be punishable by a fine as provided in section 1-10 of this Code. In addition, the township specifically reserves the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this article.

(Ord. No. 16-C, § VIII, 5-5-75)

Secs. 10-9—10-30. Reserved.

ARTICLE II. THEATERS

Sec. 10-31. Prohibited motion pictures or theatricals.

- (a) It shall be unlawful to permit any person to offer or present any motion picture or theatrical which has a tendency to cause a riot or public disturbance of the peace.
- (b) It shall be unlawful to permit any person to offer or present any motion picture or theatrical which depicts or describes sexual conduct in a patently offensive way so that taken as a whole the motion picture or theatrical appeals to a prurient interest in sex and does not have serious literary, artistic, political or scientific value according to contemporary community standards of the average person within the community.
- (c) It shall be unlawful to permit any person to offer or present any motion picture or theatrical which contains materials that would violate statutory law of the state.

(Ord. No. 40, § 5, 3-4-74)

Sec. 10-32. License required.

It shall be unlawful to give, present or conduct any motion picture or theatrical, for admission to which a fee is charged, without having first secured a license therefor as provided in this article.

(Ord. No. 40, § 1, 3-4-74)

Sec. 10-33. Applications.

Application for licenses under this article shall be made to the clerk of the township board. The application shall set forth the nature of the material contained in any motion picture or pictures which will be shown pursuant to the license applied for. Specifically, the application shall establish and ensure full compliance with all standards set forth under section 10-31. Failure to establish and ensure such compliance shall lead to rejection of the application. In addition, the application shall state the place of the intended performance and seating capacity thereof.

(Ord. No. 40, § 2, 3-4-74)

Sec. 10-34. Improper use of license.

If anyone to whom a license is granted shows any motion picture or theatrical in violation of the standards set forth under section 10-31, the license is subject to forfeiture by the township board.

(Ord. No. 40, § 3, 3-4-74)

Sec. 10-35. License fees.

Any person securing an annual license for motion pictures or theatricals, naming a specific place or building where the performances are to be presented, may present therein any number of performances, including theatricals, during the year for which the license was secured without paying any additional fee. The annual fee for such licenses shall be as set by resolution of the township board from time to time.

(Ord. No. 40, § 4, 3-4-74)

Sec. 10-36. Capacity crowd; standing not allowed.

It shall be unlawful to permit any person, except ushers or other theater employees, to remain standing in a hall or room in which a motion picture or theatrical is presented during the time of such performance. It shall be unlawful to admit to any such hall more persons than can be accommodated by the seating arrangements of the premises.

(Ord. No. 40, § 6, 3-4-74)

Sec. 10-37. Scenery.

It shall be unlawful to use any scenery in any theater other than nonflammable scenery or such as shall have been rendered nonflammable by the application of fire preventive coatings.

(Ord. No. 40, § 7, 3-4-74)

Sec. 10-38. Building requirements.

It shall be unlawful to present any public motion picture or theatrical in any building or structure which does not contain the number of exits required by the ordinances of the township or by the statutes of the state concerning buildings or places intended for motion picture or theatrical performances or in premises which do not comply with the provisions of the ordinances relating to public gatherings, or in premises in which the electrical wiring does not fully comply with the ordinances. All places used for the exhibition of theatricals must be kept adequately ventilated during the performance and for so long a time as the audience remains therein.

(Ord. No. 40, § 8, 3-4-74)

Sec. 10-39. Exits.

It shall be unlawful to obstruct or permit the obstruction of any aisles, corridors or exits leading from the room or enclosure in which a motion picture or theatrical is being given or in which an audience for such a performance is gathered.

(Ord. No. 40, § 9, 3-4-74)

Secs. 10-40—10-60. Reserved.

ARTICLE III. OUTDOOR AMUSEMENTS

Sec. 10-61. Permission required; fee.

A fee as set by resolution of the township board from time to time shall be required for the meeting of the board of appeals to obtain permission to have amusements at shopping centers.

(Ord. No. 25, 6-18-63)

Sec. 10-62. Security officers.

At least two officers shall be on duty at outdoor amusements every evening Monday through Thursday from 8:00 p.m. to 11:00 p.m. and on Friday and Saturday from 9:00 p.m. to 12:00 p.m. The cost shall be as set by resolution of the township board from time to time.

(Ord. No. 25, 6-18-63)

Sec. 10-63. Compliance with police and health regulations.

All county police and health regulations must be abided by at outdoor amusements.

(Ord. No. 25, 6-18-63)

Sec. 10-64. Sanitary facilities.

Sanitary facilities must be provided at outdoor amusements for operators, customers and employees of the rides, etc.

(Ord. No. 25, 6-18-63)

Sec. 10-65. Cleanup of premises.

Premises must be cleaned up after outdoor amusement rides are removed or the grounds will be ordered cleaned by the township and costs assessed to the property.

(Ord. No. 25, 6-18-63)

Secs. 10-66—10-80. Reserved.

ARTICLE IV. SEXUALLY ORIENTED BUSINESSES¹¹

Sec. 10-81. Purpose and findings.

- (a) It is the purpose of this article to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the township, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the township. The provisions of this article shall have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials (except for public nudity as defined hereafter), including sexually oriented materials. Similarly, it is not the intent nor effect of this article to deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this article to condone or legitimize the distribution of obscene materials.
- (b) Based on evidence concerning the adverse secondary effects of adult uses on the community presented in studies, informational materials, hearings, and in reports made available to the township planning commission and the township board, and on findings incorporated in the cases of *California v LaRue*, 409 U.S. 109 (1972), *City of Rentoll v Playtime Theaters*, 475 U.S. 41 (1986), *Young v American Mini Theaters*, 426 U.S. 50 (1976), and *Barnes v Glen Theater, Inc.*, 501 U.S. 560 (1991), and on studies conducted in other cities, the township planning commission and township board determines:
- (1) Sexually oriented businesses lend themselves to ancillary unlawful and unhealthy activities that may be uncontrolled by the operation of such establishments. Further, there are presently few mechanisms within the township to make operators of these establishments responsible for the activities that occur on their premises.
 - (2) Sexual acts, including masturbation, oral, and anal sex, may occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles or viewing film or videos, or live sex shows.
 - (3) Offering and providing such booths and/or cubicles encourages such activities, which creates unhealthy conditions.
 - (4) Some persons may frequent certain adult theaters, adult arcades, and other sexually oriented businesses, for the purpose of engaging in sex within the premises of such sexually oriented businesses.
 - (5) Some sexually transmitted diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, chlamydia, trichomoniasis, and human papilloma virus (HPV).
 - (6) The annual number of new HIV cases in the United States has risen to the level of approximately 20,000 infections per year acquired through sexual transmission.

¹¹Editor's note(s)—Ord. No. 01-1, § 1, adopted April 16, 2001, set out provisions intended for use as art. IV §§ 10-70—10-88. For purposes of classification, and at the editor's discretion, these provisions have been included as art. IV §§ 10-81—10-99.

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- (7) As of 1996, there are approximately 500,000 cases of AIDS in the United States, acquired through sexual transmission.
 - (8) The number of cases of syphilis in the United States reported annually is approximately 70,000 as of 1996.
 - (9) The number of cases of gonorrhea in the United States reported annually is approximately 650,000 as of 1996.
 - (10) The number of cases of chlamydia in the United States reported annually is approximately 3,000,000 as of 1996.
 - (11) The number of cases annually of HPV in the United States reported is approximately 5,000,000 as of 1996.
 - (12) The surgeon general of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug use, exposure to infected blood and blood components, and from an infected mother to her newborn.
 - (13) According to the best scientific evidence available, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
 - (14) Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the operators of the facilities to self-regulate those activities and maintain those facilities.
 - (15) The total number of cases in the United States of herpes currently stands at approximately 45,000,000, of HPV approximately 20,000,000, and of hepatitis B approximately 750,000.
 - (16) The findings noted in paragraphs numbered (1) through (15) raise substantial governmental concerns.
 - (17) Sexually oriented businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.
 - (18) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the operators of sexually oriented businesses. Further, such a licensing procedure would place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the township, It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
 - (19) Removal of doors on adult booths and requiring sufficient lighting on the premises with adult booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in adult theaters.
 - (20) The disclosure of certain information by persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business, where information is substantially related to the significant governmental interest in the operation of such uses will aid in preventing the spread of sexually transmitted diseases.
 - (21) It is desirable in the prevention of the spread of communicable diseases to obtain a limited amount of information regarding certain employees who may engage in the conduct which this article is designed to prevent or who are likely to be witnesses to such activity.
 - (22) The fact that an applicant for an adult use license has been convicted of a sex-related crime leads to the rational assumption that the applicant may engage in that conduct in contravention to this article.

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- (23) The barring of such individuals from operation or employment in sexually oriented businesses serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.
 - (24) The general welfare, health, morals, and safety of the citizens of this township will be promoted by the enactment of this article.
 - (25) The township currently has no major sexually oriented businesses, so it is not possible to examine negative secondary effects from the operation of such businesses within the township. However, there exist numerous studies conducted by other municipalities throughout the United States. which municipalities do have sexually oriented businesses, concerning the effects of such sexually oriented businesses within such municipalities.
 - (26) The township may reasonably rely upon such studies and assume that the negative secondary effects almost uniformly reported in such studies would be present within the township in the event that sexually oriented businesses entered the township and were allowed to operate unregulated.
 - (27) That the township has relied upon studies or summaries of studies from the following municipalities: Phoenix, AZ, dated 5/25/79; Garden Grove, CA, dated 9/12/91; Los Angeles, CA, dated 6/77; Whittier, CA, dated 1/9/78; Indianapolis, IN, dated 2/84; Minneapolis, MN, dated 10/80; Oklahoma City, OK, dated 3/3/86; Austin, TX, dated 5/9/86; Houston, TX, dated 11/3/83; and Lansing, MI, dated 4/88.
 - (28) That such studies reveal a pattern of occurrence of the following negative secondary effects from the operation of sexually oriented businesses, as compared to similar areas without sexually oriented businesses: increased crime, especially when there exist more than one sexually oriented business in close proximity to each other; either decreased property values or property values which increase at a lower rate than similar areas without sexually oriented businesses (especially for residential properties); increased occupancy turnover rate, difficulties of businesses in attracting employees; and decrease in the rate of owner occupied structures.
 - (29) That the foregoing article would allow sexually oriented businesses to locate and operate in at least four different commercially zoned areas within the township, which is commensurate with the limited commercial areas located within the township, based upon the township's largely suburban setting.

(Ord. No. 01-1, 4-16-01)

Sec. 10-82. Definitions.

- (a) *Adult arcade* means any place to which the public is permitted or invited wherein, for consideration paid or promised to be paid, electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".
- (b) *Adult bookstore or adult video store* means a commercial establishment; that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, 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 that are designed for use in connection with "specified sexual activities".

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified

anatomical areas" and still be categorized as an adult bookstore or adult video store. Such other business purposes shall not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store.

Any commercial establishment which meets all of the following criteria shall be defined as a "limited adult bookstore" or adult video store, and shall be subject to the rules and conditions set forth in section 10-86.

- a. Less than 15 percent of the commercial establishment's public floor space is used for items as defined in subsection (b)(1) and (b)(2) above.
 - b. Less than 15 percent of the gross sales of the commercial enterprise are derived from the sale of items listed in subsection (b)(1) and (b)(2) above.
 - c. Less than ten percent of the business' inventory shall be made up of items set forth in subsection (b)(1) and (b)(2) above.
- (c) *Adult cabaret* means a nightclub, bar, restaurant, theater, auditorium, or similar commercial establishment that regularly features
- (1) Films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas.; or
 - (2) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
- (d) *Adult motel* means a hotel, motel, or similar commercial establishment that:
- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and which also has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions;
 - (2) Offers a sleeping room for rent for a period of time that is less than 24 hours; or
 - (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 24 hours.
- (e) *Adult motion picture theater* means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
- (f) *Director* means the township's zoning administrator or an authorized agent thereof.
- (g) *Employee* means a person who performs any service on the premises of a sexually oriented business on a full-time, part-time, contract basis, or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage, or other compensation by the operator of said business. "Employee" does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does "employee" include a person exclusively on the premises as a patron or customer.
- (h) *Escort* means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

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- (i) *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.
 - (j) *Licensed day-care facility* means a facility licensed by the state, pursuant to PA 116 of 1973; MCL 722.111, MSA 25.348(11), et. seq.
 - (h) *Licensee* means a person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.
 - (l) *Nude model studio* means, any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons for consideration.
 - (m) *Nudity, public nudity or a state of nudity* means knowingly or intentionally displaying in a public place, or for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, any individual's genitals or anus with less than a fully opaque covering, or a female person's breast with less than a fully opaque covering of the nipple and aureole. Public nudity does not include any of the following:
 - (1) A woman's breast-feeding of a baby whether or not the nipple or aureole is exposed during or incidental to the feeding.
 - (2) Material as defined in section 2 of Act No, 343 of the Public Acts of 1984, being section 752.362 of the Michigan Compiled Laws.
 - (3) Sexually explicit visual material as defined in section 3 of Act No. 33 of the Public Acts of 1978, being section 622.673 of the Michigan Compiled Laws.
 - (4) Any display of a person's genitals or anus, or of a female person's breast, which occurs as part of the regular curriculum of an educational institution that is funded, chartered, or recognized by the state.
 - (n) *Person* means an individual, proprietorship, partnership, corporation, limited liability company, association, or other legal entity.
 - (o) *Premises* means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to sections of this article.
 - (p) *Sexual encounter center* means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude,
 - (q) *Sexually oriented business* means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
 - (r) *Specified anatomical areas* means less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the aureole; and human male genitals in a discernible turgid state, even completely and opaquely covered,
 - (s) *Specified criminal activity* means any of the following offenses.

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- (1) Prostitution or promotion of prostitution; dissemination of obscenity; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; distribution of a controlled substance; or any similar offenses to those described above under the Michigan or United States criminal codes.
 - (2) For which:
 - a. Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - b. Less than five years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;
 - c. Less than five years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
 - (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.
 - (t) *Specified sexual activities* means human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - (u) *Transfer of ownership or control of a sexually oriented business* means and includes any of the following:
 - (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities that form a controlling interest in the business, whether by sale, exchange, or similar means; or
 - (3) The establishment of a trust, gift or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(Ord. No. 01-1, 4-16-01)

Sec. 10-83. Classification.

Sexually oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Escort agencies;
- (7) Nude model studios; and
- (8) Sexual encounter centers.

(Ord. No. 01-1, 4-16-01)

Sec. 10-84. Business license/employee registration required.

- (a) Unless the commercial establishment qualifies under the definition for a limited adult bookstore, or adult video store, to other treatment, it shall be unlawful in a commercial establishment:
 - (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the director and the township clerk pursuant to this article;
 - (2) For any person who operates a sexually oriented business to employ an employee to work and/or perform services for the sexually oriented business, if such employee has not registered with the director pursuant to this article; and
 - (3) For any person to obtain employment with a sexually oriented business if such employee has not registered with the director pursuant to this article or if such employee has previously been convicted of a specified criminal activity as defined by this article.
- (b) An application for a sexually oriented business license shall be made to the director. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches. Prior to issuance of a license the premises shall be inspected by the director and fire inspector.
- (c) All applicants for a license shall be qualified according to the provisions of this article. The application may request, and the applicant shall provide, such information as to enable the township to determine whether the applicant meets the qualifications established under this article.
- (d) If a person who desires to own and/or operate a sexually oriented business is other than one individual, each individual who has a ten percent or greater interest in the business shall sign the application for a business license.
- (e) Applications for a business license, whether original or renewal, shall be made to the director by the intended operator of the enterprise. Applications shall be submitted to the director or the director's designee. The following information shall be provided on the application:
 - (1) The name, street address (and mailing address, if different) of each applicant(s);
 - (2) A recent photograph of the applicant(s);
 - (3) Each applicant's driver's license number, social security number, and/or federally issued tax identification number;
 - (4) The name under which the sexually oriented business is to be operated and a general description of the services to be provided;
 - (5) Whether any applicant has been convicted of a specified criminal activity as defined in this article and, if so the specified criminal activity involved, place, and jurisdiction of each;
 - (6) Whether the applicant(s) has had a previous license under this article or similar sexually oriented business article from another municipality denied or suspended or revoked, including the name and location of the sexually oriented business for which the business license was denied, suspended or revoked as well as the date of the denial, suspension or revocation; and whether the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation or other legal entity that is licensed under this article whose business license has previously been denied or suspended or revoked, including the name and location of the sexually oriented business for which the

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- business license was denied, suspended or revoked as well as the date of denial, suspension or revocation;
- (7) Whether the applicant(s) holds any other licenses under this article or other similar, sexually oriented business article from another municipality, and if so, the names and, locations, of such other licensed businesses;
 - (8) The single classification of license, as found in section 10-83, for which the applicant is filing;
 - (9) The telephone number of the establishment;
 - (10) The address and the legal description of the lot on which the sexually oriented business is to be located;
 - (11) The expected startup date (which shall be expressed in number of days from the date of issuance of the business license); and
 - (12) The hours of operation.
- (f) Each application for a business license shall be accompanied by the following:
- (1) Payment of the application fee in full. The application fee shall be set and/or amended by the township board by resolution;
 - (2) If the person is other than an individual, a certificate showing that the person is in good standing and currently validly in existence, and if the person is not formed under the laws of this state, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 - (3) Proof of the current ownership of the lot on which the sexually oriented business is to be situated in the form of a copy of the recorded deed or land contract memorandum;
 - (4) If the persons identified as the owner(s) of the lot in item (3) are not also the applicant(s), appropriate documents evidencing the legally enforceable right of the proposed licensee of the sexually oriented business to have or obtain the use and possession of the lot for which the license is being sought;
 - (5) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing sexually oriented businesses within 1,000 feet of the lot on which the sexually oriented business is to be operated; the property lines of any established religious institution/synagogue, licensed day-care facility, school, or public park or recreation area within 1,000 feet of the lot on which the sexually oriented business is to be operated; the property lines of any residential zoning district within 1,000 feet of the lot on which the sexually oriented business is to be operated; the zoning district lines of any zoning district within any other municipality in which single-family residences or multiple-family residences are a permitted or conditional use, and which zoning district lines are within 1,000 feet of the lot on which the sexually oriented business is to be operated. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. These requirements may be waived in whole or in part by the director if there clearly is no such entity within 1,000 feet of the said lot; and
 - (6) Any of items (2) through (5) above shall not be required for a renewal application to the extent that the applicant states that the documents previously furnished the director with the original application or previous renewals thereof remain correct and current.
- (g) Employee registration to work in a sexually oriented business must be made to the director. Each employee/registrant shall be required to give the following information:

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- (1) The applicant's given name, and any other names by which the applicant is or has been known, including "stage" names and/or aliases;
 - (2) Age, social security number, and date and place of birth;
 - (3) Present residence address and telephone number;
 - (4) Present business address and telephone number;
 - (5) Date, issuing state, and number of photo driver's license or other state issued identification card information;
 - (6) Proof that the individual is at least 18 years old; and
 - (7) A statement whether the applicant has been convicted of a specified criminal activity as defined in this article, and if so, the specified criminal activity involved, the date, place, and jurisdiction of each.
- (h) Every application for a license shall contain a statement that the applicant has personal knowledge of the information contained in the application, and that the information contained therein and furnished therein is true and correct.
- (i) A separate application and business license shall be required for each sexually oriented business classification.
- (j) The fact that a person possesses other types of state, county, or township permits and/or licenses does not exempt the person from the requirement of obtaining a sexually oriented business license.

(Ord. No. 01-1, 4-16-01)

Sec. 10-85. Issuance of license.

- (a) The director and township clerk shall approve the issuance of a license to an applicant within 21 days after receipt of an application unless one or more of the following is true:
- (1) An applicant is under 18 years of age.
 - (2) An applicant is overdue in payment to the township of taxes, fines, or penalties assessed against him/her or imposed upon him/her in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information reasonably necessary for issuance of the licensee or has falsely answered a question or request for information on the application form.
 - (4) An applicant has been convicted of a "specified criminal activity" as defined in this article.
 - (5) If the premises are to be used for a purpose prohibited by local or state law, statute, rule, or regulation, or prohibited by or contrary to a provision of this article.
 - (6) An applicant has had a sexually oriented business license revoked by the township within two years of the date of the current application.
 - (7) If the lot or premises to be used for the sexually oriented business have not been approved by the township building inspector and zoning administrator as being in compliance with applicable laws and ordinances.
 - (8) The license fee required by this article has not been paid.
- (b) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business, and the classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

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- (c) A sexually oriented business license shall issue for only one classification, as found in section 10-83 "classification". However, one person may obtain more than one type of license per each premise operated by the person.
 - (d) In the event that the director determines that an applicant is not eligible for a license, the applicant shall be given notice in writing of the reasons for the denial within 21 days of the receipt of its application by the director, provided that the applicant may request, in writing, that such period be extended for an additional specified period of time before the notice is issued in order to make modifications necessary to comply with this article.
 - (e) Pursuant to MSA 5.2963(20), MCL 125.290, an applicant or licensee or employee may appeal any decision of the director of the township zoning board of appeals by filing a written notice of appeal with the director or township clerk within 21 days after service of notice upon the applicant of the director's decision. Such appeal shall be heard and a vote shall be taken by the zoning board of appeals within 30 calendar days after the date on which the township receives the notice of appeal. The decision of the zoning board of appeals shall be communicated to the applicant within three business days. Appeals may be taken from the decision of the zoning board of appeals pursuant to law; MSA 5.2963(23a), MCL 125.293a within 21 days after the decision by the zoning board of appeals.

(Ord. No. 01-1, 4-16-01)

Sec. 10-86. Rules and regulations for limited sexually oriented business.

- (a) Any commercial establishment which meets the criteria under adult bookstore or adult video store definition to qualify as a limited sexually oriented business, shall be subject to the following rules and regulations, and a person who operates a limited sexually oriented business shall comply with the following requirements:
 - (1) A diagram similar to that required in section 10-85 "additional regulations for exhibition of sexually explicit films, videos, and live performances" shall be prepared and provided to the director, which diagram shall set forth the floor plan and layout of the public areas of the commercial enterprise, to the satisfaction of the director to comply with the remaining provisions herein.
 - (2) All items for sale or rental for any form of consideration which consists of any one or more of the following must be separated and segregated from other inventory when on display or available for inspection by customers, into an area to which only adults over 18 years of age have access.
 - a. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - b. Instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."
 - (3) All items which would qualify as listed in sections a. and b. above, shall be kept and maintained in only one area of the floor or display area of the business enterprise.
 - (4) A visual barrier shall be maintained between the areas set forth in sections a. and b. above, and the remaining areas of the business enterprise.
- (b) It is the responsibility and obligation of any applicant, operator or owner of the commercial establishment under this section, to provide to the director, all blueprints, sales and accounting records, and inventory records, to establish whether the commercial business enterprise involved meets the criteria for a limited adult bookstore or adult video store under section 10-82, either prior to or while a license under this section is being issued. The director shall be provided this information again, within ten days, at any time upon his

request, after a license has been issued. Failure to provide this information upon written request constitutes a prohibited act under this section, and shall cause a business' license to be revoked.

(Ord. No. 01-1, 4-16-01)

Sec. 10-87. Inspections.

A licensee or their employee shall permit the director and representatives of the charter township police department and/or county health department, fire department, township zoning department, or other township or state departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is open for business.

(Ord. No. 01-1, 4-16-01)

Sec. 10-88. Licenses.

- (a) *Expiration of license.* Each license shall expire one year from the date of issuance and may be renewed only by making a renewal application as provided for an original license in section 2604. Application or renewal shall be made at least 21 days before the expiration date; when made less than 21 days before the expiration date, the expiration of the license shall not be affected,
- (b) *Suspension of license.* The director shall suspend a license for a period not to exceed 30 days if he/she determines that licensee or an employee of licensee has committed or allowed any of the following to occur:
 - (1) Violated or is not in compliance with any section of this article.
 - (2) Operated or performed services in a sexually oriented business while intoxicated by the use of alcoholic beverages or using illegal controlled substances;
 - (3) Refused to allow prompt inspection of the premises as authorized by this article;
 - (4) Knowingly permitted gambling by any person on the premises.
- (c) *No transfer of license.* A licensee shall not transfer ownership or control of a sexually oriented business except and unless authorized by this article, which shall require a new application to be filed for the purchaser or transferee. A licensee shall not transfer a license to another person, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the location designated in the application.
- (d) *Prohibited acts; revocation of license.* The director shall revoke a license if:
 - (1) A cause of suspension occurs and the license has been suspended within the proceeding 12 months;
 - (2) A licensee gave false or misleading information in the material submitted during the application process;
 - (3) A licensee has knowingly allowed the possession, use, or sale of controlled substances on the premises;
 - (4) A licensee has knowingly allowed the sale, use, or consumption of alcoholic beverages on the premises;
 - (5) A licensee has knowingly allowed prostitution on the premises;
 - (6) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - (7) A licensee knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other sexual conduct to occur in or on the licensed premises;

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- (8) A licensee is delinquent in payment to the township for any taxes or fees;
 - (9) A licensee knowingly allowed a person under 18 years of age to enter the establishment;
 - (10) A licensee has sold, assigned, or transferred ownership or control of the sexually oriented business to a non-licensee; or
 - (11) A licensee has appeared or knowingly allowed another person to appear in a state of public nudity within the premises.

When the director or township clerk revokes a license, the revocation shall continue for one year and the licensee shall not be issued a sexually oriented business license for one year from the date revocation became effective.

(ord. No. 01-1, 4-16-01)

Sec. 10-89. Judicial review.

In addition to the remedies provided in section 10-85(e), an applicant or licensee or employee aggrieved by the decision of the director or the zoning board of appeals may seek judicial review of such administrative action in any court of competent jurisdiction.

(Ord. No. 01-1, 4-16-01)

Sec. 10-90. Location of sexually oriented business.

Sexually oriented business shall only be permitted in a township commercial zoning district provided that:

- (a) Unless separated by the U.S. Highway 31, the sexually oriented business may not be operated within 1,000 feet of:
 - (1) A church, synagogue or regular place of religious worship;
 - (2) A public or private elementary or secondary school;
 - (3) A boundary of any residential district within the township or any zoning district within any other municipality wherein either single-family residences or multiple family residences are permitted uses;
 - (4) A public park;
 - (5) A licensed day-care facility; or
 - (6) Another sexually oriented business.
- (b) For the purposes of this article, measurement shall be made in a straight line, without regard to intervening structures or objects, except U.S. Highway 31, from the nearest point of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular place of worship, or public or private elementary or secondary school, or to the nearest boundary of an affected public park, residential district, or residential lot, or licensed day-care facility.
- (c) For purposes of subsection (b) of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, except U.S. Highway 31, from the closest exterior wall of the structure in which each said business is located.

(Ord. No. 01-1, 4-16-01)

Sec. 10-91. Nonconforming uses.

A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of sexually oriented business license, of a church, synagogue, or regular place of religious worship, public or private elementary or secondary school, licensed day-care facility, public park, or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after a business license has expired or has been revoked.

(Ord. No. 01-1, 4-16-01)

Sec. 10-92. Additional regulations for individuals at sexually oriented businesses.

No person shall knowingly and intentionally appear in a state of nudity in a sexually oriented business or depict specified sexual activities in a sexually oriented business. No person who operates a sexually oriented business shall employ any employee who has been convicted of a specified criminal activity as defined in this article. No person shall obtain employment with a sexually oriented business if such employee has been convicted of a specified criminal activity as defined in this article.

(Ord. No. 01-1, 4-16-01)

Sec. 10-93. Additional regulations for adult motels.

- (a) Evidence that a sleeping room in a hotel, motel, or a similar commercial enterprise has been rented and vacated two or more times in a period of time that is less than ten hours creates a rebuttable presumption that the enterprise is an adult motel as that term is defined in this chapter.
- (b) A person, as the person in control of a sleeping room in a hotel, motel, or similar commercial enterprise that does not have a sexually oriented business license, shall not rent or subrent a sleeping room to another person within ten hours from the time the room is rented.
- (c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

(Ord. No. 01-1, 4-16-01)

Sec. 10-94. Additional regulations for escort agencies.

- (a) An escort agency shall not employ any person under the age of 18 years.
- (b) A person shall not act as an escort or agree to act as an escort for any person under the age of 18 years.

(Ord. No. 01-1, 4-16-01)

Sec. 10-95. Additional regulations for nude model studios.

- (a) A nude model studio shall not employ any person under the age of 18 years.
- (b) A person shall not appear in a state of nudity, or knowingly allow another to appear in a state of nudity, in an area of nude model studio premises which can be viewed from the public right of way.

(Supp. No. 16)

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- (c) A nude model studio shall not place, or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(Ord. No. 01-1, 4-16-01)

Sec. 10-96. Additional regulations for exhibition of sexually explicit films, videos, and live performances.

A person who operates or causes to be operated, a sexually oriented business other than an adult motel which exhibits on the premises in a viewing room of less than 150 square feet of floor space, a film, video cassette, other video production, or live performance that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (a) Upon application for a sexually oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 100 square feet of floor area. The diagram shall also designate the place at which the business license shall be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus one foot. The director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (b) No alteration in the configuration or location of a manager's station may be made without the prior approval of the director or their designee.
- (c) It is the duty of the licensee to ensure that at least one employee is on duty and situated in each manager's station at all times (except in emergency situations) that any patron is present inside the premises.
- (d) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manger's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (e) It shall be the duty of the licensee to ensure that the view area specified in subsection (a) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application.
- (f) No viewing room or booth may be occupied by more than one person at any time. Nor shall any viewing room or booth contain any door, barrier, or other similar device as would prevent the compliance with subparagraph (d) above.
- (g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at any illumination of not less than five foot-candle as measured at the floor level.
- (h) It shall be the duty of the licensee to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

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- (i) No licensee shall allow an opening of any kind to exist between viewing rooms or booths,
 - (j) No person shall make or attempt to make an opening of any kind between the viewing booths or rooms.
 - (k) The licensee of the sexually oriented business shall, during each business day, cause to be inspected, the walls between the viewing booths to determine if any openings or holes exist.
 - (l) The licensee of the sexually oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
 - (m) The licensee of the sexually oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

(Ord. No. 01-1, 4-16-01)

Sec. 10-97. Exterior portions of sexually oriented businesses.

- (a) It shall be unlawful for a licensee of a sexually oriented business to allow the merchandise or operations of the business to be visible from a point outside the exterior of the structure in which the business is conducted.
- (b) It shall be unlawful for the licensee of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this article.

(Ord. No. 01-1, 4-16-01)

Sec. 10-98. Persons younger than 18 prohibited from entry; attendant required.

- (a) It shall be unlawful to allow a person who is younger than 18 years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.
- (b) It shall be the duty of the licensee to ensure that an employee is stationed at each public entrance to the sexually oriented business at all times during such sexually oriented businesses' regular business hours. It shall be the duty of the employee to prohibit any person under the age of 18 years from entering the sexually oriented business.

(Ord. No. 01-1, 4-16-01)

Sec. 10-99. Hours of operation.

No sexually oriented business, except for an adult motel, may remain open at any time between the hours of 1:00 a.m. and 8:00 a.m.

(Ord. No. 01-1, 4-16-01)

Secs. 10-100—10-124. Reserved.

ARTICLE V. TOWING COMPANIES, IMPOUND YARDS AND SALVAGE YARDS

Sec. 10-125. Definitions.

Impound yard means any place within the township used for the storage of impounded, seized or abandoned vehicles for a temporary period until time for their proper disposition.

Outside vehicle means any vehicle brought in by an agency outside of Muskegon Charter Township.

Salvage dealer means any person or entity engaged in the business of acquiring or owning salvage vehicles for the purpose of operating, occupying, owning, managing, or being employed by any salvage yard as defined in this section.

Salvage yard means any place within the township used for the acquisition, storage, selling or dismantling and disposing of salvage or refuse material of automobiles, trailers, mobile homes, trucks, buses, motorcycles, boats, personal water craft or any other motorized or wheeled means of transportation.

Towing company means any person or entity engaged in the business of using vehicles for transporting motor vehicles to another location or to recover motor vehicles which are no longer drivable or for legal reasons.

Township vehicle means any vehicle impounded by Muskegon Charter Township.

Wrecker service means any person or entity engaged in the business of using vehicles for transporting motor vehicles to another location or to recover motor vehicles which are no longer drivable or for legal reasons.

(Ord. No. 12-15, § 2, 10-15-12)

Sec. 10-126. License required.

No person, corporation, or firm shall operate or engage in the operation, occupancy or management of a towing, impound, or salvage yard unless prior approval and business license was obtained from the township, and as applicable, the laws of the state.

It shall be the responsibility of the applicant to secure necessary state permits pursuant to the operation of a towing, impound or salvage yard. Failure to do so will result in violation of this article and revocation of the township license.

(Ord. No. 12-15, § 2, 10-15-12)

Sec. 10-127. Standards and regulations for operation of towing company.

- (a) All towing companies shall comply with the standards and regulations in this section governing the operation of towing/impound/salvage yards.
 - (1) *Duties.* Wrecker service will operate a vehicle towing service, impound service and facility seven days a week, 24 hours a day, in such a manner that the wrecker service can be reached by phone at all times by Muskegon central dispatch and the Muskegon Township police department. If the wrecker service does not wish to maintain these hours of operation and availability, the service will not be invited to bid for the service proposal under the Muskegon Township police department—Wrecker policy.
 - (2) *Equipment.* At all times during the year the wrecker service will own and keep on site and/or on each vehicle in good operating condition the following equipment:
 - a. At least three wreckers on site with at least one being a flatbed, fully equipped as specified herein. Each of the required wreckers must have a minimum gross vehicle weight rating of at least 10,001 pounds.

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- b. A set of dollies on each vehicle for each of the standard wreckers.
 - c. Equipment on each vehicle for changing tires, air tanks for inflating tires, tools for lock-outs.
 - d. Booster battery or cables on each vehicle for starting vehicles.
 - e. Fire extinguisher on each vehicle.
 - f. Extra chains, pry bar, broom and shovel, bucket, oil dry on each vehicle.
 - g. A power winch on each vehicle.

If a situation exceeds the wrecker service capabilities, the wrecker service will be responsible to contact another service to handle the situation, as quickly as possible.

All equipment must be maintained in good working order to safely perform the service required, and conform to the standards, requirements and regulations mandated by Federal, state, and local agencies.

All wrecker and/or operator/drivers will carry communication devices capable of coverage anywhere within Muskegon Township and its immediate bordering jurisdictions.

Wrecker service will keep the Muskegon Township Police Department informed of the number of tow trucks it has available for use, including the year, make, model and capacity of each. Each wrecker must pass the "Annual Vehicle Inspection" in accordance with 40 CFR 396.

Wrecker service will display the company name, phone number, and DOT/MPSC numbers prominently on each of its towing vehicles.

(3) *Facility.* At all times the wrecker service and impound service facility must:

- a. Be located in Muskegon Township.
- b. Contain a secure, heated building for the storage of vehicles if needed for special purposes.
- c. Have a fenced area able to accommodate up to 25 vehicles.
- d. Have prominently posted a list of towing and storage charges, public hours of operation, and phone number.
- e. The business location and buildings must be maintained in a clean and presentable condition.

(4) *Taxes.*

- a. Wrecker service will be solely responsible for the payment and withholding of any and all taxes, levies and assessments under any federal, state or local law and will provide for the payment of taxes on or for income, unemployment, social security, workers compensation, or any other taxes with respect to the wrecker service, the wrecker service's employees or designee in connection with the work performed.

(5) *Township inspections.*

- a. Wrecker service will allow members of the Muskegon Township police department or other authorized township officials to inspect the service's lot or building, stored vehicles, office or other buildings and records relative to this article whenever it is deemed necessary by the township. The township reserves the right to conduct an audit at least annually of all bills and records relative to this article. Wrecker service will provide access to the records for inspection by the township and its auditors.

(Ord. No. 12-15, § 2, 10-15-12)

Sec. 10-128. Standards and regulations for impound yard.

- (a) Storage of vehicles.
 - (1) All vehicles impounded will be stored in a storage lot or building which is fenced with all gates securely locked and a responsible person in charge of the business, 24 hours a day that may be called to respond to the lot with someone from the police department. Vehicles stored in the building or storage yard will be parked so as to allow one foot of space between vehicles.
- (b) Each wrecker service will be allowed up to 100 vehicles to be stored on their impound yard. These 100 vehicles will consist of no more than 50 township vehicles and no more than 50 outside vehicles.
- (c) Ground must be protected by an approved, non-permeable surface or fluid blanket with no evidence of unsealed cracks or other openings or conditions which would potentially allow the escape and subsequent penetration of liquids or fluids to the ground surface. There will be no stacking of vehicles in the impound yard. The storage of all vehicles will be made, as to prohibit fluids from draining into the soil.

(Ord. No. 12-15, § 2, 10-15-12)

Sec. 10-129. Standards and regulations for operation of salvage yard.

- (a) All licensees shall comply with the standards and regulations in this section governing the operation of towing/impound/salvage yards.
- (b) Salvage yards shall comply with the following standards:
 - (1) Have designated hours for crushing of vehicles.
 - (2) All materials shall be stored in a safe manner and in such a way that access and inspection to same is available to any enforcement personnel.
 - (3) All initial dismantling of incoming vehicles to be inside a building.
 - (4) No stacking of vehicles.
 - (5) Spacing and arrangement of vehicles and access lanes must be approved by the fire department.
 - (6) No open burning allowed.
 - (7) Complete screening of operation.
 - (8) Maintain list of all fluids and liquids to be stored on site.
 - a. The removal of any liquid or fluid from vehicles or other equipment shall be accomplished on a ground surface protective device incorporating a collection and retention system such that said fluids and liquids shall not discharge into the soil beneath or adjacent to said device.
 - b. No discharge of fluids into ground.
 - c. Storage of fluids to be maintained in leak-proof tank.
 - d. Such tank to be located on ground surface protected area.
 - (9) Yard must be maintained in a manner so as not to create a nuisance.
 - (10) Proof of necessary state permits.
 - (11) On-site residence must be approved by township.

(Ord. No. 12-15, § 2, 10-15-12)

Sec. 10-130. Violations.

The following shall constitute violations of this article:

- (a) Operation of a towing, impound or salvage yard without a license.
- (b) Failure to comply with standards this article.
- (c) Failure to submit required design plans, certifications, or the failure to cure said omission upon demand of the township.
- (d) Failure to pay required fees.
- (e) Failure to be current with payment of personal property taxes.
- (f) Failure to allow or the intentional prevention of, any inspection by township personnel, including testing, observation and inquiries regarding the operation of the business.
- (g) Revocation or suspension of license to include recovery of any fees incurred by processing the violation.

(Ord. No. 12-15, § 2, 10-15-12)

Chapter 14 CABLE COMMUNICATIONS¹²

ARTICLE I. IN GENERAL

Sec. 14-1. 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:

Cable Act means the Cable Communications Policy Act of 1984, Pub.L. 98-549, 98 Stat. 2779 (October 30, 1984) codified at 47 USC 521 et seq.

CATV means community antenna television systems.

FCC means the Federal Communications Commission.

Licensee means a person to whom a license has been issued pursuant to provisions of this chapter.

(Ord. No. 18-B, § 2, 3-31-88)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

¹²Editor's note(s)—A resolution titled Regulation of Cable TV Rates was adopted on Aug. 16, 1993, and is on file in the office of the township clerk.

Cross reference(s)—Administration, ch. 2; utilities, ch. 54.

State law reference(s)—Consent for construction in rights-of-way by cable television companies required from townships, MCL 247.183.

Sec. 14-2. Application for license.

Every person desiring to install, erect, construct, operate and maintain a community television antenna plant within the township shall make application in writing, signed by the applicant or his duly authorized agent, to the township clerk. The application shall be accompanied by a general plan of the system, showing the location of the antenna, and shall also be accompanied by a financial statement of the applicant.

(Ord. No. 18-B, § 3, 3-31-88)

Sec. 14-3. Compliance with applicable laws and ordinances; restrictions on use of streets.

- (a) Any person duly licensed to operate a CATV system shall at all times be subject to all lawful exercise of the police power of the township and to such reasonable regulation as the township shall hereafter by resolution or ordinance provide.
- (b) Any licensee shall have the right, so long as his license is in force and effect, to utilize the streets of the township for the transmission of television signals as herein authorized from his antenna location or locations to the premises of subscribers. The licensee may erect all necessary wires, cables and appurtenances in the streets, provided that any such distribution system shall comply with all applicable laws and regulations and ordinances and all of the licensee's wires and cables suspended from poles in the streets shall comply with the minimum clearances aboveground required for telephone lines, cables, wires and conduits. The placement of any necessary poles shall be subject to the approval of the township. The licensee may, at his option, authorize the installation of such wires, cables, conduits, poles and appurtenances by others for the licensee's use and all such wires, cables, conduits, poles and appurtenances placed or installed by others for the use of the licensee shall be subject to the same regulations as if the licensee installed them, and they shall exist and continue to exist solely by authority of the permission granted to the licensee.
- (c) All transmission and distribution structures, lines and equipment erected by the licensee or on his behalf within the township shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the streets, and existing poles for electric and communication purposes shall be utilized wherever possible and practical.
- (d) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the licensee shall, at his own cost and expense and in a manner approved by the township engineer, replace and restore all pavement, sidewalk, driveway or other surfacing disturbed, in as good a condition as before the work was commenced.
- (e) If at any time during the existence of a license granted under this chapter the township shall lawfully widen, realign or otherwise alter the street right-of-way, or construct, reconstruct, realign, change the grade of or otherwise alter pavement or any water main, fire hydrant, sewer or appurtenance belonging to the township, the licensee or anyone acting on his behalf in connection with the use of the streets, upon reasonable notice by the township, and to the extent necessary, shall remove, relay and relocate his wires, cables, poles, underground conduits and other appurtenances at his own expense.
- (f) In conduit districts now or hereafter established by ordinances of the township, and as hereafter amended or altered, and in such other areas of the township in which telephone lines and electric utility lines are underground, all of the licensee's lines, cables and wires shall be underground. It is the policy of the township that underground installation, even where not required, is preferable to the addition of poles.

(Ord. No. 18-B, § 4, 3-31-88)

Sec. 14-4. Licensee liability; indemnification.

Each applicant under this article shall in his application agree to save the township harmless from all loss sustained by the township on account of any suit, judgment, execution, claim or demand whatsoever resulting from negligence on the part of the company in the construction, operation or maintenance of the CATV system in the township. The township shall notify any licensee within ten days after the presentation of any claim or demand, either by suit or otherwise, made against the township on account of any negligence as aforesaid on the part of the licensee.

(Ord. No. 18-B, § 5, 3-31-88)

Sec. 14-5. Insurance.

Each applicant under this section shall in his application demonstrate by certificate of insurance that he is protected by liability insurance issued by an insurance company authorized to do business in the state against claims for property damage in the amount of \$1,000,000.00 for any one accident and for personal injuries in the amount of \$1,000,000.00 for a personal injury to any one person, and \$3,000,000.00 for all personal injuries resulting from any one accident.

(Ord. No. 18-B, § 6, 3-31-88)

Sec. 14-6. Promulgation of rules, regulations by licensee.

- (a) *Authority.* The licensee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of his business as shall be reasonably necessary to enable the licensee to exercise his rights and perform his obligations under this chapter and to ensure an uninterrupted service to each and all of his customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof, or the rules of any state or federal regulatory agency, or the laws of the state.
- (b) *Notice of interruption for repairs.* Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the licensee shall do so at such times as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.
- (c) *Acts of God.* The licensee shall not be held in default or noncompliance with the provisions of this chapter, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, refusals, acts of God, power outages, or other events reasonably beyond its ability to control.

(Ord. No. 18-B, § 7, 3-31-88)

Sec. 14-7. Fee; payment to township.

The licensee shall pay to the township, for the privilege of operating a CATV system under this chapter, a sum as may be negotiated and approved by the township board.

(Ord. No. 18-B, § 8, 3-31-88)

Sec. 14-8. Rates and charges.

The licensee's rates for the provision of cable service and other service, including, but not limited to, ancillary charges relating thereto shall not be regulated except as authorized pursuant to federal and state law including, but not limited to, the Cable Act and FCC rules and regulations relating thereto except as provided in article II of this chapter. Licensee's rates and charges for the provision of any service or equipment including but not limited to basic service, pay service, second outlets, remote control units, converters, etc., are not established hereunder, and are not regulated, except as provided in article II of this chapter.

(Ord. No. 18-B, § 9, 3-31-88)

Sec. 14-9. Preferential or discriminatory practices prohibited.

The licensee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect make or grant preference or advantage to any person, nor subject any person to any prejudice or disadvantage; provided, however, that nothing in this chapter shall be deemed to prohibit the licensee's discretion to establish discounts for senior citizens or shut-ins or the hearing-impaired or to establish free-of-charge service to public or private educational institutions, hospitals, eleemosynary institutions and, to the extent not otherwise required hereunder, to such public buildings as fire stations, police stations or township hall.

(Ord. No. 18-B, § 10, 3-31-88)

Sec. 14-10. Books and records.

The township may review such of the licensee's books and records, during normal business hours and on a nondisruptive basis, as is reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, records required to be kept by the licensee pursuant to the rules and regulations of the FCC, and financial information underlying the summary report pertaining to the license fee mentioned in section 14-7. Notwithstanding anything to the contrary set forth herein, the licensee is not required to disclose personally identifiable subscriber information without the subscriber's consent in recognition of section 631 of the Cable Act, 47 USC 551, regarding the protection of subscriber privacy; nor shall the licensee be required to disclose its income tax returns or information underlying the preparation of any such returns. To the extent permitted by law, the township agrees to treat on a confidential basis any information disclosed by the licensee to it under this section. In so according confidential treatment, disclosure of the licensee's records by the township shall be limited to only those of its employees, representatives and agents that have a need to know, and that are in a confidential relationship with the township.

(Ord. No. 18-B, § 12, 3-31-88)

Sec. 14-11. Semiannual payment of license fee.

The licensee shall pay to the township treasurer the license fee mentioned in section 14-7 above within 30 days after each half of his fiscal year, following his inception of service to subscribers located in the township. At the same time he shall file with the treasurer a summary report of the revenues upon which the section 14-7 license fee is based.

(Ord. No. 18-B, § 13, 3-31-88)

Sec. 14-12. Transfer of license.

No sale, lease, sublease, assignment or other transfer of a license issued under this chapter shall be made, unless and until approved by resolution of the township board, after receipt of a written application for such transfer containing the same information as would be required of an original application for a license. No transfer of a majority interest in the stock of the licensee, if the licensee is a corporation, or the addition or deletion of a general partner or partners of the licensee, if the licensee is a partnership, which in the aggregate would exceed 50 percent of the partnership interest, shall be made unless and until approved by resolution of the township board. Approval of such sale, assignment, lease, sublease or other transfer shall not be unreasonably withheld.

(Ord. No. 18-B, § 14, 3-31-88)

Sec. 14-13. Indemnification in case of programming disputes.

Each applicant shall in his application agree to save the township harmless from all loss sustained by the township on account of any suit, judgment, execution, claim or demand whatsoever resulting from a dispute over programming. The township shall notify any licensee within ten days after the presentation of any claim or demand, either by any suit or otherwise, made against the township on account of any improper or illegal program origination or duplication as aforesaid on the part of the licensee.

(Ord. No. 18-B, § 16, 3-31-88)

Sec. 14-14. Master antenna construction standards.

The licensee shall agree to construct that portion of the antenna network in the township in accordance with the building and electrical codes of the township.

(Ord. No. 18-B, § 17, 3-31-88)

Sec. 14-15. Availability of facilities.

- (a) Subject to the existence of suitably situated, available public rights-of-way and public utility easements, the licensee shall supply the facilities to all residents of the township who may request its service who reside in any territory within the township's boundaries that has a population density of at least 25 homes per strand mile from the trunk line existing at the time of such request. The licensee shall maintain a business office in the county open at all reasonable business hours to all such persons in the township who desire the services of the licensee.
- (b) Within one year from the issuance of its license hereunder, the licensee shall have accomplished significant construction of its system. Thereafter, the licensee shall equitably and reasonably extend its energized trunk cable to include an additional 20 percent of its total franchise area each year. This subsection shall not apply to renewal licensees.

(Ord. No. 18-B, § 18, 3-31-88)

Sec. 14-16. Limitation on service to system.

The services performed pursuant to licenses issued under this chapter shall not include the performance of repairing, servicing or selling television sets or television antennas, nor shall the licensee recommend service by others except as directly related to cable installation and/or connection; provided, however, that no limitation is

placed upon the licensee in complying with the FCC's input selector switch requirements set forth in 47 CFR 76.66, and provided further, that no limitation is placed on the licensee in the business of providing other communications services permitted by the FCC with respect to cable systems, or from distributing programming to home satellite dishes or other reception technology than broadcast television.

(Ord. No. 18-B, § 20, 3-31-88)

Sec. 14-17. Necessity for license.

No person shall own or operate a community antenna television system in the township except by license issued pursuant to this chapter. The township clerk shall issue such license only upon receipt of an application which complies with all of the requirements of this chapter, and upon approval by the township board of the licensee's legal, character, financial, technical and other qualifications, as well as the adequacy and feasibility of the licensee's construction arrangements, after a full public proceeding affording due process. Such license shall authorize the operation of a community antenna television system within the township, subject to the provisions of this chapter, for a period to be determined by the township board, but in no event less than 15 years from the date of issuance hereunder. Renewals, unless revoked for cause, likewise shall remain in force and effect for periods of at least 15 years.

(Ord. No. 18-B, § 21, 3-31-88)

Sec. 14-18. Revocation of license.

Failure by the licensee to substantially comply with the material provisions of this chapter or the failure to substantially perform any of the material conditions or terms thereof shall be cause for the revocation of his license and all rights thereunder. The clerk shall report such noncompliance in writing to the township board which, upon due notice to the licensee and after reasonable opportunity to place himself in compliance and to be heard on the charge of noncompliance, may revoke such license. Any revocation proceeding hereunder shall be governed by the franchise compliance standards and procedures set forth in section 626 of the Cable Act, 47 U.S.C. 546.

(Ord. No. 18-B, § 22, 3-31-88)

Sec. 14-19. Renewal of license.

- (a) Any proceedings undertaken by the township that relate to the renewal of the licensee's license shall be governed by and comply with the provisions of section 626 of the Cable Act (codified at 47 USC 546) as such existed as of the effective date of the Cable Act, unless the provisions set forth therein shall have been rendered inoperable by the provisions of subsequent law.
- (b) In addition to the procedures set forth in such section 626(a), the township shall notify the licensee of the township's preliminary assessment regarding the identity of future cable-related community needs and interests as well as the past performance of the licensee under the then-current license term. The township's preliminary assessment shall be provided to the licensee prior to the time that the four-month period referred to in subsection (c) of section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this section and consistent with subsection (h) of section 626 of the Cable Act, 47 USC 546(h), at any time during the term of the then-current license, the township and licensee may undertake and finalize negotiations regarding renewal or extension of the then-current license and the township may grant a renewal or extension thereof. The terms set forth in this section shall be considered consistent with and subject to the express provisions of section 626 of the Cable Act.

A reproduction of section 626 of the Cable Act as such existed as of the effective date of the Cable Act is on file in the township clerk's office and is incorporated herein by this reference. The above notwithstanding, the township may grant extensions to the then-existing license term to the extent appropriate under the circumstances, so long as such extensions are not in lieu of the licensee's ultimate right to be considered for renewal hereunder, and are consistent with applicable law.

(Ord. No. 18-B, § 23, 3-31-88)

Secs. 14-20—14-30. Reserved.

ARTICLE II. RATE REGULATION

Sec. 14-31. Purpose; interpretation.

- (a) The purpose of this article is to adopt regulations consistent with the act and the FCC rules with respect to basic cable service rate regulation, and prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the township.
- (b) This article shall be implemented and interpreted consistent with the act and FCC rules.

(Ord. No. 18C, § 2, 9-20-92)

Sec. 14-32. Definitions.

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

Act means the Communications Act of 1934, as amended, and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, and as may be amended from time to time.

Associated equipment means all equipment and services subject to regulation pursuant to 47 CFR 76.923.

Basic cable service means basic service as defined in the FCC rules, and any other cable television service which is subject to rate regulation by the township pursuant to the act and FCC rules.

FCC rules means all rules of the FCC promulgated from time to time pursuant to the act.

Gross revenue means all revenue received by the licensee from the operation of the cable system to provide cable services in the service area in accordance with generally accepted accounting principles, including but not limited to revenues, from basic and pay services, home shopping channels, hook-up fees, advertising, and installation fees. Gross revenues shall not include (1) any tax, fee or assessment of general applicability (not the franchise fee), collected by the operator from subscribers for pass-through to a government agency, including the FCC user fee and (2) unrecovered bad debt. The licensee shall pay to the township for the privilege of operating a CATV system under this chapter, a sum equivalent to five percent of the licensee's gross revenues.

Increase in rates means an increase in rates or a decrease in programming or customer services.

All other words and phrases used in this article shall have the same meaning as defined in the act and FCC rules.

(Ord. No. 18C, § 1, 9-20-92; Ord. No. 03-06, § 1, 11-3-03)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 14-33. Rate regulations.

In connection with the regulation of rates for basic cable service and associated equipment, the township shall follow all FCC rules.

(Ord. No. 18C, § 4, 9-20-92)

Sec. 14-34. Filing; additional information; burden of proof.

- (a) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates in accordance with the act and the FCC rules. The cable operator shall include as part of its submission such information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the act and the FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the township clerk. For purposes of this article, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the township clerk. The township board may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.
- (b) In addition to information and data required by rules and regulations of the township pursuant to subsection (a) of this section, a cable operator shall provide all information requested by the township supervisor in connection with the township's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The township supervisor may establish deadlines for submission of the requested information and the cable operator shall comply with such deadlines.
- (c) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in such rates complies with the act and the FCC rules including, without limitation, 47 USC 543 and 47 CFR 76.922 and 76.923.

(Ord. No. 18C, § 4, 9-20-92)

Sec. 14-35. Proprietary information.

- (a) If this article, any rules or regulations adopted by the township pursuant to section 14-34(a), or any request for information pursuant to section 14-34(b) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the township determines that the preponderance of the evidence shows that nondisclosure is consistent with the provisions of the Freedom of Information Act, 5 USC 552. The township shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied, where the cable operator is proposing a rate increase it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.
- (b) Any interested party may file a request to inspect material withheld as proprietary with the township. The township shall weigh the policy considerations favoring nondisclosure against the reasons cited for

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permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

- (c) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR 0.459.

(Ord. No. 18C, § 5, 9-20-92)

Sec. 14-36. Public notice; initial review of rates.

- (a) Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to section 14-34(a) above, the township clerk shall publish a public notice in a newspaper of general circulation in the township which shall state that:
- (1) The filing has been received by the township clerk and, except those parts which may be withheld as proprietary, is available for public inspection and copying; and
 - (2) Interested parties are encouraged to submit written comments on the filing to the township clerk not later than seven days after the public notice is published.
- (b) The township clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the township board shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the township board, then the township clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the township board shall first consider the schedule of rates or the proposed increase.

(Ord. No. 18C, § 6, 9-20-92)

Sec. 14-37. Tolling order.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under section 14-34(a) above unless the township board, or other properly authorized body or official, tolls the 30 day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The township board may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Ord. No. 18C, § 7, 9-20-92)

Sec. 14-38. Public notice; hearing on basic cable service rates following tolling of 30-day deadline.

- (a) If a written order has been issued pursuant to section 14-37 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the township any additional information required or requested pursuant to section 14-34 of this article.

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- (b) The township board shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The township clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the township which shall state the following:
- (1) The date, time, and place at which the hearing shall be held.
 - (2) Interested parties may appear in person, by agent, or by letter at such hearing to submit comments on or objections to the existing rates or the proposed increase in rates.
 - (3) Copies of the schedule of rates or the proposed increase in rates and related information, except those parts which may be withheld as proprietary, are available for inspection or copying from the office of the clerk.

The public notice shall be published not less than 15 days before the hearing. In addition, the township clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. No. 18C, § 8, 9-20-92)

Sec. 14-39. Staff or consultant report; written response.

Following the public hearing, the township supervisor shall cause a report to be prepared for the township board which shall, based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information, include a recommendation for the decision of the township board pursuant to section 14-40. The township clerk shall mail a copy of the report to the cable operator by first-class mail not less than 20 days before the township board acts under section 14-40. The cable operator may file a written response to the report with the township clerk. If at least ten copies of the response are filed by the cable operator with the township clerk within ten days after the report is mailed to the cable operator, the township clerk shall forward it to the township board.

(Ord. No. 18C, § 9, 9-20-92)

Sec. 14-40. Rate decisions and orders.

The township board shall issue a written order, by resolution or otherwise, which, in whole or in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in such rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC rules. If the township board issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under section 14-37 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under section 14-37 in all cases involving a cost-of-service showing.

(Ord. No. 18C, § 10, 9-20-92)

Sec. 14-41. Refunds; notice.

The township board may order a refund to subscribers as provided in 47 CFR 76.942. Before the township board orders any refund to subscribers, the township clerk shall give at least seven days written notice to the cable operator by first-class mail of the date, time, and place at which the township board shall consider issuing a refund

order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at such time for the purpose of submitting comments to the township board.

(Ord. No. 18C, § 11, 9-20-92)

Sec. 14-42. Written decisions; public notice.

Any order of the township board pursuant to section 14-40 or section 14-41 shall be in writing, shall be effective upon adoption by the township board, and shall be deemed released to the public upon adoption. The clerk shall publish a public notice of any such written order in a newspaper of general circulation within the township which shall summarize the written decision, and state that copies of the text of the written decision are available for inspection or copying from the office of the clerk. In addition, the township clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

(Ord. No. 18C, § 12, 9-20-92)

Sec. 14-43. Rules and regulations.

In addition to rules promulgated pursuant to section 14-34, the township board may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings, including, without limitation, the conduct of hearings, consistent with the act and the FCC rules.

(Ord. No. 18C, § 13, 9-20-92)

Sec. 14-44. Failure to give notice.

The failure of the township clerk to give the notices or to mail copies of reports as required by this article shall not invalidate the decisions or proceedings of the township board.

(Ord. No. 18C, § 14, 9-20-92)

Sec. 14-45. Additional hearings.

In addition to the requirements of this article, the township board may hold additional public hearings upon such reasonable notice as the township board, in its sole discretion, shall prescribe.

(Ord. No. 18C, § 15, 9-20-92)

Sec. 14-46. Additional powers.

The township shall possess all powers conferred by the act the FCC rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the act, the FCC rules, and this article shall be in addition to powers conferred by law or otherwise. The township may take any action not prohibited by the act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. No. 18C, § 16, 9-20-92)

Sec. 14-47. Failure to comply; remedies.

The township may pursue any and all legal and equitable remedies against the cable operator, including, without limitation, all remedies provided under a cable operator's franchise with the township, for failure to comply with the act, the FCC rules, any orders or determinations of the township pursuant to this article, any requirements of this article, or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the act, the FCC rules, any orders or determinations of the township pursuant to this article, any requirements of this article, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. No. 18C, § 17, 9-20-92)

Secs. 14-48—14-70. Reserved.

ARTICLE III. TELECOMMUNICATIONS

Sec. 14-71. Purpose.

The purposes of this article are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002) ("act") and other applicable law, and to ensure that the township qualifies for distributions under the act by modifying the fees charged to providers and complying with the act.

(Ord. No. 03-1, § 1, 4-21-03)

Sec. 14-72. Conflict.

Nothing in this article shall be construed in such a manner as to conflict with the act or other applicable law.

(Ord. No. 03-1, § 2, 4-21-03)

Sec. 14-73. Terms defined.

The terms used in this article shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended.

Township means the Charter Township of Muskegon.

Township board means the Township Board of the Charter Township of Muskegon or its designee. This Section does not authorize delegation of any decision or function that is required by law to be made by the township board.

Township supervisor means the township supervisor or his designee.

Permit means a nonexclusive permit issued pursuant to the act and this article to a telecommunications provider to use the public rights-of-way in the township for its telecommunications facilities.

All other terms used in this article shall have the same meaning as defined or as provided in the act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to section 3 of the act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "commission" in the act.

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

Public right-of-way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state, or private right-of-way.

Telecommunication facilities or facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunication services or signals. Telecommunication facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications provider, provider, and telecommunications services mean those terms as defined in Section 102 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in section 332(d) of part I of the Communications Act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3. or service provided by any wireless, two-way communication device. For the purpose of the act and this article only, a provider also includes all of the following:

- (1) A cable television operator that provides a telecommunications service.
- (2) Except as otherwise provided by the act, a person who owns telecommunication facilities located within a public right-of-way.
- (3) A person providing broadband Internet transport access service.

(Ord. No. 03-1, § 3, 4-21-03)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 14-74. Permit required.

- (a) *Permit required.* Except as otherwise provided in the act, a telecommunications provider using or seeking to use public rights-of-way in the township for its telecommunications facilities shall apply for and obtain a permit pursuant to this article.
- (b) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with section 6(1) of the act. A telecommunications provider shall file one copy of the application with the township clerk, one copy with the township supervisor, and one copy with the township attorney. Upon receipt, the township clerk shall make three copies of the application and distribute a copy to the public works, police and fire departments. Applications shall be complete and include all information required by the act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with section 6(5) of the act.

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- (c) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to section 6(5) of the act, the telecommunications provider shall prominently so indicate on the face of each map.
 - (d) *Application fee.* Except as otherwise provided by the act, the application shall be accompanied by a one-time nonrefundable application fee in the amount of \$500.00.
 - (e) *Additional information.* The township supervisor may request an applicant to submit such additional information which the township supervisor deems reasonable necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the township supervisor. If the township and the applicant cannot agree on the requirement of additional information requested by the township, the township or the applicant shall notify the MPSC as provided in section 6(2) of the act.
 - (f) *Previously issued permits.* Pursuant to section 5(1) of the act, authorizations or permits previously issued by the township under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the township to telecommunications providers prior to the 1995 enactment of section 251 of the Michigan Telecommunications Act but after 1985 shall satisfy the permit requirements of this article.
 - (g) *Existing providers.* Pursuant to section 5(3) of the act, within 180 days from November 1, 2002, the effective date of the act, a telecommunications provider with facilities located in a public right-of-way in the township as of such date, that has not previously obtained authorization or a permit under section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the township an application for a permit in accordance with the requirements of this article. Pursuant to section 5(3) of the act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (d) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the authority, as provided in section 5(4) of the act.

(Ord. No. 03-1, § 4, 4-21-03)

Sec. 14-75. Issuance of permit.

- (a) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the township supervisor. Pursuant to section 15(3) of the act, the township supervisor shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under section 14-74(b) of this article for access to a public right-of-way within the township. Pursuant to section 6(6) of the act, the township supervisor shall notify the MPSC when the township supervisor has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The township supervisor shall not unreasonably deny an application for a permit.
- (b) *Form of permit.* If an application for permit is approved, the township supervisor shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with sections 6(1), 6(2) and 15 of the act.
- (c) *Conditions.* Pursuant to section 15(4) of the act, the township supervisor may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) *Bond requirement.* Pursuant to section 15(3) of the act, and without limitation on subsection (c) above, the township supervisor may require that a bond be posted by the telecommunications provider as a condition

of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. No. 03-1, § 5, 4-21-03)

Sec. 14-76. Construction/engineering permit.

A telecommunications provider shall not commence construction upon, over, across, or under the public rights-of-way in the township without first obtaining a construction or engineering permit as required for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. No. 03-1, § 6, 4-21-03)

Sec. 14-77. Conduit or utility poles.

Pursuant to section 4(3) of the act, obtaining a permit or paying the fees required under the act or under this article does not give a telecommunications provider a right to use conduit or utility poles.

(Ord. No. 03-1, § 7, 4-21-03)

Sec. 14-78. Route maps.

Pursuant to section 6(7) of the act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the township, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the township. The route maps should be in paper format unless and until the MPSC determines otherwise, in accordance with section 6(8) of the act.

(Ord. No. 03-1, § 8, 4-21-03)

Sec. 14-79. Repair of damage.

Pursuant to section 15(5) of the act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the township, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting conditions.

(Ord. No. 03-1, § 9, 4-21-03)

Sec. 14-80. Establishment and payment of maintenance fee.

In addition to the nonrefundable application fee paid to the township set forth in section 14-74(d) above, a telecommunications provider with telecommunications facilities in the township's public rights-of-way shall pay an annual maintenance fee to the authority pursuant to section 8 of the act.

(Ord. No. 03-1, § 10, 4-21-03)

Sec. 14-81. Modification of existing fees.

In compliance with the requirements of section 13(1) of the act, the township hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the act, which shall be paid to the authority. In compliance with the requirements of section 13(4) of the act, the township also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the township's boundaries, so that those providers pay only those fees required under section 8 of the act. The township shall provide each telecommunications provider affected by the fee with a copy of this article, in compliance with the requirement of section 13(4) of the act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the act, or which are otherwise inconsistent with the act, such imposition is hereby declared to be contrary to the township's policy and intent, and upon application by a provider or discovery by the township, shall be promptly refunded as having been charged in error.

(Ord. No. 03-1, § 11, 4-21-03)

Sec. 14-82. Savings clause.

Pursuant to section 13(5) of the act, if section 8 of the act is found to be invalid or unconstitutional, the modification of fees under section 14-81 above shall be void from the date the modification was made.

(Ord. No. 03-1, § 12, 4-21-03)

Sec. 14-83. Use of funds.

Pursuant to section 10(4) of the act, all amounts received by the township from the authority shall be used by the township solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the township from the authority shall be deposited into the major street fund and/or the local street fund maintained by the township under Act No. 51 of the Public Acts of 1951.

(Ord. No. 03-1, § 13, 4-21-03)

Sec. 14-84. Annual report.

Pursuant to section 10(5) of the act, the township supervisor shall file an annual report with the authority on the use and disposition of funds annually distributed by the authority.

(Ord. No. 03-1, § 14, 4-21-03)

Sec. 14-85. Cable television operators.

Pursuant to section 13(6) of the act, the township shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of the act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

(Ord. No. 03-1, § 15, 4-21-03)

Sec. 14-86. Existing rights.

Pursuant to section 4(2) of the act, except as expressly provided herein with respect to fees, this article shall not affect any existing rights that a telecommunications provider or the township may have under a permit issued by the township or under a contract between the township and a telecommunications provider related to the use of the public rights-of-way.

(Ord. No. 03-1, § 16, 4-21-03)

Sec. 14-87. Compliance.

The township hereby declares that its policy and intent in adopting this article is to fully comply with the requirements of the act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The township shall comply in all respects with the requirements of the act, including but not limited to the following:

- (1) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, as provided in section 14-74(c) of this article;
- (2) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with section 14-74(f) of this article;
- (3) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500.00 application fee, in accordance with section 14-74(g) of this article;
- (4) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the township, in accordance with section 14-75(a) of this article;
- (5) Notifying the MPSC when the township has granted or denied a permit, in accordance with section 14-75(a) of this article;
- (6) Not unreasonably denying an application for a permit, in accordance with section 14-75(a) of this article;
- (7) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in section 14-75(b) of this article;
- (8) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with section 14-75(c) of this article;
- (9) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with section 14-75(d) of this article;
- (10) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with section 14-76 of this article;
- (11) Providing each telecommunications provider affected by the township's right-of-way fees with a copy of this article, in accordance with section 14-81 of this article;
- (12) Submitting an annual report to the authority, in accordance with section 14-84 of this article; and
- (13) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with section 14-85 of this article.

(Ord. No. 03-1, § 17, 4-21-03)

Sec. 14-88. Reservation of police powers.

Pursuant to section 15(2) of the act, article shall not limit the township's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the township's authority to ensure and protect the health, safety and welfare of the public.

(Ord. No. 03-1, § 18, 4-21-03)

Sec. 14-89. Severability.

The various parts, sentences, paragraphs, sections, and clauses of this article are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this article is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this article.

(Ord. No. 03-1, § 19, 4-21-03)

Sec. 14-90. Authorized township officials.

The township supervisor or his or her designee is hereby designated as the authorized township official to issue municipal civil infraction citations for violations under this article as provided by the Township Code.

(Ord. No. 03-1, § 20, 4-21-03)

Sec. 14-91. Municipal civil infractions.

A violation of this article shall be a violation of the Township Code. Nothing in this section shall be construed to limit the remedies available to the township in the event of a violation by a person of this article or a permit.

(Ord. No. 03-1, § 21, 4-21-03)

Chapter 18 ENVIRONMENT¹³

ARTICLE I. IN GENERAL

Sec. 18-1. Attractive nuisances—Conditions, declaration of nuisance.

All dwellings and other buildings in the township which have been abandoned by the owner, or which are in a run-down and dilapidated condition, and which have been left open and unoccupied and which have been determined by the township board or county board of health to be an attractive nuisance to children shall be declared nuisances per se.

(Ord. No. 12, art. II, § 2, 5-20-63)

¹³Cross reference(s)—Offenses, ch. 30; solid waste, ch. 38; traffic and vehicles, ch. 50; zoning, ch. 58.

Sec. 18-2. Same—Notice to owner to remove, alter, etc.

All such buildings or dwellings as may be determined to be attractive nuisances and liable to cause injury to children or others shall be removed, altered, remodeled or reconstructed, as the case may require, upon written notice from the township clerk to the owner that the building has been determined to be a nuisance.

(Ord. No. 12, art. II, § 3, 5-20-63)

Sec. 18-3. Burial of waste prohibited.

No person shall bury stumps, detrimental amounts of organic materials, detrimental amounts of rock or similar irreducible materials, toxic or waste materials, or building materials unless site plan approval (Section 58, Article VIII) has been given for the burial of such materials on the city. If any such approval is given, all materials must be buried below a point between ten feet and four feet from the soil surface depending upon the type and size of materials buried.

Sec. 18-4. Abatement.

- (a) Upon receipt of notice from the township clerk pursuant to sections 18-2 and 18-3, the owner or agent shall forthwith proceed to make such disposition of the building or premises as shall be determined by the township board to be necessary. In the event of failure of such owner or agent thereof to abate such nuisance within ten days from the date of such notice, such official as the township board may designate may institute any appropriate action or proceed to enforce the order of the township board and to abate any such nuisance by a bill or petition setting forth the facts to the circuit court of the county, or to any judge thereof, for an order granting the relief for which such action is brought, or for an order to abate such nuisance forthwith, and to assess all costs and expenses herein against the property.
- (b) In no case shall the township board or any public official of the township designated by the township board, or any officer or employee thereof, be liable for cost for any action or proceeding that may be commenced in pursuance of this section.

(Ord. No. 12, art. II, § 4, 5-20-63)

Sec. 18-5. Grass and noxious weeds.

- (a) *Defined.* Grass and noxious weeds shall mean and include all plants listed within Public Act 359 of 1941, as amended, and incorporated herein by reference. The term shall also include all common grasses, more than ten inches in height, dead bushes, tree stumps, bushes and trees infested with dangerous insects or infectious diseases, and unbagged leaves after the leaf season has concluded. Leaf season shall be defined as beginning September 1st and ending April 30th. Wooded frontage shall be defined as the frontage of any property which is covered with trees and bushes or woods.
- (b) *Nuisance.*
 - (1) All grass and noxious weeds as defined, located within and upon the parcels of property described below, are hereby declared to be a nuisance.
 - (2) It shall be the duty of every owner or occupant, whether developed or not, to remove all grass and noxious weeds in the following designated parcels of property:
 - a. All parcels ½ acre or less whether platted or not.
 - b. The front 50 feet of any developed parcel larger than ½ acre.

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- (c) *Removal.* If the owner or occupant of any premises identified above, who refuses to comply with subsection (a) above, and fails, within ten days after the service of a notice of violation, to bring its property into compliance, the township, its agents and employees, may enter upon such property and shall remove the noxious weeds, or cut the grass as is required, and any expense incurred by the township shall be paid by the owner or occupant of the parcel involved, and if unpaid the township shall have a lien against the property in the amount of the expenses incurred. The lien shall be enforced in the same manner as a tax upon the property and collected as provided by law.
- (d) *Penalties.* Any person violating the provisions of this section shall be responsible for a civil infraction.
- (e) *Exemptions.* The following parcels or specific areas of parcels shall be considered exempt from this section.
- (1) Wooded frontage, as defined by this section, that is not otherwise excluded by this section. In the case of waterfront properties, the street front side will be considered exempt if wooded.
 - (2) Any parcel of property for which no building permit has ever been issued.
 - (3) Any drainage ditch less elevated than the yard in any zoning district.

(Ord. No. 03-04, § 1, 6-2-03; Ord. No. 12-04, § 5, 3-19-12 ; Ord. No. 13-05, § 2, 4-15-13 ; Ord. No. 13-10, § 2, 9-16-13 ; Ord. No. 15-12 , § 3, 10-5-15)

Secs. 18-6—18-25. Reserved.

ARTICLE II. RESERVED¹⁴

Secs. 18-26—18-55. Reserved.

ARTICLE III. ILLICIT DISCHARGE AND ILLICIT CONNECTION¹⁵

DIVISION 1. GENERALLY

Sec. 18-56. Statutory authority and title.

- (a) This article is adopted in accordance with the Home Rule City Act, as amended, being MCL 117.1, et seq.; the Drain Code of 1956, as amended, being MCL 280.1, et seq.; the Land Division Act, as amended, being MCL 560.1, et seq.; the Revenue Bond Act, as amended, being MCL 141.101, et seq.; the Natural Resources and Environmental Protection Act, as amended, being MCL 324.101, et seq.; Section 401(p) of the Federal Water Pollution Control Act (also known as the Clean Water Act), as amended, being 33 USC 1342(p) and 40 CFR Parts 9, 122, 123, and 124; and other applicable state and federal laws.

¹⁴Editor's note(s)—Ord. No. 13-17, § 3, adopted Dec. 19, 2013 , repealed §§ 18-26—18-30, which pertained to Outdoor Storage and derived from Ord. No. 17A, § 1, 8-17-70; Ord. No. 17A-1, 3-21-83; Ord. No. 17, §§ 4—5, 7, 5-26-65; and Ord. No. 12-04, § 5, 3-19-12 .

¹⁵Editor's note(s)—Ord. No. 05-06, § 1, adopted Oct. 17, 2005, set out provisions intended for use as Ch. 18. Inasmuch as Ch. 18 already exists in the Code and at the discretion of the editor these provisions have been included as Art. III within Ch. 18.

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- (b) The Charter Township of Muskegon shall administer, implement, and enforce the provisions of this article. Any powers granted, or duties imposed, upon the township may be delegated in writing by the Public Works Director of the Charter Township of Muskegon to persons or entities acting in the beneficial interest of, or in the employ of the township.

(Ord. No. 05-06, § 1.01, 10-17-05)

Sec. 18-57. Findings.

The Charter Township of Muskegon finds that:

- (1) Illicit discharges contain pollutants that will significantly degrade the water bodies and water resources of the township, thus threatening the health, safety, and welfare of the citizenry.
- (2) Illicit discharges enter the stormwater drainage system through either direct connections (e.g., wastewater piping either mistakenly or deliberately connected to the storm drains) or indirect connections (e.g., infiltration into the storm drain system or spills connected by drain inlets).
- (3) Establishing the measures for controlling illicit discharges and connections contained in this article and implementing the same will address many of the deleterious effects of illicit discharges.
- (4) Any condition caused or permitted to exist in violation of any of the provisions of this article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance.

(Ord. No. 05-06, § 1.02, 10-17-05)

Sec. 18-58. Purpose.

It is the purpose of this article to establish minimum stormwater management requirements and controls to accomplish, among others, the following objectives:

- (1) To regulate the contribution of pollutants to the stormwater drainage system and water bodies by stormwater discharges by any user.
- (2) To prohibit illicit discharges and connections to the stormwater drainage system and water bodies.
- (3) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this article.
- (4) To provide appropriate remedies for failure to comply with this article.

(Ord. No. 05-06, § 1.03, 10-17-05)

Sec. 18-59. Applicability and general provisions.

This article shall apply to all discharges entering the stormwater drainage system and water bodies generated on any developed and undeveloped lands.

(Ord. No. 05-06, § 1.04, 10-17-05)

Sec. 18-60. Definitions.

For the purpose of this article, the following words and phrases shall have the meanings respectively ascribed to them by this section, unless the context in which they are used specifically indicates otherwise:

Authorized enforcement agency: The Charter Township of Muskegon, and/or any persons or agencies designated by them to act as the authorized enforcement Agency by the Charter Township of Muskegon.

Best management practices (BMPs): Structural devices or nonstructural practices that are designed to prevent pollutants from entering stormwater flows, to direct the flow of stormwater, or to treat polluted stormwater flows. BMPs may include, but shall not be limited to, those described in the Michigan Department of Environmental Quality Guidebook of BMPs for Michigan watersheds. Equivalent practices and design criteria that accomplish the purposes of this article (including, but not limited to, minimizing stormwater runoff and preventing the discharge of pollutants into stormwater) shall be as determined by the township's public works director.

Clean Water Act: The Federal Water Pollution Control Act, 33 USC Section 1251 et seq., as amended, and the applicable regulations promulgated thereunder.

Discharge: means the introduction (intentionally or unintentionally, and directly or indirectly) of any liquid, substance, pollutant, or other material into a stormwater drainage system or water body.

Discharger: Any person who directly or indirectly discharges stormwater from any premises. Discharger also includes any employee, officer, director, partner, contractor, or other person who participates in, or is legally or factually responsible for, any act or omission that is, or results in, a violation of this article.

Drain: Any and all conduits, facilities, measures, areas, and structures that serve to convey, catch, hold, filter, store, and/or receive stormwater or groundwater, either on a temporary or permanent basis.

Drainage: The collection, conveyance, or discharge of groundwater and/or surface water.

Drainageway: A drain, water body, or floodplain.

EPA: The U.S. Environmental Protection Agency (EPA).

Floodplain: The area, usually low lands, adjoining the channel of a river, stream, or watercourse or lake, or other body of standing water, that has been or may be covered by floodwater.

Hazardous materials: Any solid, liquid, semisolid, or gaseous substance or material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed.

Illicit connection: Any method, means, or conduit for conveying an illicit discharge into a water body or a stormwater drainage system.

Illicit discharge: Any discharge to a water body or a stormwater drainage system that does not consist entirely of stormwater, that is not authorized by the terms of an NPDES permit, or that is not an authorized discharge as defined by this article.

MDEQ: Michigan Department of Environmental Quality.

National Pollutant Discharge Elimination System (NPDES) Permit: A permit issued by the EPA or a state under authority delegated pursuant to the Clean Water Act that authorizes the discharge of pollutants to waters of the United States.

Non-stormwater discharge: Any discharge to the stormwater drainage system or a water body that is not composed entirely of stormwater.

Person: An individual, firm, partnership, association, public or private corporation, public agency, instrumentality, or any other legal entity.

Pollutant: The term pollutant includes, but is not limited to, the following: any dredged spoil, solid waste, vehicle fluids, yard wastes, animal wastes, agricultural waste products, sediment, incinerator residue, sewage,

garbage, sewage sludge, munitions, chemical wastes, biological wastes, radioactive materials, hazardous materials, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, commercial, and agricultural waste, or any other contaminant or other substance defined as a pollutant under the Clean Water Act. Pollutant also includes properties or characteristics of water, including, but not limited to, pH, heat, TSS (total suspended solids), turbidity, color, BOD (biochemical oxygen demand), COD (chemical oxygen demand), toxicity, and odor.

Premises: Any building, structure, lot, parcel of land, or portion of land, or property, whether improved or unimproved, including adjacent sidewalks and parking strips.

Property owner: Any person having legal or equitable title to premises or any person having or exercising care, custody, or control over any premises.

State of Michigan Water Quality Standards: All applicable state rules, regulations, and laws pertaining to water quality, including the provisions of Section 3106 of Part 31 of 1994 PA 451, as amended.

Stormwater drainage system: Storm sewers, conduits, curbs, gutters, catch basins, drains, ditches, pumping devices, parking lots, roads, or other man-made channels that are designed or used, singly or together in combination with one another, for collecting or conveying stormwater.

Stormwater pollution prevention plan: A document, that describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, a stormwater drainage system, and/or a water body to the maximum extent practicable.

Stormwater runoff (or stormwater): The runoff and drainage of precipitation resulting from rainfall, snowmelt, or other natural event or process.

Toxic material: Any pollutant or combination of pollutants that is or can potentially be harmful to the public health or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the Michigan Department of Environmental Quality, or as otherwise provided by local, state, or federal laws, rules, or regulations.

Wastewater: Any water or other liquid, other than uncontaminated stormwater, discharged from a premises. The term includes any water that has in any way been used and degraded or physically or chemically altered.

Water body: A river, lake, stream, creek, or other watercourse or wetlands.

(Ord. No. 05-06, § 1.05, 10-17-05)

Secs. 18-61—18-75. Reserved.

DIVISION 2. PROHIBITIONS AND AUTHORIZATIONS

Sec. 18-76. Prohibited discharges.

- (1) It is unlawful for any person to discharge, or cause to be discharged, to a stormwater drainage system or water body any substance or material, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater or an authorized discharge. This prohibition includes the commencement, conducting, or continuance of any illicit discharge by any person to a stormwater drainage system or water body.
- (2) Any person discharging stormwater shall effectively prevent pollutants from being discharged with the stormwater, except in accordance with BMPs.

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- (3) The authorized enforcement agency is authorized to require dischargers to implement pollution prevention measures, using stormwater pollution prevention plans and BMPs, as determined necessary by the authorized enforcement agency to prevent or reduce the discharge of pollutants to a stormwater drainage system or water body.
 - (4) The discharge prohibitions of this section shall not apply to any non-stormwater discharge authorized under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the EPA, provided the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the stormwater drainage system.

(Ord. No. 05-06, § 2.01, 10-17-05)

Sec. 18-77. Prohibited illicit connections.

- (1) It is unlawful for any person to construct, use, maintain (or to allow the construction, use, maintenance or continued existence of) an illicit connection.
- (2) This prohibition expressly includes, without limitation, illicit connections made prior to the effective date of the ordinance from which this article derives, and regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

(Ord. No. 05-06, § 2.02, 10-17-05)

Sec. 18-78. Authorized discharges.

The following non-stormwater discharges are permissible, but only if they do not result in a violation of State of Michigan water quality standards and provided that they are undertaken in compliance with any applicable or required BMPs:

- (1) Water supply line flushing.
- (2) Landscape irrigation runoff.
- (3) Diverted stream flows.
- (4) Rising groundwater.
- (5) Uncontaminated groundwater infiltration to storm drains.
- (6) Uncontaminated pumped groundwater.
- (7) Discharges from potable water sources.
- (8) Foundation drains.
- (9) Air conditioning condensate.
- (10) Irrigation water.
- (11) Springs.
- (12) Water from crawl space pumps.
- (13) Footing drains and basement sump pumps.
- (14) Lawn watering runoff.
- (15) Waters from noncommercial car washing.

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- (16) Flows from riparian habitats and wetlands.
 - (17) Residential swimming pool water and other dechlorinated swimming pool water, provided that any filter backwash water that is present is treated.
 - (18) Residual street wash water.
 - (19) Discharges or flows from emergency fire fighting activities.
 - (20) Discharges specifically authorized in writing by the authorized enforcement Agency as being necessary to protect public health, welfare, and safety or the environment.

(Ord. No. 05-06, § 2.03, 10-17-05)

Sec. 18-79. Storage of hazardous or toxic materials in drainageway.

Except as permitted by law, it shall be unlawful for any person to store or stockpile, within a drainageway, any hazardous or toxic materials, unless adequate protection and/or containment has been provided so as to prevent any such materials from entering a stormwater drainage system or water body.

(Ord. No. 05-06, § 2.04, 10-17-05)

Secs. 18-80—18-95. Reserved.

DIVISION 3. INSPECTION, MONITORING, REPORTING, AND RECORD KEEPING

Sec. 18-96. Inspection and sampling.

The authorized enforcement agency may inspect and/or obtain samples from any discharger's premises as necessary to determine compliance with the requirements of this article. Upon request, the discharger shall allow properly identified representatives of the authorized enforcement agency to enter the premises of the discharger at all hours necessary for the purposes of such inspection or investigation, including, but not limited to, smoke/dye testing, television pipes, sampling, and excavation. The authorized enforcement agency shall provide the discharger reasonable advance notice of the need for such access, if possible and consistent with protection of public health and safety and the environment. The properly identified representatives may place on the discharger's premises the equipment or devices used for such sampling or inspection. Unreasonable delays in allowing access to a premises is a violation of this article.

(Ord. No. 05-06, § 3.01, 10-17-05)

Sec. 18-97. Stormwater monitoring facilities.

If directed in writing to do so by the authorized enforcement agency, a discharger of stormwater runoff from any premises used for commercial or industrial purposes shall provide and operate equipment or devices for the monitoring of stormwater runoff to provide for inspection, sampling, and flow measurement of each discharge to a water body or a stormwater drainage system, as specified by the authorized enforcement agency. The authorized enforcement agency may require a discharger to provide and operate such equipment and devices if it is necessary or appropriate for the inspection, sampling, and flow measurement of discharges in order to determine whether adverse effects from, or as a result of, such discharges may occur. All such equipment and devices for the inspection, sampling, and flow measurement of discharges shall be installed and maintained at the discharger's expense in accordance with applicable laws, ordinances, and regulations.

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(Ord. No. 05-06, § 3.02, 10-17-05)

Sec. 18-98. Accidental discharges.

Any discharger who accidentally discharges into a stormwater drainage system or a water body any substance other than stormwater or an authorized discharge shall immediately notify the authorized enforcement agency of the discharge. If the notification is given orally, a written report concerning the discharge shall be filed with the authorized enforcement agency within five days. The written report shall specify all of the following:

- (1) The composition of the discharge and the cause thereof.
- (2) The exact date, time, and estimated volume of the discharge.
- (3) All measures taken to clean up the discharge, all measures taken or proposed to be taken to mitigate any known or potential adverse impacts of the discharge, and all measures proposed to be taken to reduce and prevent any recurrences.
- (4) The names and telephone numbers of the individual making the report, and (if different) the individual who may be contacted for additional information regarding the discharge.

(Ord. No. 05-06, § 3.03, 10-17-05)

Sec. 18-99. Record keeping requirement.

Any person that violates any requirement of this article or that is subject to monitoring under this article shall retain and preserve for no less than three years any and all books, drawings, plans, prints, documents, memoranda, reports, correspondence, and records, including records on magnetic or electronic media, and any and all summaries of such records relating to monitoring, sampling, and chemical analysis of any discharge or stormwater runoff from any premises connected with the violation or subject to monitoring.

(Ord. No. 05-06, § 3.04, 10-17-05)

Secs. 18-100—18-115. Reserved.

DIVISION 4. ENFORCEMENT

Sec. 18-116. Sanctions for violation.

- (1) *Violation; misdemeanor.* Except as provided by subsection (6), and notwithstanding any other provision of the township's laws, ordinances, and regulations to the contrary, a violation of any provision of this article (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the authorized enforcement agency under this article) is a misdemeanor, and upon conviction the defendant shall be subject to payment of a civil fine of not less than \$100.00 per day for each infraction plus costs and other sanctions, including no more than 90 days in jail.
- (2) *Repeat offenses; increased fines.* Increased fines may be imposed for repeat offenses. As used in this section, "repeat offense" means a second (or any subsequent) violation of the same requirement or provision of this article (i) committed by a person within any 12-month period and (ii) for which the person admits guilt or is determined to be guilty. The increased fine for a repeat offense under this article shall be as follows:
 - (a) The fine for any offense that is a first repeat offense shall be not less than \$200.00 per day, plus costs.

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- (b) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$300.00 per day plus costs.
- (3) *Amount of fines.* Subject to the minimum fine amounts specified in subsections (2)(a) and (2)(b), the following factors shall be considered by a court in determining the amount of a fine following the conviction for a violation of this article: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- (4) *Authorized local official.* Notwithstanding any other provision of the township's laws, ordinances, and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations (directing alleged violators to appear in district court) and/or notices (directing alleged violators to appear at the township's municipal violations bureau, as applicable) for violations of this article (in addition to any other persons so designated by the authorized enforcement agency): the director of public works; or his/her designee, and any Muskegon Township police officer.
- (5) *Intentional violation; false statements.* Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this article, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the authorized enforcement agency under this article; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this article, or in any other correspondence or communication, written or oral, with the authorized enforcement agency regarding matters regulated by this article; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this article; or (4) commits any other act that is punishable under state law by imprisonment for more than 90 days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to 90 days, or both in the discretion of the court.
- (6) *Aiding in violation.* Any person who aids or abets another person in a violation of this article shall be subject to the sanctions provided in this section.

(Ord. No. 05-06, § 4.01, 10-17-05)

Sec. 18-117. Failure to comply; completion.

The authorized enforcement agency is authorized, after giving reasonable notice and opportunity for compliance, to correct any violation of this article or damage or impairment to the stormwater drainage system caused by a discharge and to bill the person causing the violation or discharge for the costs of the work to be reimbursed. The costs reimbursable under this section shall be in addition to fees, amounts or other costs and expenses required to be paid to the authorized enforcement agency under other sections of this article.

(Ord. No. 05-06, § 4.02, 10-17-05)

Sec. 18-118. Emergency measures.

If emergency measures are necessary to respond to a nuisance; to protect public safety, health, and welfare; and/or to prevent loss of life, injury, or damage to property, the authorized enforcement agency is authorized to carry out or arrange for all such emergency measures. Property owners shall be responsible for the cost of such

measures made necessary as a result of a violation of this article, and shall promptly reimburse the township for all of such costs.

(Ord. No. 05-06, § 4.03, 10-17-05)

Sec. 18-119. Cost recovery for damage to stormwater drainage system.

Any person who discharges to a stormwater drainage system or a water body, including, but not limited to, any person who causes or creates a discharge that violates any provision of this article, produces a deposit or obstruction or otherwise damages or impairs a stormwater drainage system, or causes or contributes to a violation of any federal, state, or local law governing the township, shall be liable to and shall fully reimburse the township for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the township as a result of any such discharge, deposit, obstruction, damage, impairment, violation, exceedence or noncompliance. The costs that must be reimbursed to the township shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the township in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, exceedence or noncompliance.
- (2) All costs to the township of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, exceedence, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the township, or any township representative, by any governmental agency or third party as a result of a violation of applicable laws or regulations that is caused by or contributed to by any discharge, violation, exceedence, or noncompliance.
- (4) The full value of any township staff time (including any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the township's legal counsel and any special legal counsel), associated with responding to, investigating, verifying, and prosecuting any discharge, violation, exceedence or noncompliance, or otherwise enforcing the requirements of this article.

(Ord. No. 05-06, § 4.04, 10-17-05)

Sec. 18-120. Collection of costs; lien.

- (1) Costs incurred by the township pursuant to sections 18-117, 18-118, and subsection 18-121(1) shall constitute a lien on the premises, which shall be enforceable in accordance with Act No. 94 of the Public Acts of 1933, as amended from time to time, or as otherwise authorized by law. Any such charges that are delinquent for six months or more may be certified annually to the township treasurer, who shall enter the lien on the next tax roll against the premises, the costs shall be collected, and the lien shall be enforced in the same manner as provided for in the collection of taxes assessed upon the roll and the enforcement of a lien for taxes. In addition to any other lawful enforcement methods, the township shall have all remedies authorized by Act No. 94 of the Public Acts of 1933, as amended, and by other applicable laws.
- (2) The failure by any person to pay any amounts required to be reimbursed to the township as provided by this article shall constitute an additional violation of this article.

(Ord. No. 05-06, § 4.05, 10-17-05)

Sec. 18-121. Suspension of access to the stormwater drainage system.

- (1) *Suspension due to illicit discharges in emergency situations.* The authorized enforcement agency may, without prior notice, suspend access to the stormwater drainage system to any person or premises when such suspension is necessary to stop an actual or threatened discharge that presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the stormwater drainage system or a water body. If the person fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or the environment, or to minimize danger to persons, and bill the person for the costs to the township in taking such steps.
- (2) *Suspension due to the detection of illicit discharge.* Any person discharging to the stormwater drainage system in violation of this article may have their access to the system terminated, if the authorized enforcement agency determines that such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its access. It shall be unlawful for any person to reinstate access of the stormwater drainage system to a premises terminated pursuant to this section without the prior written approval of the authorized enforcement agency.

(Ord. No. 05-06, § 4.06, 10-17-05)

Sec. 18-122. Judicial relief.

With the approval of the Charter Township of Muskegon, the authorized enforcement agency may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this article or of any permit, order, notice or agreement issued or entered into under this article. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The authorized enforcement agency may also seek collection of fines, penalties and any other amounts due to the township that a person has not paid.

(Ord. No. 05-06, § 4.07, 10-17-05)

Sec. 18-123. Cumulative remedies.

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this article, or of any permit, order, notice or agreement issued, or entered into under this article, shall not preclude the imposition by the township, the authorized enforcement agency, or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

(Ord. No. 05-06, § 4.08, 10-17-05)

Secs. 18-124—18-140. Reserved.

DIVISION 5. PERFORMANCE AND DESIGN STANDARDS

Sec. 18-141. Responsibility to implement BMPs.

The owner or operator of a premises used for commercial or industrial purposes shall provide, at the owner or operator's own expense, reasonable protection from an accidental discharge of prohibited materials or other wastes into the stormwater drainage system or water body through the use of structural and nonstructural BMPs. Further, any person responsible for a premises that is, or may be, the source of an illicit discharge may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the stormwater drainage system or water body. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section.

(Ord. No. 05-06, § 5.01, 10-17-05)

Secs. 18-142—18-155. Reserved.

DIVISION 6. MISCELLANEOUS PROVISIONS

Sec. 18-156. Interpretation.

Words and phrases in this article shall be construed according to their common and accepted meanings, except those words and phrases defined in section 18-60 shall be construed according to the respective definitions given in that section. Technical words and technical phrases not defined in this article, but which have acquired particular meanings in law or in technical usage, shall be construed according to such meanings.

(Ord. No. 05-06, § 6.01, 10-17-05)

Sec. 18-157—18-174. Reserved.

ARTICLE IV. WOOD-FIRED BOILERS, STOVES AND FURNACES

Sec. 18-175. Definitions.

- (a) *Outdoor wood-fired boiler, stove or furnace* means a structure that:
- (1) Is designed, intended, or used to provide heat and/or hot water to any residence or other structure;
 - (2) Operates by the burning of wood or other solid fuel; and
 - (3) Is not located within a structure to be heated.

(Ord. No. 10-12, § 2, 12-6-10)

Sec. 18-176. Regulations.

- (a) No person shall install, use or maintain an outdoor wood-fired boiler, stove or furnace unless a permit is obtained from the Muskegon Township building inspector, mechanical inspector, plumbing inspector and electrical inspector. A permit application shall include a drawing providing location and identifying all of the

information necessary to assure compliance herewith and a copy of the manufacturer's instructions and specifications and the approval of an approved testing agency.

- (b) Outdoor wood-fired boilers, stoves or furnaces shall only be permitted in areas zoned RR and R1 with two acres or more as shown on the Muskegon Township zoning map, and the location of the stove must be a minimum of 300 feet to the nearest point of another residential structure.
- (c) Outdoor wood-fired boilers, stoves or furnaces shall not be placed less than 50 feet from any property line.
- (d) Outdoor wood-fired boilers, stoves or furnaces shall be placed in such a manner as to maintain a setback from any other structure of at least ten feet or as per manufacturer's specifications or installation instructions, whichever is greater.
- (e) Outdoor wood-fired boilers, stoves or furnaces shall not be located in any required front yard with the exception of waterfront properties.
- (f) Outdoor wood-fired boilers, stoves or furnaces shall have a chimney that extends at least 12 feet above the ground surface. The building or mechanical inspector may approve a lesser height on a case-by-case basis if necessary to comply with manufacturer's recommendations and if the smoke from the lower chimney height does not create a nuisance for neighbors.
- (g) Fuel. No fuel other than natural wood without additives, wood pellets without additives, agricultural seeds in their natural state, and manufacturer's approved fuel may be burned.
- (h) The following materials are specifically prohibited from burning:
 - (1) Rubbish or garbage, including, but not limited to, food waste, food wraps, packaging, animal carcasses, paint or painted materials, furniture composite, shingles, construction or demolition debris or other household or business wastes.
 - (2) Waste oil or other oily wastes.
 - (3) Asphalt and products containing asphalt.
 - (4) Rubber, including tires and synthetic rubber-like products.
 - (5) Treated or painted wood including, but not limited to, plywood, composite wood products or other wood products that are painted, varnished or treated with preservatives.
 - (6) Any plastic material, but not limited to, nylon, PVC, ABS, polystyrene or urethane foam and synthetic fabrics, films and plastic containers.
 - (7) Newspaper, corrugated cardboard, container board or office paper (unless used exclusively to start a fire).
 - (8) Leaves or grass clippings.
 - (i) The building official has the authority to deny any application based on his review of the plans submitted that does not apply to the article. In such case, a written explanation citing reasons of denial will be mailed to the applicant.

(Ord. No. 10-12, § 3, 12-6-10)

Sec. 18-177. Existing outdoor wood-fired boilers, stoves and furnaces.

- (a) An outdoor furnace in existence prior to adoption of this article shall not be permitted within the township unless it complies with the following regulations:

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- (1) Nonconforming outdoor furnaces which were in existence prior to adoption of this article may remain, provided they were installed according to manufacturer's instructions and permits were obtained through Muskegon Charter Township inspection department in accordance with subsection 18-176(a).

(Ord. No. 10-12, § 4, 12-6-10)

Sec. 18-178. Right of entry and inspection.

Upon receipt of a report or complaint that there has been a violation of this article, the building inspector or any authorized officer, agent, employee or representative of Muskegon Charter Township who presents credentials shall be allowed to inspect any property for the purpose of ascertaining compliance with the provisions of this article.

(Ord. No. 10-12, § 5, 12-6-10)

Sec. 18-179. Enforcement and penalties.

- (a) Authority to enforce this article is hereby given to the building inspector of Muskegon Charter Township or his or her designee.
- (b) Any person, partnership, firm, association, or corporation who violates any of the provisions of this article or fails to comply with a duly authorized order issued pursuant to this article shall be deemed to be responsible for a municipal civil infraction, which shall be punishable by a fine as determined from time to time by resolution of the Muskegon Charter Township board.
- (c) Each day that such a violation continues shall be deemed a separate violation of this article.
- (d) Muskegon Charter Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article and applicable statutes. If court proceedings are pursued, the owner of the property found not to be in compliance with this article shall be responsible for the costs and attorney fees incurred by Muskegon Charter Township in enforcing this article, which may be collected as a lien against the property.

(Ord. No. 10-12, § 5, 12-6-10)

Chapter 22 FIRE PREVENTION AND PROTECTION¹⁶

ARTICLE I. IN GENERAL

Secs. 22-1—22-25. Reserved.

¹⁶Cross reference(s)—Buildings and building regulations, ch. 6; zoning, ch. 58.

State law reference(s)—State fire prevention act, MCL 29.1 et seq., MSA 4.559(1) et seq.; crimes related to explosives and bombs, MCL 750.200 et seq., MSA 28.397 et seq.; crimes related to fires, MCL 750.240 et seq., MSA 28.437 et seq.

ARTICLE II. FIRE DEPARTMENT¹⁷

Sec. 22-26. Created.

A department to be known as the township fire department, the object of which shall be the prevention of fire and the protection of life and property within the limits of the township, is hereby created.

(Ord. No. 1, 1-17-49)

Sec. 22-27. Composition, chain of command.

The fire department may consist of:

- (1) One fulltime chief.
- (2) One fulltime deputy chief.
- (3) One fulltime assistant chief.
- (4) Fulltime captains.
- (5) Fulltime fire inspectors.
- (6) Fulltime lieutenants.
- (7) Fulltime firemen.
- (8) Part paid officers.
- (9) Part paid firefighters.

This section will be referred to as the chain of command.

(Ord. No. 1, § I(1), 1-17-49; Ord. of 2-20-96, § 3)

Sec. 22-28. Accountability of personnel.

- (a) The fire chief shall be held accountable to the township board only, and shall submit written or verbal reports thereto as the board may require. All other officers and firefighters will be directly accountable to the chief, through the chain of command. However, if normal chain of command contact and result is unsatisfactory in any individual case, the chief may be consulted.
- (b) The firefighter on duty or driver of the apparatus will be the officer in charge until a higher ranking officer reports, according to the chain of command.

(Ord. No. 1, § I(2), 1-17-49)

¹⁷Editor's note(s)—Many sections of Ordinance No. 1 of 1-17-49 have not been printed in this Code because they refer to policy matters that are properly addressed by resolution or procedural manuals.

Sec. 22-29. Procedures to establish part paid officers.

Part paid officers will be tested and recommended by the chief and appointed by the township board.

(Ord. No. 1, § I(3), 1-17-49)

Sec. 22-30. Duties of chief, officers.

- (a) The fire department officers shall formulate one set of rules and regulations approved by the township board to govern the department and shall be responsible to the township board for the personnel, moral and general efficiency of the department.
- (b) The township board shall determine the number and kind of districts of which the department shall be composed.
- (c) The chief shall at least once a month conduct suitable drills or instruction in the operation and handling of equipment, first aid, and rescue work, salvage, a study of the buildings in the township, fire prevention, water supplies and all other matters generally considered essential to good firemanship and safety of life and property from fire.
- (d) The chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigating or causing to be investigated the cause, origin, and circumstances of all fires.
- (e) The chief is hereby empowered to enter any and all buildings and premises at any reasonable hour for the purpose of making inspection and served written notice upon the owner or occupant to abate, within a specified time, any and all fire hazards that may be found.
- (f) Any person so served with a notice to abate any fire hazard or hazards shall comply therewith and promptly notify the chief.
- (g) The chief shall see that complete records are kept of all fires, inspections, apparatus, and minor equipment, personnel, and other information about the work of the department.
- (h) The chief shall make a complete annual report to the board within one month after the close of the fiscal year, such report to include comparative data for previous years and recommendations for improving the effectiveness of the department.
- (i) The chief shall be empowered to delegate his authority to any firefighter he may select to carry out any duty.

(Ord. No. 1, § II, 1-17-49)

Sec. 22-31. Membership.

- (a) The membership of the fire department shall consist of such persons as may be hired by the township board upon recommendation of the fire chief.
- (b) Any member of the district may be suspended or discharged from the department by the chief for good cause.

(Ord. No. 1, § III, 1-17-49)

Sec. 22-32. Equipment.

- (a) The fire department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and properly protect life and property from fire.
- (b) Recommendations of apparatus and equipment needed shall be made by the chief, and after approval by the township board shall be purchased in such manner as may be designated by the township board.
- (c) All equipment of the department shall be safely and conveniently housed in such places as may be designated by the board and the chief. Such places shall be heated during the winter season.
- (d) Suitable arrangement or equipment shall be provided for citizens to turn in an alarm, and for notifying all members of the department so that they may promptly respond.
- (e) No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the department. People leaving the department must turn in the equipment that belongs to the township.
- (f) No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the department unless accompanied by or having the special permission of the township officer or authorized member of the department.
- (g) The township board only shall enter into agreements or contracts with nearby incorporated communities or governing bodies of other organizations to provide the members of such communities or organizations with fire protection or to establish a mutual aid system.
- (h) No apparatus shall be hired out or permitted to leave the township, except in response to a call for fire or aid in a neighboring community, without the consent of the chief. The chief or assistant chief shall have the power to assign equipment for response to calls for outside aid and in other cases only when the absence of such equipment will not jeopardize protection in this township.

(Ord. No. 1, § IV, 1-17-49)

Sec. 22-33. Special officers.

- (a) It is hereby made the special duty of the police, constable and/or other peace officers who may be on duty and may be available for fire duty to respond to all fire alarms and assist the fire department in the protection of life and property, in regulating traffic, maintaining order and in enforcing observance of all sections of this article.
- (b) The department may elect a president, first vice-president, second vice-president, recording secretary, financial secretary, treasurer, sergeant-at-arms, chaplain, and a board of auditors (or trustees). The term of auditor (or trustee) shall be for three years, and the term of senior auditor (or trustee) shall expire coterminously with the other officers. The functions and duties of the social officers shall not interfere with those of the regular department officers who are charged with responsibility for all fire service activities of the department.

(Ord. No. 1, § V, 1-17-49)

Sec. 22-34. Compensation of firefighters.

All firefighters shall be paid at a rate prescribed by the township board and in concurrence with the current contract with the legally designated bargaining unit.

(Ord. No. 1, § VI, 1-17-49)

Secs. 22-35—22-55. Reserved.

ARTICLE III. FIRE PREVENTION CODES

Sec. 22-56. Adoption.

- (a) The township adopts, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire, hazardous materials or explosion, and for all other relevant purposes, that certain code known as the International Fire Code, 2018 edition, and its appendices. The said adoption of the said code is made by this section.
- (b) Wherever there is a conflict between the 2018 International Fire Code and the 2018 Michigan Building Code, the requirements set forth in the building code shall prevail.
- (c) In addition to the definitions set forth in the International Fire Code, the following definitions apply:
 - (1) Wherever the word "jurisdiction" or "name of jurisdiction" is used in the International Fire Code, it shall be held to mean the Charter Township of Muskegon.
 - (2) Wherever the words "code official" are used in the International Fire Code, they shall be held to mean the township fire chief, township deputy fire chief, township fire marshal, or the position of township fire inspector, for the Charter Township of Muskegon.

(Ord. No. 10D, §§ 1—4, 2-6-89; Ord. No. 10E, 1-4-93; Ord. No. 10F, §§ 1, 2, 6-19-95; Ord. No. 98-7, 5-18-98; Ord. No. 02-3, § 1, 4-1-02; Ord. No. 03-03, § 1, 5-19-03; Ord. No. 04-01, § 2, 4-19-04; Ord. No. 08-03, § 2, 9-2-08; Ord. No. 11-04, § 1, 3-7-11; Ord. No. 15-02, § 1, 1-20-15 ; Ord. No. 17-05 , § 2, 3-20-17; Ord. No. 19-45 , 11-18-19)

Secs. 22-57—22-75. Reserved.

ARTICLE IV. HAZARDOUS MATERIALS

Sec. 22-76. 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:

Dangerous or hazardous substance or material means any substance which is spilled, leaked or otherwise released from its container, which, in the determination of the fire chief or his authorized representative is dangerous or harmful to the environment or human or animal life, health or safety, or is obnoxious by reason of odor, or constitutes a danger or threat to the public health, safety or welfare. Included, but not by way of limitation, are such substances as chemicals and gases, explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiologic (biologic) agents, flammables and corrosives.

Responsible party means any person or entity who owns, possesses, controls and/or operates the property, equipment, vehicle or vessel upon which or which causes or contributes to a dangerous or hazardous condition, including but not limited to spilling, leakage or any release of substance from its container, which constitutes risk of danger or harm as set forth in the preceding paragraph.

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Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 22-77. Purpose.

This article enables the township to require reimbursement from those responsible for the leaking, spilling or otherwise allowing certain dangerous or hazardous substances or materials to escape containment, thereby requiring cleanup and disposal by the township or its agents.

Sec. 22-78. Duty to remove and clean up.

It shall be the duty of any responsible party to immediately remove the dangerous or hazardous substance and to clean up the area of spillage, leakage or other release of substance in such manner that the area involved is fully restored to its condition before such happening.

Sec. 22-79. Failure of responsible party to remove and clean up; abatement by township.

- (a) Any responsible party which fails to comply with its duty to clean up or remove a hazardous or dangerous substance, as set forth in section 22-78, shall be liable to and shall pay the township for its costs and expenses, including the costs incurred by the township to any party which it engages, for the complete abatement, cleanup and restoration of the affected area. Costs incurred by the township shall include, but shall not necessarily be limited to, the following: actual labor costs of township personnel, including worker's compensation benefits, fringe benefits, administrative overhead; cost of equipment operation; cost of materials obtained directly by the township for use in the cleanup; and cost of any contract labor and materials.
- (b) Costs under this section shall not include actual fire suppression services which are normally or usually provided by the township.

Secs. 22-80—22-100. Reserved.

ARTICLE V. FIRE AND EMERGENCY SERVICES

Sec. 22-101. 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:

Fire department response means coming to the scene of a fire or spill, traffic or vehicular accident, or hazardous condition, or any investigation in connection with a fire, spill accident or hazardous condition.

Hazardous condition means downed utility lines or gas leaks.

Investigation means gathering of evidence or data in connection with arson investigations, or special investigations required to determine the responsibility of persons for fires, spills, accidents or hazardous conditions. Investigations do not include the normal investigation made after a fire necessary for the completion of an ordinary fire or incident report.

Spill means the uncontrolled deposit or release at any location of hazardous or toxic materials which may endanger human or animal health or life, or which may present the danger of property damage. The word "spill" includes the term "discharge."

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 22-102. Purpose.

This article is adopted to provide reimbursement to the township for costs incurred by the township relative to certain fire and emergency services rendered by the fire department of the township.

Sec. 22-103. Charges for services.

Pursuant to the authority granted by Act No. 33 of the Public Acts of Michigan of 1951 (MCL 41.801 et seq., MSA 5.2640(1) et seq.), as amended, the township may render charges to persons or properties served by the township fire department for certain specific services for conditions described as follows:

- (1) Any fire department response to a fire started by a property owner or person, such as a controlled brush fire or other open burning, which becomes uncontrolled.
- (2) Any fire department response to any open burning for which the fire department has been called to assist by the person or property owner starting or attending to it, whether or not the fire becomes uncontrolled.
- (3) Any fire department response requiring containment, abatement or any safety measure in connection with a hazardous or toxic material spill. Charges in such case shall be made to the person responsible for the spill, whether or not the spill occurs on the property of the responsible party. The responsibility for a spill includes spills caused by the person as well as any spill from a vehicle, building or other instrumentality, owned, occupied or utilized by the person, regardless of fault.
- (4) Any fire department response to a traffic or vehicular accident, including but not limited to the control of fires or spills, safety measures, traffic direction, assistance to injured persons or ambulance crews, or extraction of persons from vehicles.
- (5) Any fire department response including an investigation of a cause of a fire or hazardous or toxic material spill.
- (6) Any fire department response for hazardous conditions.
- (7) The cost of copies for fire department reports generated for any person, except for governmental entities.
- (8) Any fire department response to provide medical services.
- (9) Any fire department response to a vehicle fire whether or not related to an accident.

(Ord. No. 98-14, 7-20-98)

Sec. 22-104. Exemption.

No charges shall be made against the township in connection with any responses or investigations. If incidents requiring charges occur on property owned, maintained or used by the township, charges may be made against persons who may be determined responsible for the incident, except township officers, employees or volunteers.

Sec. 22-105. Responsibility for charges.

Persons responsible for charges shall include:

- (1) Persons who caused the condition.

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- (2) Property owners or occupants of property upon which the conditions exist.
 - (3) Owners or lessees of instrumentalities involved in the condition, such as vehicle owners, utility or gas companies.
 - (4) Parties benefitted by services such as parties aided in vehicular extrications, rescues, etc.
 - (5) Insurers or guarantors for persons responsible or benefitted.
 - (6) The responsible parent or guardian of minors who caused the condition leading to charges.
 - (7) When a particular service rendered by the fire department directly benefits more than one person or property, the owner of each property so benefitted and/or each person so benefitted if property protection is not involved, shall be liable for the payment of the full charge for service here and before outlined. The interpretation and application of the within section is delegated to the township fire chief, and shall be administered so charges and billings shall be collected from beneficiaries or the recipients of the service.

(Ord. No. 98-14, 7-20-98)

Sec. 22-106. Payment for services.

The township may bill persons or corporations determined to be responsible for the incident charged for, or owners of property, for amounts set forth in the resolution determining charges. All bills rendered for charges shall be paid within 30 days of the mailing of the billing.

Charges billed by the township may include costs from other departments or agencies which have provided assistance at the time of the incident or condition leading to charges being assessed, and upon receipt of the payments due from the assessed party or parties the township will then forward the payment to the appropriate department or agency.

(Ord. No. 98-14, 7-20-98)

Sec. 22-107. Creation of lien on property.

In cases where services have been rendered to a property or property owner, the charges shall constitute a lien on the property, including both real and personal property. If not paid within 30 days after the same is due, the township treasurer shall, prior to September 1 of each year, certify to the tax assessing officer of the township the facts of such delinquency, whereupon the assessor shall enter the delinquent amount on the next general tax roll as a charge against the property, and the liens thereupon shall be enforced in the same manner as provided by law for delinquent and unpaid taxes.

Sec. 22-108. Additional methods of collection.

Notwithstanding the foregoing sections of this article, the township shall be empowered to initiate proceedings in any court of competent jurisdiction to collect the service costs as a matured debt of the township.

Sec. 22-109. Charges determined by resolution.

Charges for fire department services enumerated in this article shall be determined by resolution of the township board.

Chapter 26 LAW ENFORCEMENT¹⁸

ARTICLE I. IN GENERAL

Secs. 26-1—26-25. Reserved.

ARTICLE II. POLICE DEPARTMENT

DIVISION 1. GENERALLY

Sec. 26-26. Established; composition.

There is hereby reorganized and established the township police department which shall be composed of a police chief, patrol officers and such other officers and personnel as may be deemed a requirement by the township board for the proper and efficient operation and maintenance of the department.

(Ord. No. 24, § II, 2-3-69)

Sec. 26-27. Rules and regulations.

The township board shall from time to time by resolution make and establish rules and regulations for the governing of the employees and officers of the police department, their appointment and compensation, and for the care and management of the motor vehicles, equipment, property and buildings pertaining thereto as shall be necessary for the proper and efficient operation and maintenance of the police department, and shall prescribe the duties of the officers and employees thereof.

(Ord. No. 24, § III, 2-3-69)

Sec. 26-28. Employment criteria.

The township hereby adopts state law enforcement officer training council guidelines and criteria for employment of all sworn law enforcement personnel.

Sec. 26-29. Powers of officers.

Township police officers appointed under this article shall have and possess the powers conferred upon them by state law. Such officers are declared to be peace officers and traffic officers with the duty and authority to preserve peace and good order and to enforce traffic laws in the same manner as deputy sheriffs.

¹⁸Cross reference(s)—Offenses, ch. 30; traffic and vehicles, ch. 50.

(Ord. No. 24, § IV, 2-3-69)

Secs. 26-30—26-40. Reserved.

Chapter 30 OFFENSES¹⁹

ARTICLE I. IN GENERAL

Sec. 30-1. 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:

Disturb the peace means to disrupt the ordinary and usual tranquility enjoyed by the citizens of a part of the community or municipality and to disturb the good order usually prevalent among its members, and includes riotous and unlawful assembly, riots, affrays, forcible entry and detainer, and offenses which constitute a violation of public order or public decorum.

Immoral means conduct contrary to good order or public welfare; inimical to the rights or common interests of others and shall mean conduct which is vicious, licentious, contrary to conscience or moral law.

Public place means any street, alley, park, public building or other place of business or assembly open to or frequented by the public, and any other place which is open to public view or to which the public has access, and shall include parking lots of places of business.

(Ord. No. 19A, § 1, 3-17-69; Ord. No. 15-12, § 5, 10-5-15)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 30-2. Window peeping.

It shall be unlawful for any person to look, peer or peep into, or be found loitering around, or within view of any window not on his own property, with the intent of looking through such window in such a manner as would be likely to interfere with the occupant's reasonable expectation of privacy without the occupant's express or implied consent. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(4), 3-17-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 5, 10-5-15)

State law reference(s)—Such person defined as a disorderly person, MCL 750.167(1)(c).

Sec. 30-3. Begging.

It shall be unlawful for any person within the township to beg in a public place from passersby, either by words, gestures or by the exhibiting of a sign.

¹⁹Cross reference(s)—Environment, ch. 18; law enforcement, ch. 26; traffic and vehicles, ch. 50.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 5, 10-5-15)

State law reference(s)—Persons found begging in a public place defined as disorderly persons, MCL 750.167(1)(h).

Sec. 30-4. Attempt to commit violation.

Any person who shall attempt to commit an offense prohibited by this chapter and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration or shall be intercepted or prevented in the execution of same, where no express provision is made by ordinance for the punishment of such attempt, shall be guilty of a misdemeanor, punishable under this chapter, but in no case shall imprisonment for such violation exceed one-half the greatest punishment which might have been inflicted if the offense so attempted had been committed.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 5, 10-5-15)

Sec. 30-5. Temporary questioning of suspicious persons in public places.

- (a) No person shall refuse to give his name, address and an explanation of his actions upon demand of a police officer who has stopped such person in a public place in the township, whom he reasonably suspects is committing, has committed or is about to commit a felony or a breach of the peace, or is violating a condition of pardon, parole or probation.
- (b) When a police officer has stopped a person for questioning pursuant to this section and reasonably suspects he is in danger, he may search such person for a dangerous weapon. The police officer may take and keep such weapon, or any other thing, the possession of which may constitute a crime, until he has completed the questioning, at which time he shall either return such item, if lawfully possessed, or arrest such person.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 5, 10-5-15)

Sec. 30-6. Disposal of property held by police.

- (a) All stolen or other property taken or found by any police officer in the possession of any person arrested or charged with the violation of the law, all property or money taken on suspicion of having been feloniously obtained or being the proceeds of crime and for which there is no other claimant than the person from whom it was taken, except motor vehicles all property abandoned in the township and not claimed by the lawful owner or person entitled to possession thereof which comes into the possession of the police department, all property and money taken from pawnbrokers as the proceeds of crime or from any person otherwise incapable of taking care of himself and all other property belonging to persons coming into the possession of the township and for the holding and disposition of which no provision is made shall be deposited, handled, disposed of and accounted for in accordance with the provisions of this section.
- (b) All unclaimed or abandoned property covered by this section which is not claimed by the lawful owner or person entitled to the possession thereof for a period of 180 days after such property has come into the possession of the township or its officers or agents and for which there is no other specific method prescribed to handle or dispose of it, shall be sold, disposed of or liquidated by the township purchasing agent and the proceeds shall be deposited with the township treasurer in the general fund; provided, however, that no sale of any such property shall be held unless a public notice of sale shall be published in the local newspaper at least ten days prior to such sale. The township police department is authorized to

return any items to the owner after the 180-day period has expired and proof of ownership has been established.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 5, 10-5-15)

Sec. 30-7. Reserved.

Editor's note(s)—Ord. No. 06-02, § 1, adopted June 19, 2006, repealed § 30-7, which pertained to loitering near place of illegal occupation or business.

Secs. 30-8—30-30. Reserved.

ARTICLE II. OFFENSES AFFECTING GOVERNMENTAL FUNCTIONS²⁰

Sec. 30-31. Resisting police officer.

It shall be unlawful for any person to knowingly and willfully elude, attempt to elude, obstruct, resist or oppose, or assault, beat or wound any police officer or other person duly authorized, in the execution of any statute of the state or of any ordinance, bylaw or any rule, order or resolution made, issued or passed by the township board or who shall so elude, attempt to elude, obstruct, resist, oppose, assault, beat or wound any police officer, or any other person authorized by law to maintain and preserve the peace, in their lawful acts, attempts and efforts to maintain, preserve and keep the peace.

(Ord. No. 19A, § 2(19), 3-17-69)

State law reference(s)—Resisting officer in discharge of duty, MCL 750.479, MSA 28.747.

Sec. 30-32. False reports, false information to police.

- (a) It shall be unlawful for any person to report or cause to be reported any felony or misdemeanor, or give any information relating to any such felony or misdemeanor, to the police department, or to any member of such department by telephone, in writing or by any other means of communication, knowing that no such felony or misdemeanor has in fact been committed.
- (b) It shall be unlawful for any person to give any information or report to the police department, or to any member of such department, relating to any felony or misdemeanor, which information or report is false and which information or report such person knows to be false.

(Ord. No. 19A, § 2(23), 3-17-69)

Sec. 30-33. False alarm of fire.

Any person who shall knowingly and willfully commit any one or more of the following actions shall be guilty of a misdemeanor:

- (1) Raise a false alarm of fire at any gathering or in any public place.

²⁰Cross reference(s)—Administration, ch. 2.

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- (2) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.
 - (3) Raise a false alarm of fire orally, by telephone or in person.

(Ord. No. 19A, § 2(23), 3-17-69)

State law reference(s)—Similar provisions, MCL 750.240, MSA 28.437.

Secs. 30-34—30-55. Reserved.

ARTICLE III. OFFENSES AGAINST THE PERSON

Sec. 30-56. Assault and battery.

It shall be unlawful for any person within the township to attempt or offer, with force and violence, to inflict corporal harm to another, or assault and/or batter any other person.

State law reference(s)—Similar provisions, MCL 750.81, MSA 28.276.

Secs. 30-57—30-75. Reserved.

ARTICLE IV. OFFENSES AGAINST PROPERTY

Sec. 30-76. Malicious destruction of property.

It shall be unlawful for any person within the township to willfully and maliciously destroy or injure the real or personal property of another, or the appurtenances thereof, where the damage done shall be \$100.00 or less. A complaint for violation of this section may be made by the property owner, his agent or his lessee or any person with custody and control of the premises. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 3, 3-17-69; Ord. No. 15-12, § 6, 10-5-15)

State law reference(s)—Similar provisions, MCL 750.377a, MSA 28.609(1).

Sec. 30-77. Malicious destruction of public property.

It shall be unlawful for any person within the township to maliciously destroy, damage, injure, mar or deface any building, monument, sign, structure or fence, tree, shrub, plant, park or public property of any kind which is owned, controlled, or managed by the state, county, township, any school district within the township, or by any other unit or agency of government whose operating budget is raised in whole or in part by public taxation, or to commit any act of vandalism on or in any such property. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 3, 3-17-69; Ord. No. 15-12, § 6, 10-5-15)

Sec. 30-78. Littering, waste control.

- (a) *Littering.* It shall be unlawful for any person or party to litter or permit to be littered on any of the streets, alleys, sidewalks or other public places within the township by throwing, depositing, tracking, dropping, dumping or spilling any trash, paper, dirt, mud, ashes, sand, glass, leaves, garbage, debris, commercial or industrial water or other materials or to deposit or cause the same to be deposited upon or permit the same to be accumulated upon any premises other than those designated as official township dumps.
- (b) *Enforcement.* All officers of the police department as well as other township employees officially designated are hereby charged with enforcement of this section and are authorized to issue violation tickets for any violation of this section. Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 27, § 4, 5-10-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 6, 10-5-15)

Sec. 30-79. Trespass upon lands or premises of another.

Any person who shall willfully enter upon the lands or premises of another without lawful authority, after having been forbidden so to do, or after such lands or premises have been previously posted with a conspicuous notice forbidding any trespass thereon by the owner or occupant, or agent or servant of the owner or occupant, or any person being upon the land or premises of another, upon being notified to depart therefrom by the owner or occupant, or agent or servant of either, who, without lawful authority neglects or refuses to depart therefrom, shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 27, § 1, 5-10-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 6, 10-5-15)

State law reference(s)—Similar provisions, MCL 750.552.

Secs. 30-80—30-100. Reserved.

ARTICLE V. OFFENSES AGAINST PUBLIC PEACE

Sec. 30-101. Breach of peace.

It shall be unlawful for any person "to disturb the peace" as defined in section 30-1 of chapter 30, article 1, as set forth and defined herein, and prohibited acts shall include by way of example, and not by way of exclusion, the following:

- (a) Any person who shall disrupt the ordinary and usual tranquility enjoyed by the citizens of the township or to disturb the good order usually prevalent among its members and shall prohibit riotous, unlawful assemblies, riots, forcible entry and detainer and offenses which constitute a violation of public order or public decorum, including disturbing the quiet of a neighborhood by loud or boisterous conduct, or the use of any machine or motor vehicle in such a way so as to cause loud or boisterous and excessive noise, or for the owner, manager or agent of the owner or manager or person in charge of any premises to knowingly permit or knowingly permit to be continued, a disturbance or breach of the public peace, disturbance of the quiet of the neighborhood by loud or other boisterous conduct, or the use of any machine or motor vehicle in such a way so as to cause loud, boisterous, and excessive noise.

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- (b) Using any indecent, immoral, or insulting language to, or in the presence or hearing of, any other person.
 - (c) Engaging in any disturbances, fights, or quarrels in a public place or a place open to the public.
 - (d) Jostling or roughly crowding any person or persons in any alley, street, park, public building, or any private property open to the public.
 - (e) Prowling about any alley, business, or private premises of any other person between the established time of sunset and the following sunrise, without authority or permission of the owner of such premises.
 - (f) Soliciting or accosting any person for the purpose of completing or inducing the commission of any illegal or immoral act.
 - (g) Wrongly throwing or propelling any snowball, missile, object or other projectile from any moving vehicle, or toward any moving vehicle, or toward any person.
 - (h) The erection, excavation, demolition, alteration or reconstruction of any buildings or premises in a residential district in such a manner as to create noise other than between the hours of 6:00 a.m.—10:00 p.m. except in the case of urgent necessity as in the interest of the public health and safety as defined by the building inspector or department of public works director.
 - (i) The collection of refuse other than between the hours of 6:00 a.m.—10:00 p.m. For purposes of this article, the term "refuse collectors" shall be synonymous with private haulers, and all other persons that commercially engage in the collection and transportation of refuse and other debris.

(Ord. No. 19A, § 2(11), 3-17-69; Ord. No. 99-1, 4-5-99; Ord. No. 06-03, § 1, 6-19-06; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15; Ord. No. 16-04, § 2, 4-4-16)

State law reference(s)—Disturbing public places, MCL 750.170.

Sec. 30-102. Congregating.

- (a) *Definitions.* As used in this section, the words and phrases, except where the text clearly indicates otherwise, mean:

Owner. Any owner or other person lawfully in charge of a parking lot, including any person authorized in writing by the owner to exercise rights granted to the owner by law.

Parking lot. Any parking lot adjacent to or in the immediate vicinity of any store, restaurant, gasoline station, public or private office building, or park, commercial building, industrial facility, or any other facility which provides free parking during normal business or operating hours for the use and convenience of the public, employees, customers, patrons, guests or invitees.

Premises. The lands or buildings, or any part thereof, both public and private, owned or occupied by any store, restaurant, office, factory, church or any other business, whether for profit or not for profit.

- (b) *Use of parking lots restricted.* Except for the purpose of:
- (1) Parking immediately prior to the use of any public park or facility, transacting business at a place of business, attending church services, attending lodge or club activity, attending a promotional event, fair or parade, shopping or patronizing a facility open to the public, adjacent to or in the immediate vicinity of a parking lot.
 - (2) Leaving after parking;
 - (3) Leaving a passenger;

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- (4) Picking up a passenger; or
 - (5) Parking while employed at a business in the immediate vicinity.

No person shall drive any motor vehicle across, through or into and out of any parking lot in the township.

- (c) *Congregating.* Except for the permitted purposes stated in subsection (b), no person shall linger, remain, sit or stand in any parking lot or business premises or sit in or on a motor vehicle in any parking lot or business premises, or when prohibited by the owner of the property or of a parking lot or business premises as expressed by a sign or signs posted on the premises pursuant to subsection (e), nor shall any person remain in a parking lot or private business premises after being ordered to leave the parking lot by the owner or by an agent of the owner authorized as such as provided in subsection (d).
- (d) *Trespassing after hours.* No person shall enter or stay on any parking lot or private business premises at any time if staying on or entering the lot or private business premises is prohibited by the owner, as shown by a sign posted on the premises pursuant to subsection (e).
- (e) *Signs prohibiting trespassing and congregating.* The prohibitions set out in subsections (c) and (d) shall be in effect at any parking lot or business premises where the owner has posted a sign or signs on the premises which are clearly visible to an ordinarily prudent individual provided in this section. With reference to subsections (c) and (d), each sign shall contain substantially the following language:

NO CONGREGATING OR CRUISING, VIOLATORS WILL BE PROSECUTED

With reference to subsection (d), the sign shall contain substantially the following language:

NO PARKING OR TRESPASSING BETWEEN _____ P.M. AND _____ A.M.

VIOLATORS WILL BE PROSECUTED

- (f) *Exceptions.* The following uses of a parking lot or business premises shall not be in violation of this article:
 - (1) Entrance by the owner, occupant or the employees and agents of the owners or occupant.
 - (2) Entrance by customers, patrons, suppliers and other persons having lawful business at the business premises or other facility served by the business parking lot during normal business hours, or when such business or facility is otherwise open to the public.
 - (3) Temporary entrance in any emergency.
 - (4) Entrance by police officers, and township officials in the course of their duty.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 19A, § 2(13), 3-17-69; Ord. No. 99-1, 4-5-99; Ord. No. 06-02, § 2, 6-19-06; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15)

State law reference(s)—Certain loiterers deemed disorderly persons, MCL 750.167.

Sec. 30-103. Incitement to riot.

It is unlawful and constitutes incitement to riot for a person within the township intending to cause or to aid or abet the institution or maintenance of a riot to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, the unlawful burning or destroying of property or the unlawful interference with a police officer, peace officer, firefighter or a member of the state national guard or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(19), 3-17-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15)

State law reference(s)—Similar provisions, MCL 752.542.

Sec. 30-104. Disturbing gatherings and meetings.

It shall be unlawful for any person within the township to willfully interrupt or disturb on any day of the week any assembly of people met for the worship of God within the place of such meeting or out of it, or to make or excite any disturbance or contention in any tavern, dance hall, beer garden, store or grocery, manufacturing establishment or any other business place, school or in any street, lane, alley, highway, public building, ground or park or at any election or other public meeting in the township where any persons are peaceably and lawfully assembled. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(21), 3-17-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15)

State law reference(s)—Disturbance of religious worship, MCL 750.169, 752.525; disturbing public places, MCL 750.170.

Sec. 30-105. Keeping nuisance animal.

- (a) No person shall own, possess, care for, harbor or have charge of any animal or bird which causes frequent or continued noise by barking, yelping, growling, howling, or making any other noise so as to cause a nuisance or disturbance to the neighborhood or surrounding area.
- (b) No person shall allow animals which they own, manage, or are responsible for, to be running loose with or without their knowledge so as to cause concern for any other resident, and all such animals shall be maintained and held on a leash when leaving the owner's property.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 19C, § 2(24), 6-17-85; Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15)

Sec. 30-106. Disorderly persons; intoxication.

It shall be unlawful for any person to be intoxicated or on a narcotic drug in a public place and who is either endangering directly the safety of another person or of property or is acting in a manner that causes a public disturbance. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19C, § 1, 6-17-85; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 7, 10-5-15)

Sec. 30-107. Sale or consumption of marihuana/marihuana accessory in public.

- (a) In conformance with the Michigan Regulation and Taxation of Marihuana Act ("Act") Sections 4(1)(e) and 6(2)(b) except as otherwise provided in this section, the sale or consumption of marihuana in any form and the sale or display of marihuana accessories is prohibited in any public places within the boundaries of Muskegon Charter Township. The terms "marihuana" and "marihuana accessories" are defined as set forth in the Act.

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- (b) This section does not supersede rights and obligations with respect to the transfer and consumption of marihuana on private property to the extent authorized by the person who owns, occupies or operates such property, as provided in and authorized by the Act and does not supersede rights and obligations as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.
 - (c) Pursuant to Section 15 of the Michigan Regulation and Taxation of Marihuana Act, any person who violates any of the provisions of this section shall be responsible for a municipal civil infraction punishable by a civil fine of at least \$100.00 and not more than \$500.00 and forfeiture of the marihuana, plus court-imposed costs.

(Ord. No. 19-2 , § 1, 4-15-19)

Sec. 30-108. Purchase, consumption or possession of marihuana by persons under 21 years of age.

- (a) The term "marihuana" is defined as set forth in the Michigan Regulation and Taxation of Marihuana Act.
- (b) This section does not supersede rights and obligations as provided by any law of the State of Michigan allowing for or regulating marihuana for medical use.
- (c) A person who is less than 21 years of age shall not do any of the following:
 - (1) Purchase or attempt to purchase marihuana.
 - (2) Possess or attempt to possess marihuana.
 - (3) Use marihuana.
 - (4) Present or offer to an individual a purported proof of age that is false, fraudulent or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess marihuana.
- (d) A violation of this section is punishable as follows:
 - (1) First violation: civil infraction and may be punished as follows:
 - a. If less than 18 years of age, by a fine of \$100.00 or community service, forfeiture of marihuana and four hours of drug education or counseling;
 - b. If at least 18 years of age, by a fine of \$100.00 and forfeiture of marihuana.
 - (2) Second violation: civil infraction and may be punished as follows:
 - a. If less than 18 years of age, by a fine of \$500.00 or community service, forfeiture of marihuana and eight hours of drug education or counseling;
 - b. If at least 18 years of age, by a fine of \$500.00 and forfeiture of marihuana.

(Ord. No. 19-2 , § 1, 4-15-19)

Secs. 30-109—30-130. Reserved.

ARTICLE VI. OFFENSES AGAINST PUBLIC MORALS

Sec. 30-131. Patronizing premises where gambling, prostitution, illegal alcohol sales occur.

Attend, frequent, operate or be an occupant or inmate of any place where prostitution, gambling, the illegal sale or distribution or furnishing of intoxicating liquor, drugs or other prohibited substances, or where any other illegal business or occupation is permitted or conducted with intent to participate in the illegal businesses or occupation; aid or abet the commission of said illegal business or occupation; or acquire, purchase or use the illegally sold intoxicating liquor, drugs or other prohibited substance. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(15), 3-17-69; Ord. No. 03-02, § 1, 5-19-03; Ord. No. 15-12, § 8, 10-5-15)

Sec. 30-132. Engaging in or soliciting others for illegal or immoral business or act.

It shall be unlawful for any person to engage in prostitution, gambling, the illegal sale of intoxicating liquor, or any other illegal or immoral business or occupation, or to solicit or accost any person for the purpose of inducing the commission of any illegal or immoral act. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(16), (17), 3-17-69; Ord. No. 15-12, § 8, 10-5-15)

Sec. 30-133. Indecent or obscene conduct.

It shall be unlawful for any person within the township to engage in any indecent or obscene conduct in any public place. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 15-12, § 8, 10-5-15)

State law reference(s)—Such person deemed a disorderly person, MCL 750.167(1)(f).

Sec. 30-134. Urinating in public.

It shall be unlawful for any person to urinate in any public place except into an authorized receptacle intended for such use. Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 11-07, § 2, 6-6-11; Ord. No. 15-12, § 8, 10-5-15)

Secs. 30-135—30-155. Reserved.

ARTICLE VII. OFFENSES AGAINST PUBLIC SAFETY

Sec. 30-156. Airtight containers.

It shall be unlawful for any person to have in his possession either inside or outside of any building, structure or dwelling in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or any other container of any kind which has an airtight, snap latch or other locking device thereon, without first

removing the snap latch or other locking device, or the doors from such icebox, refrigerator or other container. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 9, 10-5-15)

Sec. 30-157. Discharge of firearms, weapons.

It shall be unlawful for any person in the township to discharge any firearm, air rifle, air pistol, pellet gun, or bow and arrow in the township, except in defense of persons or property, enforcement of law, lawful hunting or target practice when due caution is observed, and said target practice is either in an approved shooting range or no closer than 500 feet to any residence, school, church or commercial building including the parties own residence. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 19A, § 2(4), 3-17-69; Ord. No. 15-12 , § 9, 10-5-15)

Sec. 30-158. Hunting within township prohibited.

It shall be unlawful for any person within the township to hunt wild game, or in any manner carry any gun, weapon or firearm, except a shotgun, within the township for the purpose of hunting any wild game or fowl at any time, except in state-designated hunting areas or on private lands with permission of the owner and no closer than 450 feet to any residence, school, church, commercial building or parties own residence. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 15-12 , § 9, 10-5-15)

State law reference(s)—Game law, MCL 311.1 et seq.

Sec. 30-159. Fireworks.

No person shall ignite, discharge, or use any consumer fireworks, pursuant to Public Act 256 of 2011, as amended, except on the day before, the day of and the day after a national holiday, unless prior approval was obtained from the township board. Igniting, discharging, or use of any consumer fireworks between the hours of 1:00 a.m. through 8:00 a.m. shall be prohibited.

(Ord. No. 19A, § 2(5), 3-17-69; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 12-12, § 2, 8-6-12 ; Ord. No. 15-12 , §§ 4, 9, 10-5-15; Ord. No. 16-07 , § 2, 8-15-16)

Secs. 30-160—30-180. Reserved.

ARTICLE VIII. OFFENSES CONCERNING UNDERAGED PERSONS

DIVISION 1. GENERALLY

Sec. 30-181. Aiding underage person to violate law.

No person shall assist, aid, abet, allow, permit or encourage any person under the age of 17 years to violate the provisions of this article. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 15-12 , § 10, 10-5-15)

Sec. 30-182. Tobacco generally.

(a) Furnishing tobacco products to minors.

- (1) A person shall not sell, offer to sell, give, or furnish a tobacco product, vapor product or alternative nicotine product to a person who is less than 18 years of age, including, but not limited to, through a vending machine.
- (2) Before selling, offering for sale, giving, or furnishing a tobacco product, vapor product or alternative nicotine product to an individual, a person shall verify that the individual is at least 18 years of age by examining a government issued photographic identification that establishes that the individual is at least 18 years of age. This verification requirement does not apply to those persons that visually appear to be older than 25 years of age.
- (3) A person who violates this Section is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for the first violation. For a second violation, a person is guilty of a misdemeanor punishable by a fine of not more than \$150.00. For a third or subsequent violation, a person is guilty of a misdemeanor punishable by a fine of not more than \$500.00, or by imprisonment for a period of not more than 90 days, or by both such fine and imprisonment.

(b) A person who is less than 18 years of age shall not do any of the following:

- (1) Purchase or attempt to purchase a tobacco product, vapor product or alternative nicotine product.
- (2) Possess or attempt to possess a tobacco product, vapor product or alternative nicotine product.
- (3) Use a tobacco product, vapor product or alternative nicotine product.
- (4) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a tobacco product, vapor product or alternative nicotine product.
- (5) An individual who violates this Section is responsible for a civil infraction punishable by a fine of not more than \$50.00 for the first violation. For a second violation, an individual is responsible for a civil infraction punishable by a fine of not more than \$100.00. For a third or subsequent violation, an individual is guilty of a misdemeanor punishable by a fine of not more than \$300.00.

(c) Definitions.

- (1) *Alternative nicotine product* means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means.
- (2) *Tobacco product* means a product that contains tobacco and is intended for human consumption, including, but not limited to, cigarettes, non-cigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and cigars.
- (3) *Vapor product* means a noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of

shape or size, that can be used to produce vapor from nicotine in a solution or other form. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

(Ord. No. 13, § 3, 1-10-64; Ord. No. 15-12 , § 10, 10-5-15; Ord. No. 15-17 , § 1, 12-7-15)

Sec. 30-183. Contributing to neglect or delinquency.

No person shall by any act or by any word in the township encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in MCL 712A.1, MSA 27.3178(598.1), as amended, whether or not such child shall be adjudicated a ward of the probate court. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 15-12 , § 10, 10-5-15)

Secs. 30-184—30-195. Reserved.

DIVISION 2. CURFEW

Sec. 30-196. Children under 12.

No minor under the age of 12 years shall loiter, idle or congregate upon any public street, highway, alley, park or in any public place in the township between the hours of 10:00 p.m. and 6:00 a.m. immediately following, unless the minor is accompanied by a parent or guardian, or any adult delegated by the parent or guardian to accompany such child.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

State law reference(s)—Curfew for minors, MCL 722.751 et seq.

Sec. 30-197. Children under 14.

No minor under the age of 14 years shall loiter, idle or congregate in or on any public street, highway, alley or park, or any public place within the township between the hours of 11:00 p.m. and 6:00 a.m. immediately following, except where the minor is accompanied by a parent or guardian, or some adult over the age of 21 years delegated by the parent or guardian to accompany such child, or where the minor is upon an emergency errand or other legitimate business directed by his parent or guardian.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Sec. 30-198. Children under 17.

No minor under the age of 17 years shall loiter, idle or congregate in or on any public street, highway, alley or park, or any public place within the township between the hours of 12:00 midnight and 6:00 a.m. immediately following, except where the minor is accompanied by a parent or guardian, or some adult over the age of 21 years delegated by the parent or guardian to accompany such child, or where the minor is upon an emergency errand or other legitimate business directed by his parent or guardian.

Any person who violates this section shall be responsible for a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Secs. 30-199—30-210. Reserved.

DIVISION 3. ALCOHOLIC LIQUORS

Sec. 30-211. 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:

Intoxicating liquor or alcoholic beverage means the same as defined in the laws of the state.

Minors means persons less than 21 years of age.

(Ord. No. 28A, § 1, 3-4-91; Ord. No. 15-12 , § 10, 10-5-15)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 30-212. Furnishing to minors.

- (a) It shall be unlawful for any person within the township to sell or furnish alcoholic liquor to a person unless the person has attained 21 years of age. A person who knowingly sells or furnishes alcoholic liquor to a person who is less than 21 years of age, or who fails to make diligent inquiry as to whether the person is less than 21 years of age is guilty of a misdemeanor.
- (b) In an action for the violation of this section, proof that the defendant or the defendant's agent or employee demanded and was shown, before furnishing alcoholic liquor to a person under 21 years of age, a valid motor vehicle operator's license or a registration certificate issued by the federal selective service, or other bona fide documentary evidence of the age and identity of that person shall be a defense to an action under this section.

Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 28A, § 2, 3-4-91; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Sec. 30-213. Fraudulent identification.

- (a) Any person who furnishes fraudulent identification to a person less than 21 years of age, or a person less than 21 years of age who uses fraudulent identification to purchase alcoholic liquor, is guilty of a misdemeanor. The court shall order the secretary of state to suspend, for a period of 90 days, the operator or chauffeur license of a person who is convicted of using fraudulent identification in violation of this section and the operator or chauffeur license of that person shall be surrendered to the court. The court shall immediately forward the surrendered license and a certificate of conviction to the secretary of state. A suspension ordered under this section shall be in addition to any other suspension of the person's operator or chauffeur license.
- (b) Any person found guilty of violating this section shall be punished by a fine of not more than \$100.00, or imprisonment in the county jail for not more than 90 days, or both such fine and imprisonment.

Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 28A, § 3, 3-4-91; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 10, 10-5-15)

Sec. 30-214. Persons under 21, unlawful purchase, consumption or possession; arrest based upon reasonable cause or upon results of preliminary chemical breath analysis; participation in undercover programs.

- (a) A person less than 21 years of age shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor. Notwithstanding chapter 1, section 1-10, a person less than 21 years of age who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions, and is not subject to the penalties prescribed in chapter 1, section 1-10.
- (1) For the first violation, a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.6107 of the Michigan Compiled Laws, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (b).
 - (2) For a second violation, a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of Act No. 368 of the Public Acts of 1978 and designated by the administrator 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 (b). The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (c).
 - (3) For a third or subsequent violation, a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of Act No. 368 of the Public Acts of 1978, and designated by the administrator 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 (b). The person is also subject to sanctions against his or her operator's or chauffeur's license imposed in subsection (c).
- (b) The court may order the person found violating subsection (a) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of

Act No. 368 of the Public Acts of 1978, being section 333.6103 of the Michigan Compiled Laws, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

- (c) Immediately upon the entry of a conviction or a probate court disposition for a violation of subsection (a), the court shall consider all prior convictions or probate court dispositions of subsection (a), or a local ordinance or law of another state substantially corresponding to subsection (a), and shall impose the following sanctions:
- (1) If the court finds that the person has one such prior conviction or probate court disposition, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 90 days or more than 180 days. The court may order the secretary of state to issue to the person a restricted license after the first 30 days of the period of suspension in the manner described in subsection (d) and provided for in section 319 of Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws. In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.
 - (2) If the court finds that the person has two or more such prior convictions or probate court dispositions, the court shall order the secretary of state to suspend the operator's or chauffeur's license of the person for a period of not less than 180 days or more than one year. The court may order the secretary of state to issue to the person a restricted license after the first 60 days of the period of suspension in the manner described in subsection (d) and provided for in section 319 of Act No. 300 of the Public Acts of 1949, being section 257.319 of the Michigan Compiled Laws. In the case of a person who does not possess an operator's or chauffeur's license, the secretary of state shall deny the application for an operator's or chauffeur's license for the applicable suspension period.
- (d) In those cases in which a restricted license is allowed under this section, the court shall not order the secretary of state to issue a restricted license unless the person states under oath, and the court finds based upon the record in open court, the person is unable to take public transportation to and from his or her work location, place of alcohol or drug education treatment, probation department, court-ordered community service program, or educational institution, and does not have any family members or others able to provide transportation. The court order under subsection (c) and the restricted license shall indicate the work location of the person to whom it is issued, the approved route or routes and permitted times of travel, and shall permit the person to whom it is issued only to do one or more of the following:
- (1) Drive to and from the person's residence and work location.
 - (2) Drive in the course of the person's employment or occupation.
 - (3) Drive to and from the person's residence and an alcohol or drug education or treatment program as ordered by the court.
 - (4) Drive to and from the person's residence and the court probation department, or a court-ordered community service program, or both.
 - (5) Drive to and from the person's residence and an educational institution at which the person is enrolled as a student.
- (e) If license sanctions are imposed, immediately upon the entry of a court-ordered sanction pursuant to subsection (c), the court shall order the person convicted for the violation to surrender to the court his or her operator's or chauffeur's license. The court shall immediately forward a notice of court-ordered license sanctions to the secretary of state. If the license is not forwarded to the secretary of state, an explanation of the reason why the license is absent shall be attached. If the finding is appealed to the circuit court, the court may, ex parte, order the secretary of state to stay the suspension issued pursuant to this section pending the

outcome of the appeal. Immediately following imposition of the sanction, the court shall forward a notice to the secretary of state indicating the sanction imposed.

- (f) A peace officer who has reasonable cause to believe a person less than 21 years of age has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the person less than 21 years of age has consumed or possessed alcoholic liquor. A person less than 21 years of age who refuses to submit to a preliminary chemical breath test and analysis as required in this subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
- (g) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to Act No. 293 of the Public Acts of 1968, being sections 722.1 to 722.6 of the Michigan Compiled Laws, allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (a) shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (a) is less than 18 years of age and not emancipated pursuant to Act No. 293 of the Public Acts of 1968. The notice may be made 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 a person less than 17 years of age is incarcerated for violating subsection (a), his or her parents or legal guardian shall be notified immediately as provided in this subsection.
- (h) The consumption by a person less than 21 years of age of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.
- (i) Subsection (a) does not apply to a person less than 21 years of age who participates in either or both of the following:
 - (1) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as part of an employer-sponsored internal enforcement action.
 - (2) An undercover operation in which the person less than 21 years of age purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action except that any initial or contemporaneous purchase or receipt of alcoholic liquor by the person less than 21 years of age is under the direction of the state police, the commission, or the local police agency and is part of the undercover operation.
- (j) As used in this section:
 - (1) "Probate court disposition" means an order of disposition of the probate court or the family division of the circuit court for a child found to be within the provisions of chapter XIA of Act No. 288 of the Public Acts of 1939, being sections 712A.1 to 712A.32 of the Michigan Compiled Laws.
 - (2) "Work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both.

(Ord. No. 28A, § 4, 3-4-91; Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 10, 10-5-15)

Sec. 30-215. Transportation.

No person within the township under the age of 21 years shall knowingly transport or possess, in a motor vehicle, alcoholic liquor unless the person is employed by a licensee under the Michigan Liquor Control Act, the liquor control commission, or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Sec. 30-216. Exceptions for employed minors.

This division shall not be construed to prohibit a person less than 21 years of age from possessing alcoholic liquor during regular working hours and in the course of his employment if employed by a person licensed by the liquor control act, by the liquor control commission, or by an agent of the liquor control commission, if the alcoholic liquor is not possessed for his personal consumption.

(Ord. No. 28A, § 5, 3-4-91; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Sec. 30-217. Liability of vendors, agents, etc., for violations.

This division shall not be construed to limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent or employee for a violation of this division.

(Ord. No. 28A, § 6, 3-4-91; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Sec. 30-218. Educational use.

The consumption of alcoholic liquor by a person under 21 years of age who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member shall not be prohibited by this division if the purpose is solely educational and a necessary ingredient of the course.

(Ord. No. 28A, § 7, 3-4-91; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12 , §§ 4, 10, 10-5-15)

Secs. 30-219—30-240. Reserved.

ARTICLE IX. OFFENSES INVOLVING MOTOR VEHICLES

Sec. 30-241. License for operators and chauffeurs.

- (a) Except as provided in this act, a person shall not drive a motor vehicle upon a highway in this state unless that person has a valid operator's or chauffeur's license with the appropriate group designation and endorsements for the type or class of vehicle being driven or towed.
- (b) A person shall not receive a license to operate a motor vehicle until that person surrenders to the secretary of state all valid licenses to operate a motor vehicle issued to that person by this or any state or certifies that

he or she does not possess a valid license. The secretary of state shall notify the issuing state that the licensee is now licensed in this state.

- (c) A person shall not have more than one valid driver's license.
- (d) A person shall not drive a motor vehicle as a chauffeur unless that person holds a valid chauffeur's license. A person shall not receive a chauffeur's license until that person surrenders to the secretary of state a valid operator's or chauffeur's license issued to that person by this or any state or certifies that he or she does not possess a valid license.
- (e) A person holding a valid chauffeur's license need not procure an operator's license.

Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 11, 10-5-15)

Sec. 30-242. License in possession; display.

The licensee shall have his or her operator's or chauffeur's license in his or her immediate possession at all times when operating a motor vehicle and shall display the same upon demand of any police officer, who shall identify himself or herself as such.

Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 11, 10-5-15)

Sec. 30-243. Unlawful use; void license.

(a) A person shall not do any of the following:

- (1) Display or cause or permit to be displayed, or have in possession any operator's or chauffeur's license knowing the operator's or chauffeur's license to be fictitious or to have been canceled, revoked, suspended, or altered.
- (2) Lend to or knowingly permit the use of, by one not entitled to its use, the operator's or chauffeur's license issued to the person lending or permitting the use of the operator's or chauffeur's license.
- (3) Display or to represent as one's own, any operator's or chauffeur's license not issued to the person displaying the operator's or chauffeur's license.
- (4) Fail or refuse to surrender to the department upon demand, any operator's or chauffeur's license which has been suspended, canceled, or revoked as provided by law.
- (5) Alter or otherwise cause to be altered, any operator's or chauffeur's license so as to knowingly make a false statement or knowingly conceal a material fact in order to misrepresent as one's own the operator's or chauffeur's license.
- (6) Use or have in possession in committing a crime, an operator's or chauffeur's license that has been altered or that is used to knowingly make a false statement or to knowingly conceal a material fact in order to misrepresent as one's own the operator's or chauffeur's license.
- (7) Furnish to a peace officer, false, forged, fictitious, or misleading verbal or written information identifying the person as another person, if the person is detained involving a violation of this act.

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- (b) The secretary of state shall suspend the license of an operator or chauffeur upon conviction of one of the prohibited practices described in this section for 90 days. A second violation within a period of seven years shall result in a suspension for one year.

Any person who violates this section shall be guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code.

(Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 11, 10-5-15)

Sec. 30-244. Production of evidence of insurance upon request.

- (a) The owner of a motor vehicle who operates or permits the operation of a motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce, pursuant to subsection (b), upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws. An owner or operator who violates this subsection when requested to produce that evidence is responsible for a civil infraction.
- (b) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.3101 and 500.3102 of the Michigan Compiled Laws, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.
- (c) If an owner of a motor vehicle is determined to be responsible for a violation of subsection (a), the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, as amended, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license and shall forward the surrendered license and a certificate of the civil infraction to the secretary of state. Upon receipt of the certificate of civil infraction and the surrendered license, the secretary of state shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance which meets the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, as amended, is submitted to the secretary of state, whichever occurs later. If the license is not forwarded, an explanation of the reason why it is not forwarded shall be attached. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of \$10.00 to the secretary of state. The person shall not be required to be examined as set forth in section 320c.
- (d) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by a fine of not more than \$500.00.
- (e) Points shall not be entered on a driver's record pursuant to section 320a for a violation of this section.
- (f) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

(Ord. No. 99-1, 4-5-99; Ord. No. 12-04, § 6, 3-19-12; Ord. No. 15-12, §§ 4, 11, 10-5-15)

Secs. 30-245—30-264. Reserved.

ARTICLE X. PARKING VIOLATIONS

Sec. 30-265. Definitions.

As used in this section, the words and phrases, except where the text clearly indicates otherwise, mean:

Disabled or handicap person means a person who is legally blind or has a condition that significantly limits their ability to walk or requires a wheelchair, walker, crutch or other assistive device.

Motor vehicle means every vehicle which is self-propelled.

Parking means standing a vehicle, whether occupied or not, upon a place provided for parking and designated as a place for parking, except that vehicles loading or unloading or making necessary repairs shall not be deemed to be parking.

Placard means state issued notice authorizing handicap parking.

(Ord. No. 12-16, § 2, 12-17-12)

Sec. 30-266. Stopping, standing, or parking vehicles.

- (a) A person shall not stop, stand, or park a vehicle in any of the following places, except when necessary to avoid conflict with other traffic or to comply with the law or the directions of a police officer or traffic control device:
- (1) On a sidewalk.
 - (2) In front of a public or private driveway.
 - (3) Within 15 feet of a fire hydrant.
 - (4) Within 50 feet of the nearest rail of a railroad crossing.
 - (5) Within 20 feet of the driveway entrance to any fire station and, on the side of a street opposite the entrance to any fire station, within 75 feet of the entrance when properly signposted.
 - (6) In any place or in any manner so as to block immediate egress from any emergency exit or exits which are conspicuously marked as building emergency exits.
 - (7) At any place where official signs prohibit stopping, standing, or parking.
 - (8) At any area clearly identified as a fire lane.
 - (9) In a parking space which is clearly identified by an official sign as being reserved for use by disabled persons and which is on public property or private property that is available for public use, unless the person is disabled or unless the person is parking the vehicle for the benefit of a disabled person. A serially numbered nontransferable temporary or permanent windshield placard issued under MCL 257.675(5) to a disabled person shall be displayed on or near the front windshield or a special registration plate issued under MCL 257.803d to a disabled person shall be displayed on the vehicle.
 - (10) Within 500 feet of a fire at which fire apparatus are in attendance. However, volunteer firefighters responding to the fire may park within 500 feet in a manner that does not interfere with fire apparatus at the scene. Vehicles legally parked before the fire shall be exempt from this subsection.

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- (11) Other than between painted lines in designated parking areas.
- (b) A person who fails to display a handicap placard while parked in a space reserved for persons with disabilities as defined in applicable state law [Sec. 30-266(a)(9)] shall be penalized as stated in Muskegon Charter Township Fee Schedule.
 - (c) The person in whose name that vehicle is registered in this state or another state at the time of the violation is responsible for that violation.
 - (d) A police officer who issues a citation for a vehicle that is stopped, standing, or parked in violation of a state statute or a local ordinance prohibiting or restricting the stopping, standing, or parking of a vehicle may issue the citation for the violation to the operator of the vehicle if the operator is present at the time of the violation.
 - (e) A person who violates this section is responsible for a municipal civil infraction.
- (Ord. No. 12-16, § 3, 12-17-12)

Sec. 30-267. Unattended vehicles.

- (a) A person who has control or charge of a motor vehicle shall not allow the vehicle to stand unattended on any street or any other place without first stopping the engine, locking the ignition, and removing and taking possession of the ignition key. The provisions of this rule that pertain to the locking of the ignition and removing and taking possession of the ignition key do not apply to motor vehicles that are manufactured with an ignition system that does not have a key and that is incapable of being locked.
 - (b) A person who violates this section is responsible for a municipal civil infraction.
- (Ord. No. 12-16, § 4, 12-17-12)

Sec. 30-268. Violations and fees.

- (a) Pursuant to the provisions of MCL 600.8395 there is hereby established within the township a parking violations bureau to accept pleas of responsible in motor vehicle parking violation cases and to collect and retain fines and costs as prescribed by ordinance.
 - (b) Failure to display state issued placard when parking in handicap zone shall be subject to administrative fee as outlined in fee schedule.
 - (c) Upon pleading responsible or being found responsible by a court, the fines for parking violations shall be subject to an administrative fee as stated in Muskegon Charter Township Fee Schedule.
- (Ord. No. 12-16, § 5, 12-17-12)

Secs. 30-269—30-274. Reserved.

ARTICLE XI. TRUCK TRAFFIC REGULATIONS

An ordinance to establish and regulate truck traffic routes within the Charter Township of Muskegon, Muskegon County, Michigan, to prohibit truck traffic on other roads, and to provide penalties for the violation thereof.

Sec. 30-275. Definitions.

Implement of husbandry means every vehicle, which is designed for agricultural purpose and exclusively used by the owner thereof in the conduct of agricultural operations.

Person includes an agency, company, organization, firm, association, partnership, joint venture, corporation, limited liability company, trust or equivalent entity or a combination of any of them as well as a natural person.

Road means any street, highway, or route within the Charter Township of Muskegon.

Semi-trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.

Trailer means every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed That no part of its weight rests upon the towing vehicle.

Truck means every motor vehicle which is designed, used, or maintained primarily for the transportation of property, except a pick-up truck, or a van designed so as to carry loads of no more than one ton.

Truck tractor means every 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 vehicle and load so drawn.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-276. Rule of construction.

Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-277. Truck routes.

The following roads in the Charter Township of Muskegon, to the exclusion of all other roads, are hereby designated as truck routes and classified for truck traffic:

- (1) North and Southbound Mill Iron Road from Apple Avenue (M-46) south to the Township's Southern Border.
- (2) North and Southbound Walker Road from Apple Avenue (M-46) to Laketon Avenue.
- (3) North and Southbound Sheridan Drive from Apple Avenue (M-46) to the Township's Southern Border.
- (4) East and Westbound Laketon Avenue from Mill Iron Road to Creston Street.
- (5) East and Westbound Apple Avenue (M-46).
- (6) East and Westbound Evanston Avenue from Mill Iron Road to Brooks Road.
- (7) North and Southbound Holton Road (M-120).
- (8) North and Southbound Whitehall Road.
- (9) East and Westbound River Road from Whitehall Road east 1000 feet.
- (10) North and Southbound US 31.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-278. Prohibition against travel on other than truck routes.

Except as expressly permitted under this article, no person shall operate a truck or truck-tractor and semi-trailer or truck-tractor and trailer combination, or truck and trailer combination in the Charter Township of Muskegon on any road other than a designated truck route.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-279. Exemptions.

The truck route limitations prescribed in this article shall not apply to:

- (1) School busses, public transportation busses, motor homes, fifth-wheel trailers; or
- (2) Fire trucks or other emergency vehicles or vehicles on emergency business involved in the saving of life or property; or
- (3) Implements of husbandry incidentally moved upon a road; or
- (4) Road repair, construction or maintenance vehicles while involved in the repair, construction, or maintenance of roads within the township; or
- (5) Garbage service vehicles while involved in the provision of services to residents of the township.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-280. Pick-ups, deliveries, service calls.

A vehicle which would otherwise be restricted to truck routes and which is being used to make pick-ups, deliveries, or service calls in the township on roads other than designated truck route shall restrict its travel to a minimum and shall not be driven or moved on other than truck routes except when being used to make pick-ups, deliveries, or service calls within the township. Said vehicle shall be driven in such a manner as to leave a permitted truck route and proceed to its destination or destinations in the township by the most direct route. Upon completion of the pick-ups, deliveries, or service calls, the vehicle shall return to the nearest permitted truck route or leave the township by the most direct route. This section shall not be interpreted as permitting a vehicle otherwise restricted to a truck route from entering or leaving the township by other than a truck route.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-281. Leaving or returning to place of business.

Nothing herein contained shall prevent a truck or truck-tractor and semi-trailer, or truck tractor and trailer combination, or truck and trailer combination from leaving or returning to its customary storage location at the owner or operator's commercial or industrial location in the township, provided the most direct route to and from a designated truck route is utilized.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-282. Special permits.

The township supervisor or designee shall have authority to grant a written permit in special cases, which would otherwise be in violation of the provisions of this article. Such permits, however, shall not be given for more

than one round trip and in no case shall a permit be valid for a longer period of than ten days from the date of issue. Said permit shall describe the vehicle, the time and dates of travel, and the route to be taken by the vehicle. The township board shall, by resolution, set a fee for special permits.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-283. Signs.

The township board shall procure and have posed appropriate signs along the designated truck routes as required by the laws of the State of Michigan.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-284. Penalties.

A law enforcement agency, upon determining that a person has operated a vehicle in violation of this article, as authorized pursuant to section 726 of Act No. 300 of the Public Acts of 1949, shall be guilty of a misdemeanor and upon conviction, shall be fined not more than \$500.00, or shall be imprisoned in the Muskegon County jail for not more than 90 days, or both such fine and imprisonment at the discretion of the Court.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-285. Severability.

This article and the various parts, sections, subsections, sentences, phrases and clauses thereof are hereby declared to be severable. If any part, sentence, paragraph, section, subsection, phrase or clause is adjudged unconstitutional or invalid, it is hereby declared that the remainder of this article shall not be affected thereby.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-286. Administrative liability.

No officer, agent, or employee of the Township of Muskegon, or member of the township board shall render himself personally liable for any damage there may accrue to any person as a result of any act, decision, or other consequence or occurrence arising out of the discharge of his duties and responsibilities pursuant to this article.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-287. Repeal.

All ordinances or parts thereof which are in conflict in whole or in part with any of the provisions of this article as of the effective date of this article are hereby repealed to the extent of such conflict, except that terms defined herein for purposes of interpretation, administration, and enforcement of this article only will in no way, manner, or form repeal, modify, or otherwise change the definition of any such terms as used in other ordinances of the Township of Muskegon.

(Ord. No. 18-6 , § 3, 12-17-18)

Sec. 30-288. Appearance of tickets.

The township zoning administrator, and the local law enforcement are hereby authorized to issue appearance tickets for violation of this article.

(Ord. No. 18-6 , § 3, 12-17-18)

Chapter 34 PARKS AND RECREATION

Sec. 34-1. Scope.

The provisions of this chapter shall apply to all parks and playgrounds owned, operated or maintained by the township.

(Ord. No. 39, § 1, 5-21-73)

Sec. 34-2. Hours of accessibility.

The parks and playgrounds of the township shall be open and available for use between the hours from one-half hour before sunrise until one-half hour after sunset. It shall be illegal for a person to be on the grounds of a park or playground at all other times except as provided in section 34-3.

(Ord. No. 39, § 2, 5-21-73)

Sec. 34-3. Exceptions to established hours.

A person or group of persons may be permitted to use and occupy the parks or playgrounds at times other than established in section 34-2 upon special application in writing to the township supervisor, and in his absence, the clerk or any other designated party, which application shall specify the use, the time limits therefor and purpose. The permit shall be issued in the discretion of the official with such additional and conditional restrictions as shall be deemed appropriate in order to control and safeguard the facilities and avoid nuisances and disturbances.

(Ord. No. 39, § 3, 5-21-73)

Sec. 34-4. Penalty.

Any person who shall violate the provisions of this chapter shall be punished as provided for in section 1-10 of this Code.

(Ord. No. 39, § 4, 5-21-73)

Chapter 38 SOLID WASTE²¹

ARTICLE I. IN GENERAL

Sec. 38-1. 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:

Approved incinerator and approved garbage grinder mean incinerators and garbage grinders respectively, which conform in all respects to the requirements for incinerators and garbage grinders contained in the building code of the township or the state.

Building inspector means the building inspector of the township.

Garbage means all putrescible, animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods, and includes animal carcasses or parts thereof.

Premises means land, buildings or other structures, vehicles, watercraft or parts thereof upon or in which refuse is stored.

Refuse means all solid wastes of a community, including garbage, ashes, rubbish, street cleanings, tin cans and solid market and industrial wastes, but not including body wastes. Where in this chapter the word "refuse" is used, it shall include all of the items of waste as defined in this section.

Rubbish includes combustible refuse, and means, but is not limited to, paper, cartons, boxes, wood, tree branches, yard trimmings, and similar waste; noncombustible refuse, including but not limited to metals, tin cans, small quantities of earth, rock and pieces of concrete; glass, crockery and other mineral waste. "Rubbish" shall not include earth and wastes from building operations, nor shall it include solvent waste resulting from industrial processes or manufacturing operations.

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 38-2. Functions of superintendent of public works.

The superintendent of public works of the township, in order to protect the health and safety of the people of this township, is authorized and directed, by implementing and enforcing the provisions of this chapter, to control the storage, collection and disposal of refuse within the township, to provide a public refuse collection and refuse disposal service from premises within the township, so that the type and usual quantity of refuse can be safely and expeditiously handled by such public refuse collection and refuse disposal service.

(Ord. No. 36, § 2, 3-1-71)

²¹Cross reference(s)—Environment, ch. 18.

State law reference(s)—Solid waste management act, MCL 299.401 et seq., MSA 13.29(1) et seq.

Sec. 38-3. Funds for equipment, operation of collection and disposal system.

The township shall charge fees, appropriate, borrow or make funds available by other legal means for equipment for the collection and disposal of refuse, and for the establishment, maintenance and operation of refuse collection systems and refuse disposal methods and sites.

(Ord. No. 36, § 3, 3-1-71)

Sec. 38-4. Service charges.

For the purpose of aiding in the financing of the establishment, maintenance and operation of refuse collection systems and refuse disposal methods and sites, refuse service charges are hereby levied in accordance with the following schedule:

- (1) *Residential:* Each single-family residence within the township receiving refuse collection shall pay as required by the current billing schedule the sum as set by resolution of the township board from time to time.

Double or multifamily residence or apartment houses shall be considered and charged according to the current department of public works/sanitation rate schedule.

- (2) *Commercial:*

- a. *Light:* Offices, theaters and similar commercial units not involved in the handling or dispensation of food shall be charged as set by resolution of the township board, from time to time.
- b. *Heavy:* Restaurants, grocery stores, drive-ins, medical buildings, hospitals, garages, service stations, retail stores, and other similar commercial units shall be charged as set by resolution of the township board from time to time.
- c. *Special:* Where experience has shown that the rates above are not sufficient for service rendered, the township board may charge an additional amount to cover cost of operation and maintenance.

(Ord. No. 36, § 4, 3-1-71; Ord. No. 10-8, § 1, 5-3-10)

Sec. 38-5. Billing, payment, collection of charges; late penalty.

- (a) The township treasurer shall render monthly or quarterly statements for refuse collection charges to the owner, agent or occupant of the premises against which such charge is levied, as the township treasurer may deem appropriate. The owner, agent or occupant of each of the premises from which refuse is collected by the township shall pay the designated charges on or before the 20th day of the month following the billing date. When the 20th day of the month is a Saturday, Sunday or federal holiday, the due date shall be extended to the next regular business day. Payments received after the time limited therefore shall include a late charge or penalty of ten percent which shall be added thereto and shall be included in the debt and lien owing thereof. Failure of the township treasurer to render such statement, or the failure of the owner, agent or occupant of such premises to receive the same, shall not absolve or relieve such owner, agent or occupant from liability for the payment of the same, or impair the charge against the lien upon the premises from which such refuse is collected. Such charges shall constitute a debt owing to the township from such owner, agent or occupant, respectively, for which such refuse is collected, and the same shall constitute a lien against the premises.

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- (b) The charges for services which are under the provisions of Part 119 of Act No. 451 of the Public Acts of Michigan of 1994 (MCL 324.11904 et seq.), as amended, made a lien on all premises served thereby, are hereby recognized to constitute such lien, and, whenever any such charge against any piece of property shall be delinquent for three months, the township official or officials in charge of the collection thereof shall certify annually, on September 30 of the year, to the tax assessing officer of the township the facts of such delinquency, whereupon such charge plus an administrative fee equal to one percent of such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced, in the same manner as general township taxes against such premises are collected and the lien thereof enforced.

(Ord. No. 17-11 , § 2, 8-7-17)

Editor's note(s)—Ord. No. 17-11 , § 2, adopted Aug. 7, 2017, amended § 38-5 in its entirety to read as herein set out. Former § 38-5 pertained to payment, collection of charges; late penalty and derived from Ord. No. 36, § 5, adopted March 1, 1971; and Ord. No. 10-8, § 2, adopted May 3, 2010.

Sec. 38-6. Reserved.

Editor's note(s)—Ord. No. 17-11 , § 2, adopted Aug. 7, 2017, repealed § 38-6, which pertained to billing and derived from Ord. No. 36, § 6, adopted March 1, 1971.

Sec. 38-7. Storage of refuse prior to collection; burning prohibited.

- (a) The owner or his agent, or the occupant, of any premises within the township shall be responsible for the sanitary conditions of the premises occupied by him and all refuse shall be placed upon his premises for collection or storage in the manner prescribed by the rules and regulations for such collection from time to time established by the township.
- (b) There shall be no burning of trash, garbage, paper, rags, boxes, wrappers or other combustible containers unless a proper permit has been obtained from the county.

(Ord. No. 36, § 7, 3-1-71)

Sec. 38-8. Inspection of premises.

The township building official or law enforcement officer, after identifying himself, or his designated agent shall have the power to enter at reasonable times on public or private property for the purpose of inspecting and investigating conditions relating to the enforcement of the provisions of this chapter.

(Ord. No. 36, § 8, 3-1-71)

Sec. 38-9. Adoption of regulations.

The township board is hereby authorized and directed to adopt such written regulations as may be necessary for the implementation and enforcement of this chapter. A certified copy of all regulations which may from time to time be adopted shall be filed with the township clerk, and such regulations shall be made available for the inspection of the public on request. Such regulations shall have the same force and effect as the provisions of this chapter, as hereinafter provided.

(Ord. No. 36, § 9, 3-1-71)

Sec. 38-10. Penalties.

Any person who shall violate any provisions of this chapter, or any regulation adopted hereunder, upon conviction, shall be punished as provided in section 1-10 of this Code.

(Ord. No. 36, § 10, 3-1-71)

Secs. 38-11—38-30. Reserved.

ARTICLE II. REGULATIONS

Sec. 38-31. Receptacles.

It shall be the duty of owners, proprietors or persons in charge of every dwelling, house, store, manufacturing establishment, office building, or other building in the township to place or cause to be placed all refuse accumulating on the premises in suitable containers or receptacles provided by such owner or other person. Garbage placed outside of buildings, whether on public or private property, shall be securely wrapped in paper and placed in suitable, covered containers. All garbage receptacles shall be metal or plastic containers, tapered in such a manner as to be larger in diameter at the top than at the bottom, with tight-fitting covers sufficient to keep out water and to prevent disturbance by animals and the entrance of insects. All receptacles shall be not more than 20 gallons in capacity, except that larger receptacles may be authorized by written regulations of the township. All receptacles shall be equipped with handles by which they may be lifted. Receptacles for ashes must be of metal. The combined weight of any refuse container and its contents shall not exceed 60 pounds. The containers shall not be so small as to require an excessive number of containers for each household. Brush shall be cut into lengths not exceeding four feet and tied into bundles which can be readily handled by an individual collector. Tree limbs exceeding four inches in diameter will not be collected by the township and shall not be included in any bundle for refuse collection. All receptacles must be maintained in a sanitary condition and badly damaged, worn and broken receptacles may be classed as rubbish and after due notice, removed.

(Ord. No. 37, § 2, 3-15-71)

Sec. 38-32. Owner's duty as to refuse.

It shall be the duty of the owner, occupant, or person in charge of any dwelling, house, store or other business establishment, manufacturing company or other building where refuse accumulates to provide suitable receptacles and cause to be placed therein all other waste material created or accumulated on the premises owned or controlled by him.

(Ord. No. 37, § 3, 3-15-71)

Sec. 38-33. Construction wastes.

It shall be the duty of the owner, contractor or other person responsible for construction work to remove from the premises within 30 days after completion of such construction work all surplus construction material and refuse building material. Such materials shall be removed outside the township or disposed of within the township in accordance with the directions of the building inspector or his duly authorized representative.

(Ord. No. 37, § 4, 3-15-71)

Sec. 38-34. Uncollectible refuse.

It shall be unlawful for any person to place in any receptacle for collection any material that might either endanger the collection personnel or that would be detrimental to the normal operation of disposal such as gaseous, solid or liquid poisons; dead animals; ammunition; explosives or any material that possesses heat sufficient to ignite any other collected materials.

(Ord. No. 37, § 5, 3-15-71)

Sec. 38-35. Refuse littering and accumulation.

No paper, lawn cuttings or rakings, leaves, weeds, ashes or any other refuse material whatsoever shall be thrown or swept into any street, gutter, intake, alley, vacant lot, park, greenbelt or other property, whether public or private. It shall be the duty of every tenant, lessee, owner or occupant of any property at all times to maintain the premises in a clean and orderly condition, permitting no deposit or accumulation of materials other than those ordinarily attendant upon the day-to-day use for which the premises are legally intended, total accumulation not to exceed a 30-day period. It shall be unlawful to deposit, throw or leave refuse on the premises of any other person.

(Ord. No. 37, § 6, 3-15-71)

Sec. 38-36. Disposition of garbage.

No person shall dispose of any garbage within the township other than by means of an approved incinerator, approved garbage grinder or a garbage and refuse collection service approved by the township, or by transporting the garbage by owner to the legally licensed landfill.

(Ord. No. 37, § 7, 3-15-71)

Sec. 38-37. Accumulation and disposition of rubbish.

(a) Any rubbish accumulated or stored outside of a dwelling on any premises shall be stored in receptacles meeting the requirements of this article. No rubbish may be stored or accumulated which is contaminated by any garbage or other chemical or substance unless stored as garbage. Rubbish shall be disposed of only to a licensed rubbish collector or approved township garbage and refuse collection service, except that any person may dispose of his own rubbish in a legally licensed landfill.

(b) No person shall burn leaves unless with a valid permit.

(Ord. No. 37, § 8, 3-15-71)

Sec. 38-38. Landfill—Hours of operation.

No person shall deposit any refuse or garbage upon or adjacent to the legally licensed landfill except during such hours as the landfill shall be open for use, which hours shall be established by the county landfill authority. Notice of such dumping hours shall be posted in plain view at the entrance to the landfill.

(Ord. No. 37, § 10, 3-15-71)

Sec. 38-39. Same—Depositing refuse outside prohibited.

No person shall deposit or leave any garbage or refuse outside the landfill.

(Ord. No. 37, § 11, 3-15-71)

Sec. 38-40. Penalty.

Any person who shall violate any provision of this article shall be punished as provided in section 1-10 of this Code. Each act of violation and every day upon which such violation shall occur shall constitute a separate offense.

(Ord. No. 37, § 12, 3-15-71)

Chapter 42 SUBDIVISIONS²²

Sec. 42-1. Plat fees.

- (a) The proprietor will be charged a fee in the amount set by resolution of the township board from time to time per lot upon submission of any preliminary plat for approval, payable to the township upon submission.
- (b) Such fee shall be paid to the treasurer of the township before the proposed plat is submitted to the township clerk.
- (c) In addition to such fee the proprietor shall pay the sum set by resolution of the township board for each intersection in the proposed subdivision for street signs; if signs already exist at such intersection the sum shall be used for sign replacement when necessary.
- (d) Parcels or outlots dedicated to public use shall not be charged for in computing the per-lot charge.
- (e) In addition to the charges herein, the proprietor shall pay the actual costs of recording and filing of the plat as billed by the township clerk.

(Ord. No. 35, §§ I—V, 4-20-70)

Sec. 42-2. Dividing of lots generally.

Lots in platted subdivisions of the township may be divided into two but not more than four subdivision lots provided such subdivision does not violate any other provision of this chapter, and the provisions of this chapter shall be followed.

(Ord. No. 34, § I, 4-20-70)

²²Cross reference(s)—Buildings and building regulations, ch. 6; utilities, ch. 54; zoning, ch. 58.

State law reference(s)—Subdivision control act, MCL 560.101 et seq., MSA 26.430(101) et seq.

Sec. 42-3. Required information.

Petitions to divide lots in platted subdivisions shall be addressed to the township board and shall contain the following information:

- (1) The dimensions of the lot proposed to be divided.
- (2) The average dimensions of all other lots in the subdivision.
- (3) A plan of renumbering the divided lot in accordance with the standards allowed by this chapter.
- (4) A report on utilities, roads, drainage and existing structures and how they will be affected by the proposed division.
- (5) Three copies of a survey from a registered surveyor, showing the lots on either side and the proposed division and renumbering.
- (6) An opinion from legal counsel or other proof acceptable to the township that the petitioner is the owner of the fee title to the lot proposed to be divided and a report on any restrictive covenants covering the property.

(Ord. No. 34, § II, 4-20-70)

Sec. 42-4. Filing of petition.

Petitions as prescribed in section 42-3 will be addressed to the township board and will be filed with the building inspector at least five days prior to the township board meeting at which the matter is to be presented.

(Ord. No. 34, § III, 4-20-70)

Sec. 42-5. Report, recommendations of building inspector.

The building inspector shall attach to the petition his report of the conditions and recommendations on the allowance or denial of the petition.

(Ord. No. 34, § IV, 4-20-70)

Sec. 42-6. Filing fee.

The subdivision petition shall be filed with a fee in the amount set by resolution of the township board from time to time, which is deemed by the township to cover the costs involved.

(Ord. No. 34, § V, 4-20-70)

Sec. 42-7. Criteria.

Petitions submitted under this chapter must meet the following criteria:

- (1) No lot shall be divided so as to leave smaller frontage on the road servicing the lot than the average of other lots in the area.
- (2) No lot may be divided into a smaller lot than can be allowed under chapter 58 of this Code.

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- (3) No lot shall be subdivided if there will be an interference with drainage, utilities, rights-of-way, easements or will cause existing structures to be too close to the new lines as to cause a violation of chapter 58 of this Code, any other ordinance, restrictive covenant, or any state law.
 - (4) No lot shall be subdivided if the remaining lots would be left without utility services unless provision to replace them is made.

(Ord. No. 34, § VI, 4-20-70)

Sec. 42-8. Approval or denial by township board.

The township board shall act within 60 days of a subdivision petition being presented to it, and upon failure to act shall be considered to have approved the division as submitted; the board shall express its reason in writing of denial of the petition if the petition is denied.

(Ord. No. 34, § VIII, 4-20-70)

Chapter 46 TAXATION²³

ARTICLE I. IN GENERAL

Secs. 46-1—46-25. Reserved.

ARTICLE II. AD VALOREM PROPERTY TAXATION²⁴

DIVISION 1. GENERALLY

Secs. 46-26—46-50. Reserved.

DIVISION 2. RESIDENTIAL HOUSING PROJECTS AND PAYMENTS IN LIEU OF AD VALOREM TAXES²⁵

²³Cross reference(s)—Buildings and building regulations, ch. 6.

²⁴Editor's note(s)—Ord. No. 07-01, adopted Mar. 19, 2007, repealed the former Art. II., §§ 46-26—46-80, and enacted a new Art. II as set out herein. The former Art. II pertained to housing exemptions and derived from Ord. No. 38, adopted Apr. 3, 1972; Ord. No. 38-A, §§ 1—8, adopted Oct. 26, 1978; Ord. No. 38-B, §§ 1—10, adopted Dec. 1, 1980; and Ord. No. 46, adopted Dec. 4, 1995.

State law reference(s)—General Property Tax Act, MCL 211.1 et seq.

²⁵State law reference(s)—Housing project tax exemption and service charges, MCL 125.1415a.

Sec. 46-51. Definitions.

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

Act means the State Housing Development Authority Act, Act. No. 346 of the Public Acts of Michigan, 1966; (MCL 125.1401 et seq.), as amended.

Authority means the Michigan State Housing Development Authority.

Annual shelter rent means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electricity, heat or other utilities furnished to the occupants.

Contract rents means the same as defined by the United States Department of Housing and Urban Development in regulations promulgated pursuant to the United States Housing Act of 1937, as amended by the Housing and Community Development Act of 1974.

Elderly persons means persons determined by authority guidelines, rules, and practices to have attained the age and have the status to qualify as elderly persons.

Housing project means a residential facility consisting of rental units offered to the following persons; it does not mean the portion of any facility which is not so occupied:

- (1) Elderly persons as defined in this section;
- (2) Low income persons and families as defined by the authority.

HUD means The United States Department of Housing and Urban Development.

Low income persons and families means all low income persons and families included in the definitions found at section 15a(7) of Public Act No. 346 of 1966 (MCL 125.1415a(7)).

Mortgage loan means a loan made by the authority or by HUD to the sponsor for the construction and permanent financing of a housing project.

PILOT rent means all rents in the housing project expected either directly from a tenant or by subsidy, vendor payments or paid by a government or other assisting entity on behalf of a tenant to the owner or owner's designee or agent of a housing project. PILOT rents include the rental amounts to be currently charged for units in the housing project, whether a unit is vacant or not, and whether or not the rent is actually paid. PILOT rents also include the rentals to be paid for additional facilities by tenants, such as carports or garages, and further include miscellaneous income, such as income from vending machines or laundry equipment. The portion of additional facility rents and miscellaneous income to be attributed to PILOT rents shall be determined by reference to the floor plan of the facility which includes and clearly exhibits the housing project (therefore the exempt portion of the facility), and the portion of PILOT rents shall be determined by the ratio of the housing project square footage to the entire square footage of the facility. The term "PILOT rents" does not include charges for utilities.

Service charge means the same as payment in lieu of taxes.

Sponsor means a developer of a housing project. The term "sponsor" includes an applicant for exemption under this division.

Utilities means public water, public sanitary sewer, gas or electric service. The term "utilities" does not include cable or other television services, telephone or communication utilities or solid waste services.

(Ord. No. 07-01, 3-19-07)

Sec. 46-52. General denial of exemption.

The exemption from ad valorem property taxes provided by section 15a of Public Act No. 346 of 1966; (MCL 125.1415a) shall not apply to all or any class or classes of housing projects within the boundaries of Muskegon Charter Township, except as provided in this division.

(Ord. No. 07-01, 3-19-07)

State law reference(s)—Authority so to provide, MCL 125.1415a(5).

Sec. 46-53. Existing contractual rights.

The adoption of this division, or the repeal of the following ordinances, does not alter or amend any contractual rights for specific housing projects (Pine Grove Manor, Park Woods Apartments, Arbor Crossings Apartments), that have arisen pursuant to the following ordinances:

Ordinance No. 38, April 3, 1972.

Ordinance No. 38-A, October 26, 1978

Ordinance No. 38-B, December 1, 1980

Ordinance No. 46, December 4, 1995.

(Ord. No. 07-01, 3-19-07; Ord. No. 10-15, § 1, 12-6-10; Ord. No. 16-05, § 1, 6-6-16)

Sec. 46-54. Reserved.

Editor's note(s)—Ord. No. 16-05, § 2, adopted June 6, 2016, repealed § 46-54, which pertained to Pine Grove Manor—Nine and one-half percent of the total annual shelter rent and derived from Ord. No. 07-01, adopted March 19, 2007.

Sec. 46-55. Reserved.

Editor's note(s)—Ord. No. 10-15, adopted December 6, 2010, repealed ch. 46-55, which pertained to Quail Meadow—Four percent of the difference between contract rents actually collected and utilities, and derived from Ord. No. 07-01, adopted March 19, 2007.

Sec. 46-56. Reserved.

Editor's note(s)—Ord. No. 16-05, § 2, adopted June 6, 2016, repealed § 46-56, which pertained to Park Woods—Four percent of the difference between contract rents actually collected and utilities and derived from Ord. No. 07-01, adopted March 19, 2007.

Sec. 46-57. Reserved.

Editor's note(s)—Ord. No. 16-05, § 2, adopted June 6, 2016, repealed § 46-57, which pertained to Arbor Crossings—Four percent of the difference between contract rents actually collected and utilities and derived from Ord. No. 07-01, adopted March 19, 2007.

Sec. 46-58. Limited exemption stated.

A limited exemption, only if authorized by Public Act No. 346 of 1966; (MCL 125.1401 et seq.), is hereby granted, limited however, to the projects described and authorized by sections 46-59—46-62 of this division, and further having a signed contract with Muskegon Charter Township pursuant to this division, entered into by the township in its sole discretion. Except as provided in sections 46-54—46-58 of this division, no other residential project, even if authorized by Public Act No. 346 of 1966; (MCL 125.1401 et seq.), shall be entitled to an exemption.

(Ord. No. 07-01, 3-19-07)

Sec. 46-59. Ownership entities recognized.

No housing project shall be eligible for an exemption under this division unless it is owned by a nonprofit housing corporation, consumer housing cooperative, or limited-dividend housing corporation as described in section 15a of Public Act No. 346 of 1966; (MCL 125.1415a). This exemption shall not be available to mobile home park corporations or mobile home park associations.

(Ord. No. 07-01, 3-19-07)

Sec. 46-60. Housing projects eligible.

The following housing projects shall be eligible to apply for the exemption in Muskegon Charter Township:

- (1) Housing projects receiving direct mortgage loans from HUD or the authority for at least 70 percent of the total construction or rehabilitation costs of the housing project.
- (2) Housing projects for which at least 70 percent of the total construction or rehabilitation costs of the housing project come from the proceeds of a grant or advance of funds from the authority.
- (3) Housing projects for which at least 70 percent of the total construction or rehabilitation costs of the housing project are funded by the net proceeds from an authority-aided mortgage loan, but only if the authority aid consists of the allocations of tax credits from the authority to the applicant for the exemption.

(Ord. No. 07-01, 3-19-07)

Sec. 46-61. Payment in lieu of taxes; amount; standards for determination.

The payments in lieu of taxes to be made by housing projects exempt from ad valorem taxes, under sections 46-54—46-58 of this division are hereby established by the Township of Muskegon, pursuant to section 15a of Public Act No. 346 of 1966; (MCL 125.1415a), without regard to the amounts otherwise set forth in such section of the Act. The service charge to be paid in lieu of taxes by any housing project exempt under section 46-58 of this division shall be determined as follows:

- (1) *Amount.* The service charge shall be in an amount not less than four percent, nor more than 20 percent of the PILOT rents charged for the total of all units in the (exempt) housing project, whether the units are occupied or not and whether or not the rents are paid. In no event shall the service charge exceed the ad valorem real property taxes which would be paid for the housing project if it were not exempt.
- (2) *Standards for determining the amount of the payment in lieu of taxes.* In determining the amount of service charge (not less than the minimum) which will be paid to Muskegon Charter Township for a

housing project exempt under this division, the following standards shall guide the township. All criteria which apply shall be considered to arrive at the service charge:

- a. In the event the housing project or substantial part thereof is located in a rehabilitated structure, for that portion of the project found in the rehabilitated structure, the township may establish a lower service charge.
- b. In the event the housing project is located in an area of the township which is part of a tax increment district and removes taxable property from the tax roll, the township may establish a higher service charge.
- c. The township shall consider the number of exempt units as compared to nonexempt units which are attached or contiguous to the housing project, but which are developed simultaneously with it by the same developer. To the extent that nonexempt units, including units calling for market rents, are included in the development, the township shall consider lowering the rate of the service charge on the exempt units.
- d. In the event the housing project is proximate to nonsubsidized and nonexempt housing which is not part of any project for which the developer of the exempt housing project is responsible, the township may establish a higher service charge.
- e. In the event the housing project is eligible for other property tax abatements or reductions of any kind, or municipal benefits not generally available to residential properties, the township may establish a higher service charge.
- f. In the event the housing project results in an increase in the need for public services such as water or sewer extensions, public transportation services, additional snow plowing, police and fire services, or increased school populations, the township may establish a higher service charge.
- g. In the event the township determines that the housing project will result in significantly increased traffic generation or street or highway safety problems, the township may establish a higher service charge.

(Ord. No. 07-01, 3-19-07)

State law reference(s)—Service charge authorized, MCL 125.1415a(2).

Sec. 46-62. Term of exemption.

The exemption term for an exemption under section 46-58 of this division shall begin on the tax day of the year in which a final certificate of compliance or occupancy is issued by the township, therefore affecting the taxes due in the following tax year, and shall terminate on the happening of any of the following:

- (1) Refinancing of the authority-aided, or authority, or HUD mortgage loan, except to convert from construction to an end loan.
- (2) Any violation or default under this division.
- (3) The day falling 25 years after the effective date of the contract for the exception required by this division, or the period determined by the contract, whichever is shorter.

(Ord. No. 07-01, 3-19-07)

Sec. 46-63. Service charge constitutes a lien on property.

The service charge shall constitute a lien on the housing project property and improvements, effective at the same times and enforceable in the same manner as general property taxes.

(Ord. No. 07-01, 3-19-07)

Sec. 46-64. Collection of service charge.

The service charge as determined by this division shall be payable in the same manner as general property taxes, except that the annual payment shall be paid on or before August 15 of each year during which the exemption is in effect. The entire tax collection procedure provided by the General Property Tax Act; (MCL 211.1 et seq.) shall be effective and utilized with respect to such payment, including, but not limited to, the provisions providing for interest and penalties on late payments, return of delinquent taxes, tax lien, and the sale of lands for delinquent taxes. In the event of a delinquency in the payment in lieu of taxes, the township shall issue a tax bill for the premises and include the required payment as a delinquent tax. In its discretion, in the event of a delinquent payment, the township may also declare a default for purposes of sections 46-54—46-57, or subsection 46-62(2).

(Ord. No. 07-01, 3-19-07)

Sec. 46-65. Annual certification.

In order to maintain eligibility for an exemption under this division, the sponsor or owner of each housing project subject to this division shall file with the township treasurer, on or before July 31 of each calendar year, a certification under oath and subject to penalty of perjury, containing the following information:

1. Whether, at all times in the calendar year preceding the date of certification, the housing project was owned by a nonprofit housing corporation, consumer housing cooperative, or limited-divided housing corporation, including the name of the cooperative or corporation;
2. Whether, at all times in the calendar year preceding the date of certification, a HUD-aided or authority-aided mortgage loan on the housing project remained outstanding and unpaid;
3. The total number of units in the housing project on the date of certification;
4. The total number of units in the housing project for which the residents or tenants are receiving a subsidy or assistance from HUD or the authority;
5. The total number of occupied units in the housing project on the date of certification;
6. The total number of units in the housing project on the date of certification that are occupied by elderly persons;
7. The total number of units in the housing project on the date of certification that are occupied by low income persons and families;
8. If, at any time during the calendar year preceding the date of certification, the total number of units in the housing project for which the residents or tenants were receiving a subsidy or assistance from HUD or the authority, was below the number reported in response to subsection 4., above, the dates on which said number was lower, and the total number of units in the housing project for which the residents or tenants were receiving a subsidy or assistance from HUD or the authority, during each such period;

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9. If, at any time during the calendar year preceding the date of certification, the total number of occupied units in the housing project, was below the number reported in response to subsection 5., above, the dates on which said number was lower, and the total number of occupied units in the housing project, during each such period;
 10. If, at any time during the calendar year preceding the date of certification, the total number of units in the housing project that were occupied by elderly persons, was below the number reported in response to subsection 6., above, the dates on which said number was lower, and the total number of units in the housing project that were occupied by elderly persons, during each such period;
 11. If, at any time during the calendar year preceding the date of certification, the total number of units in the housing project occupied by low income persons and families, was below the number reported in response to subsection 7., above, the dates on which said number was lower, and the total number of units in the housing project occupied by low income persons and families, during each such period;
 12. The sponsor's or owner's certification that it is in compliance with all requirements of this division and all requirements of the Act, and has been in compliance with the same for the entire preceding calendar year;
 13. The sponsor's or owner's express acknowledgment that the sponsor or owner understands that it is subject to the requirements of this division, and agrees to comply with such requirements in the subsequent calendar year.

(Ord. No. 07-01, 3-19-07)

Sec. 46-66. Requirement to file information; default in payment; violations; loss of exemption.

If the service charge for a housing project is based on a calculation of annual shelter rents, then the sponsor or owner shall file annually with the township treasurer a statement of annual shelter rents to be charged and/or received, the statement to be filed within 30 days after December 31 of each year. If the service charge for a housing project is based on a calculation of contract rents, then the sponsor or owner shall file annually with the township treasurer a statement of contract rents to be charged and/or received, the statement to be filed within 30 days after December 31 of each year. Otherwise, the sponsor or owner shall file annually with the township treasurer a statement of PILOT rents to be charged and/or received, the statement to be filed within 30 days after December 31 of each year. Failure to timely file such statement, the filing of an inaccurate statement, any misrepresentation in the amount of rents, or the failure to timely pay any service charge, shall be considered violations of this division and the commission of any one violation shall result in the permanent, immediate termination and loss of the exemption, for the current year and thereafter. The township, in its discretion, may require that information presented in the statement be certified by an independent auditor.

(Ord. No. 07-01, 3-19-07)

Sec. 46-67. Service fees and special assessments.

Except as otherwise provided by law, a housing project otherwise exempt under this section shall not be exempt from special assessments or service fees or charges levied or charged by the township.

(Ord. No. 07-01, 3-19-07)

Sec. 46-68. Payment of property taxes on units not rented to elderly persons or low income persons and families.

In a housing project for elderly persons, any units that are not rented to elderly persons shall not be eligible for an exemption under this division and the owner or sponsor of any such project shall pay normal ad valorem taxes on the housing project in proportion to the ratio of the number of square feet of rentable space not occupied by elderly persons, to the total square feet of rentable space in the housing project. In a housing project for low income persons and families, any units that are not rented to low income persons and families shall not be eligible for an exemption under this division and the owner or sponsor of any such project shall pay normal ad valorem taxes on the housing project in proportion to the ratio of the number of square feet of rentable space not occupied by low income persons and families, to the total square feet of rentable space in the housing project.

(Ord. No. 07-01, 3-19-07)

Sec. 46-69. Contract requirement.

Except for housing projects specifically listed in sections 46-54—46-57 of this division, each housing project seeking an exemption under this division must sign an agreement with the township by which the exemption set forth in this division is granted, and further providing for the payment in lieu of taxes, consenting to the provisions of this division and recognizing the conditions whereby exemption may be lost. The township may require any reasonable conditions in such contract, including, but not limited to, such matters as limitations on the years for which the exemption may be continued, requirements for completing the project within a time certain, requirements for completing nonexempt units or facilities, and time limits for completion, as well as the number of units. Each contract shall have a complete and final floor plan attached (subject only to insubstantial amendment by as-built drawings), which shall govern the determination of the payment in lieu of taxes as appropriate under this division. No exemption may be granted unless and until the contract is completed, approved by the township commission and signed.

(Ord. No. 07-01, 3-19-07)

Sec. 46-70. Denial of application.

The township is not required by this division to grant an application which may otherwise qualify under this division. The township may deny an application in its sole discretion. In determining whether to deny a project, the township may use, but is not limited to, the following standards. The township would deny a project's application for exemption if the project applied for:

- (1) Constitutes a development which diverts, subverts, alters or is contrary to the master plan of the township;
- (2) Fails to contribute to the improvements of neighborhoods in the township;
- (3) Concentrates exempt housing in one or more areas of the township;
- (4) Adversely affects the property tax base of the township;
- (5) Creates significant public burdens, such as traffic, public works or infrastructure, health, safety, school population or demands on service capabilities;
- (6) Results in the concentration of low income or elderly housing in a neighborhood or is contrary to the encouragement of economically diverse housing development;

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- (7) Is sponsored by a developer who fails to demonstrate acceptable financial, managerial or construction capabilities; or
 - (8) Results in a project or development which is harmful to the health, safety and welfare of the city.

The township may deny a project's application for exemption for any other reason it deems appropriate.

(Ord. No. 07-01, 3-19-07)

Sec. 46-71. Effect on existing projects.

Housing projects which have previously been determined and treated as exempt pursuant to Public Act No. 346 of 1966; (MCL 125.1401 et seq.), under previous ordinances of the township, shall be governed by this division.

(Ord. No. 07-01, 3-19-07)

Chapter 50 TRAFFIC AND VEHICLES²⁶

ARTICLE I. IN GENERAL

Sec. 50-1. Recovery of costs.

- (a) As part of the sentence for a conviction of any of the following offenses, in addition to any other penalty authorized by law, the court may order the person convicted to reimburse the township for the expenses of the response to the incident for which the conviction arose and other expenses incurred in relation to that incident, as provided in the section:
 - (1) A violation of section 625(1) or (2) or section 625B of the Michigan Vehicle Code, Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq.), as amended, or section 5.15 or 5.15(b) of the Uniform Traffic Code as amended and in effect.
 - (2) Felonious driving, negligent homicide or manslaughter, resulting from the operation of a motor vehicle while the person was impaired by or under the influence of intoxicating liquor or a controlled substance, as defined in section 7104 of the Public Health Code, Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.1101 et seq.), or a combination of intoxicating liquor and a controlled substance, or had a blood alcohol content of 0.10 percent or more by weight of alcohol.
- (b) The court may order reimbursement under this section for the following expenses incurred by the township in relation to the incident from which the conviction arose:
 - (1) The reasonable costs incurred in making an appropriate response to the incident, including the costs of providing police, firefighting, rescue and emergency medical services at the scene of the incident, as well as the salaries or wages of the personnel responding to the incident.

²⁶Cross reference(s)—Environment, ch. 18; law enforcement, ch. 26; offenses, ch. 30.

State law reference(s)—Michigan Vehicle Code, MCL 257.1 et seq.; authority for township to regulate streets and highways within its jurisdiction, MCL 257.606.

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- (2) The cost of conducting and analyzing preliminary chemical test of blood, urine, 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.
- (c) If police, fire department or emergency medical service personnel from more than one unit of government incurred expenses as described in subsection (b), the court may order the person convicted to reimburse each unit of government for the expenses it incurred.
- (d) The amount ordered to be paid under this section shall be paid to the clerk of the court, who shall transmit the appropriate amount to the township or units of government named in the order to receive reimbursement. If not otherwise provided by the court under this subsection, the reimbursement ordered under this section shall be made immediately. However, the court may require that the person make the reimbursement ordered under this section within a specified period or in specified installments.
- (e) If the person convicted is placed on probation or paroled, any reimbursement ordered under this section shall be a condition of that probation or parole. The court may revoke probation and the parole board may revoke parole if the person fails to comply with the order and if the person has not made a good faith effort to comply with the order. In determining whether to revoke probation or parole, the court or parole board shall consider the person's employment status, earning ability, and financial resources, the willfulness of the person's failure to pay, and any other special circumstances that may have a bearing on the person's ability to pay.
- (f) An order for reimbursement under this section may be enforced by the prosecuting attorney or the state or the state or local unit of government named in the order to receive the reimbursement in the same manner on a judgement in a civil action.
- (g) Notwithstanding any other provision of this section, a person shall not be imprisoned, jailed or incarcerated for a violation of parole or probation, or otherwise, for failure to make a reimbursement as ordered under this section unless the court determines that the person has the resources to pay the ordered reimbursement and has not made a good faith effort to do so.

(Ord. No. 19-D, §§ 1—7, 11-15-90)

Sec. 50-2. Warrantless arrest.

The township adopts sections 727(a) through (d) of Act No. 99 of the Public Acts of Michigan of 1991 (MCL 257.727) by reference.

(Ord. No. 23B, § 1, 3-21-92)

Secs. 50-3—50-25. Reserved.

ARTICLE II. UNIFORM TRAFFIC CODE

Sec. 50-26. Adoption.

The Uniform Traffic Code for Michigan Cities, Townships, and Villages as promulgated by the director of the Michigan Department of State Police and pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328 and made effective October 30, 2002, and all future amendments and revisions to the Uniform Traffic Code when they are promulgated and effective in this state are incorporated and adopted by

reference as section 50-27. References in the Uniform Traffic Code for cities, townships, and villages to a "governmental unit" shall mean the Charter Township of Muskegon.

(Ord. No. 05-05, §§ 1, 2, 9-19-05)

State law reference(s)—Authority to adopt Uniform Traffic Code, MCL 257.951 et seq.

Sec. 50-27. Amendments.

The following sections and subsections of the Uniform Traffic Code for Michigan Cities, Townships and Villages adopted in this article are hereby amended as set forth and additional sections and subsections are added as indicated. Section numbers shall refer to the like-numbered sections in the uniform traffic code.

Sec. 2.5. Reports of stolen and recovered vehicles.

A police agency, upon receiving reliable information that any vehicle registered under this act has been stolen, shall immediately report the theft through the law enforcement information network. Upon receiving information that a vehicle previously reported as stolen has been recovered, the police agency shall immediately report the fact of the recovery through the law enforcement information network.

Sec. 2.5a. Abandoned vehicle procedures.

(1) As used in this section, "abandoned vehicle" means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice to the vehicle.

(2) If a vehicle 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 vehicle has been reported stolen.
- (b) Affix a written notice to the vehicle. The written notice shall contain the following information:
 - (i) The date and time the notice was affixed.
 - (ii) The name and address of the police agency taking the action.
 - (iii) The name and badge number of the police officer affixing the notice.
 - (iv) The date and time the vehicle may be taken into custody and stored at the owner's expense or scrapped if the vehicle is not removed.
 - (v) The year, make, and vehicle identification number of the vehicle, if available.

(3) If the vehicle is not removed within 48 hours after the date the notice was affixed, the vehicle is deemed abandoned and the police agency may have the vehicle taken into custody.

(4) A police agency which has a vehicle taken into custody shall do all of the following:

- (a) Recheck to determine if the vehicle has been reported stolen.
- (b) Within 24 hours after taking the vehicle into custody, enter the vehicle as abandoned into the law enforcement information network.
- (c) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.

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- (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale.

(5) The registered owner may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond in an amount equal to the accrued towing and storage fees with the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(6) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(7) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle and the police agency for its accrued costs.

(8) Not less than 20 days after the disposition of the hearing described in subsection (5) or, if a hearing is not requested, not less than 20 days after the date of the notice, the police agency shall offer the vehicle for sale at a public sale pursuant to section 2.5g.

(9) If the ownership of a vehicle which has been deemed abandoned under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5b. Abandoned scrap vehicle procedures.

(1) As used in this section:

- (a) "Registered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
 - (i) Is on public or private property.
 - (ii) Is seven or more years old.

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- (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683 would exceed the fair market value of that vehicle.
 - (iv) Is currently registered in the State of Michigan or displays current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.
- (b) "Unregistered abandoned scrap vehicle" means a vehicle which meets all of the following requirements:
- (i) Is on public or private property.
 - (ii) Is seven or more years old.
 - (iii) Is apparently inoperable or is extensively damaged, to the extent that the cost of repairing the vehicle so that it is operational and safe as required by section 683, would exceed the fair market value of that vehicle.
 - (iv) Is not currently registered in this state and does not display current year registration plates from another state.
 - (v) Is not removed within 48 hours after a written notice as described in section 2.5a(2)(b) is affixed to the vehicle.

(2) A police agency may have an unregistered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Take two photographs of the vehicle.
- (c) Make a report to substantiate the vehicle as an unregistered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
- (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.

(3) Within 24 hours, excluding Saturday, Sunday, and legal holidays, after taking the vehicle into custody, the police agency shall complete a release form and release the vehicle to the towing service or a used vehicle parts dealer or vehicle scrap metal processor, who shall then transmit that release form to the secretary of state and apply for a certificate of the title or a certificate of scrapping. Upon receipt of the release form and application, the secretary of state shall issue a certificate of title or a certificate of scrapping.

(4) The release form described in subsection (3) shall be furnished by the secretary of state and shall include a certification executed by the applicable police agency when the abandoned scrap vehicle is

released. The certification shall state that the police agency has complied with all the requirements of subsection (2)(b) and (c).

(5) The secretary of state shall retain the records relating to an abandoned scrap vehicle for not less than two years. The two photographs taken pursuant to subsection (2)(b) shall be retained by the police agency for not less than two years. After the certificate of scrapping has been issued, a certificate of title for the vehicle shall not be issued again.

(6) A police agency may have a registered abandoned scrap vehicle taken into custody, in which case the police agency shall do all of the following:

- (a) Determine if the vehicle has been stolen.
- (b) Take two photographs of the vehicle.
- (c) Make a report to substantiate the vehicle as a registered abandoned scrap vehicle. The report shall contain the following information:
 - (i) The year, make, and vehicle identification number if available.
 - (ii) The date of abandonment.
 - (iii) The location of abandonment.
 - (iv) A detailed listing of the damage or the missing equipment.
 - (v) The reporting officer's name and title.
 - (vi) The location where the vehicle is being held.
- (d) Within 24 hours after taking the vehicle into custody, enter the vehicle into the law enforcement information network.
- (e) Within seven days after taking the vehicle into custody, send to the registered owner and secured party, as shown by the records of the secretary of state, by first-class mail or personal service, notice that the vehicle has been deemed abandoned. The form for the notice shall be furnished by the secretary of state. Each notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle if available.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The business address of the custodian of the vehicle.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the termination of all rights of the owner and the secured party to the vehicle.

(7) The registered owner of a registered abandoned scrap vehicle may contest the fact that the vehicle has been deemed abandoned or the reasonableness of the towing fees and daily storage fees by requesting

a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a towing and storage bond with the court in an amount as determined by the court. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly deemed abandoned, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(8) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(9) If the owner does not redeem the vehicle or request a hearing within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(10) Not less than 20 days after the disposition of the hearing described in subsection (7), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (6)(e), the police agency shall follow the procedures established in subsections (3) to (5).

Sec. 2.5c. Vehicle removed from private property.

(1) When a vehicle is removed from private property at the direction of a person other than the registered owner of the vehicle or a police agency, the custodian of the vehicle immediately shall notify the police agency from whose jurisdiction the vehicle was towed. The custodian shall supply that information which is necessary for the police agency to enter the vehicle into the law enforcement information network.

(2) Upon receipt of the notification described in subsection (1), the police agency immediately shall do all of the following:

- (a) Determine if the vehicle has been reported stolen.
- (b) Enter the vehicle into the law enforcement information network.

(3) The owner of the vehicle removed as described in subsection (1) may obtain release of the vehicle by paying the accrued towing and storage fees to the custodian of the vehicle. Upon release of the vehicle, the custodian shall notify the police agency of the disposition of the vehicle.

(4) If the vehicle described in subsection (1) is not claimed by the owner within seven days after the police agency has been notified by the custodian that it has been taken into custody, the vehicle is deemed abandoned and the procedures prescribed in section 2.5a(4)(c) to (9) shall apply.

Sec. 2.5d. Vehicle removed by police.

(1) A police agency or a governmental agency designated by the police agency may provide for the immediate removal of a vehicle from public or private property to a place of safekeeping at the expense of the registered owner of the vehicle in any of the following circumstances:

- (a) If the vehicle is in such a condition that the continued operation of the vehicle upon the highway would constitute an immediate hazard to the public.
- (b) If the vehicle is parked or standing upon the highway in such a manner as to create an immediate public hazard or an obstruction of traffic.
- (c) If a vehicle is parked in a posted tow away zone.
- (d) If there is reasonable cause to believe that the vehicle or any part of the vehicle is stolen.

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- (e) If the vehicle must be seized to preserve evidence of a crime, or when there is reasonable cause to believe that the vehicle was used in the commission of a crime.
 - (f) If removal is necessary in the interest of public safety because of fire, flood, storm, snow, natural or man-made disaster, or other emergency.
 - (g) If the vehicle is hampering the use of private property by the owner or person in charge of that property or is parked in a manner which impedes the movement of another vehicle.
 - (h) If the vehicle is stopped, standing, or parked in a space designated for handicapped parking and is not permitted by law to be stopped, standing, or parked in a space designated for handicapped parking.

(2) A police agency which authorizes the removal of a vehicle under subsection (1) shall do all of the following:

- (a) Check to determine if the vehicle has been reported stolen.
- (b) Within 24 hours after removing the vehicle, enter the vehicle into the law enforcement information network if the vehicle has not been redeemed. This subdivision does not apply to a vehicle that is removed from the scene of a motor vehicle traffic accident.
- (c) If the vehicle has not been redeemed within ten days after moving the vehicle, send to the registered owner and the secured party as shown by the records of the secretary of state, by first-class mail or personal service, a notice that the vehicle has been removed; however, if the police agency informs the owner or operator of the vehicle of the removal and the location of the vehicle within 24 hours after the removal, and if the vehicle has not been redeemed within 30 days and upon complaint from the towing service, the police agency shall send the notice within 30 days after the removal. The notice shall be by a form furnished by the secretary of state. The notice form shall contain the following information:
 - (i) The year, make, and vehicle identification number of the vehicle.
 - (ii) The location from which the vehicle was taken into custody.
 - (iii) The date on which the vehicle was taken into custody.
 - (iv) The name and address of the police agency which had the vehicle taken into custody.
 - (v) The location where the vehicle is being held.
 - (vi) The procedure to redeem the vehicle.
 - (vii) The procedure to contest the fact that the vehicle was properly removed or the reasonableness of the towing and daily storage fees.
 - (viii) A form petition which the owner may file in person or by mail with the specified court which requests a hearing on the police agency's action.
 - (ix) A warning that the failure to redeem the vehicle or to request a hearing within 20 days after the date of the notice may result in the sale of the vehicle and the termination of all rights of the owner and the secured party to the vehicle or the proceeds of the sale or to both the vehicle and the proceeds.

(3) The registered owner may contest the fact that the vehicle was properly removed or the reasonableness of the towing fees and daily storage fees by requesting a hearing. A request for a hearing shall be made by filing a petition with the court specified in the notice within 20 days after the date of the notice. If the owner requests a hearing, the matter shall be resolved after a hearing conducted pursuant to sections 2.5e and 2.5f. An owner who requests a hearing may obtain release of the vehicle by posting a

towing and storage bond with the court in an amount equal to the accrued towing and storage fees. The owner of a vehicle who requests a hearing may obtain release of the vehicle by paying the towing and storage fees instead of posting the towing and storage bond. If the court finds that the vehicle was not properly removed, the police agency shall reimburse the owner of the vehicle for the accrued towing and storage fees.

(4) If the owner does not request a hearing, he or she may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle.

(5) If the owner does not redeem the vehicle or request a hearing within 20 days, the secured party may obtain the release of the vehicle by paying the accrued charges to the custodian of the vehicle prior to the date of the sale.

(6) Not less than 20 days after the disposition of the hearing described in subsection (3), or if a hearing is not requested, not less than 20 days after the date of the notice described in subsection (2)(c), the police agency shall offer the vehicle for sale at a public sale unless the vehicle is redeemed. The public sale shall be held pursuant to section 2.5g.

(7) If the ownership of a vehicle which has been removed under this section cannot be determined either because of the condition of the vehicle identification numbers or because a check with the records of the secretary of state does not reveal ownership, the police agency may sell the vehicle at public sale pursuant to section 2.5g, not less than 30 days after public notice of the sale has been published.

Sec. 2.5e. Abandoned vehicle, jurisdiction of court.

(1) The following courts shall have jurisdiction to determine if a police agency has acted properly in processing a vehicle under section 2.5a, 2.5b(6) to (10), 2.5c, or 2.5d:

- (a) The district court.
- (b) A municipal court.
- (c) The common pleas court of the City of Detroit.

(2) The court specified in the notice prescribed in section 2.5a(4)(c), 2.5b(6), 2.5c(4), or 2.5d(2)(c) shall be the court which has territorial jurisdiction at the location from where the vehicle was removed or deemed abandoned. Venue in the district court shall be governed by section 8312 of Act No. 236 of the Public Acts of 1961, as amended, being section 600.8312 of the Michigan Compiled Laws.

(3) If the owner fails to pay the accrued towing and storage fees, the towing and storage bond posted with the court to secure release of the vehicle under section 2.5a, 2.5b, 2.5c, or 2.5d shall be used to pay the towing and storage fees.

Sec. 2.5f. Abandoned vehicle, duties of court.

(1) Upon receipt of a petition prescribed in section 2.5a, 2.5b, 2.5c, or 2.5d, signed by the owner of the vehicle which has been taken into custody, the court shall do both of the following:

- (a) Schedule a hearing within 30 days for the purpose of determining whether the police agency acted properly.
- (b) Notify the owner and the police agency of the time and place of the hearing.

(2) At the hearing specified in subsection (1) the police agency shall have the burden of showing by a preponderance of the evidence that it has complied with the requirements of this act in processing the abandoned vehicle or vehicle removed pursuant to section 2.5d.

(3) After the hearing the court shall make a decision which shall include one or more of the following:

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- (a) A finding that the police agency complied with the procedures established for the processing of an abandoned vehicle or a vehicle removed under section 2.5d, and an order providing a period of 20 days after the decision for the owner to redeem the vehicle. If the owner does not redeem the vehicle within 20 days, the police agency shall dispose of the vehicle pursuant to section 2.5b or 2.5g.
 - (b) A finding that the police agency did not comply with the procedures established for the processing of an abandoned vehicle or a vehicle removed pursuant to section 2.5d. After making such a finding, the court shall issue an order directing that the vehicle immediately be released to the owner, and that the police agency is responsible for the accrued towing and storage charges.
 - (c) A finding that the towing and daily storage fees were reasonable.
 - (d) A finding that the towing and daily storage fees were unreasonable and issue an order directing an appropriate reduction.

Sec. 2.5g. Abandoned vehicle, public sale.

(1) A public sale for a vehicle which has been deemed abandoned under section 2.5a or 2.5c or removed under section 2.5d shall be conducted in the following manner:

- (a) It shall be under the control of the police agency or agent of the police agency.
- (b) It shall be open to the public and consist of open auction bidding or bidding by sealed bids. If sealed bids are received, the person submitting the bid shall receive a receipt for the bid from the police agency or agent of the police agency.
- (c) Except as provided by sections 2.5a(9) and 2.5d(7), it shall be held not less than five days after public notice of the sale has been published.
- (d) The public notice shall be published at least once in a newspaper having a general circulation within the county in which the vehicle was abandoned. The public notice shall give a description of the vehicle for sale and shall state the time, date, and location of the sale.

(2) The money received from the public sale of the vehicle shall be applied in the following order of priority:

- (a) Towing and storage charges.
- (b) Expenses incurred by the police agency.
- (c) To the secured party, if any, in the amount of the debt outstanding on the vehicle.
- (d) Remainder to the owner. A reasonable attempt shall be made to mail the remainder to the registered owner. If delivery of the remainder cannot be accomplished, the remainder shall become the property of the unit of government that the police agency represents.

(3) If there are no bidders on the vehicle, the police agency may do one of the following:

- (a) Turn the vehicle over to the towing firm to satisfy charges against the vehicle.
- (b) Obtain title to the vehicle for the police agency or the unit of government the police agency represents, by doing the following:
 - (i) Paying the towing and storage charges.
 - (ii) Applying for title to the vehicle.
- (c) Hold another public sale pursuant to subsection (1).

(4) A person who acquires ownership of a vehicle under subsection (1) or (3), which vehicle has been designated as a distressed vehicle, shall make application for a salvage certificate of title within 15 days after obtaining the vehicle.

(5) Upon disposition of the vehicle, the police agency shall cancel the entry into the law enforcement information network.

Sec. 5.15. Persons under the influence of intoxicating liquor or controlled substance; operating motor vehicles; punishments; prior convictions; payments of costs; plea bargains; special verdicts.

(1) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city if either of the following applies:

- (a) The person is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
- (b) The person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

(2) The owner of a vehicle or a person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of motor vehicles, within this city by a person who is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance or who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.

(3) A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city when, due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating subsection (1), a finding of guilty under this subsection may be rendered.

(4) A person who is less than 21 years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:

- (a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

(5) A person, whether licensed or not, shall not operate a vehicle in violation of subsection (4) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:

- (a) Community service for not more than 60 days.
- (b) A fine of not more than \$500.00.
- (c) Imprisonment for not more than 93 days.

In the judgment of sentence under this section, the court may, unless the vehicle is ordered forfeited under section 5.15n, order vehicle immobilization as provided in section MCLA 257.904d or section 5.62e of this section. This section does not prohibit a person from being charged with, convicted of, or punished for a violation of subsection (4) that is committed by the person while violating this subsection. However, points shall not be assessed under section MCL 257.320a for both a violation of subsection (4) and a violation of this subsection for conduct arising out of the same transaction.

(6) If a person is convicted of violating subsection (1), all of the following apply;

(a) The person is guilty of a misdemeanor punishable by one or more of the following:

- (i) Community service for not more than 45 days.
- (ii) Imprisonment for not more than 93 days.
- (iii) A fine of not less than \$100.00 or more than \$500.00.

(b) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in MCL 257.904 or section 5.62a of this section.

(7) A person who is convicted of violating subsection (2) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$100.00 or more than \$500.00; or both.

(8) If a person is convicted of violating subsection (3), all of the following shall apply:

(a) The person is guilty of a misdemeanor punishable by one or more of the following:

- (i) Community service for not more than 45 days.
- (ii) Imprisonment for not more than 93 days.
- (iii) A fine of not more than \$300.00.

(d) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in MCL 257.904d or section 5.62e of this ordinance. In the judgment of sentence under subdivision (b), the court shall, unless the vehicle is ordered forfeited under section 5.15n, order vehicle immobilization as provided in MCL 257.904d or section 5.62e of this section.

(9) If a person is convicted of violating subsection (4), all of the following apply:

(a) Except as otherwise provided in the subdivision (b), the person is guilty of a misdemeanor punishable by one or both of the following:

- (i) Community service for not more than 45 days.
- (ii) A fine of not more than \$250.00.

(b) If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or more of the following:

- (i) Community service for not more than 60 days.
- (ii) A fine of not more than \$500.00.
- (iii) Imprisonment for not more than 93 days.

(10) In addition to imposing the sanctions prescribed under this section, the court may order the person to pay the costs of the prosecution under the code of criminal procedure, 1927 PA 175, MCL 760.1 to 776.22.

(11) A person sentenced to perform community service under this section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of

supervision incurred by the state or local unit of government as a result of the person's activities in that service.

(12) If the prosecuting attorney intends to seek an enhanced sentence under this section or a sanction under section MCLA 257.625n or section 5.15n of this section, or MCLA 257.904d or section 5.62e of this section, based upon the defendant having one or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions.

(13) If a person is charged with a violation of subsection (1), (3), or (5) or section 5.15m, the court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating subsection (4) in exchange for dismissal of the original charge. The subsection does not prohibit the court from dismissing the charge upon the prosecuting attorney's motion.

(14) A prior conviction shall be established at sentencing by one or more of the following:

- (a) An abstract of conviction.
- (b) A copy of the defendant's driving record.
- (c) An admission by the defendant.

(15) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (1), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(16) Except as otherwise provided in subsection (17), if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of subsection (3), the court shall require the jury to return a special verdict in the form of a written finding or, if the court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

(17) A special verdict described in subsection (15) and (16) is not required if a jury is instructed to make a finding solely as to either of the following:

- (a) Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
- (b) Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

(18) If a jury or court finds under subsection (15), (16), or (17) that the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the court shall do both of the following:

- (a) Report the finding to the secretary of state.
- (b) On a form or forms prescribed by the state court administrator, forward to the department of state police a record that specifies the penalties imposed by the court, including any term of

imprisonment, and any sanction imposed by section 5.15n or MCL 257.904(d) or section 5.62e of this article.

(19) Except as otherwise provided by law, a record described in subsection (17)(b) is a public record and the department of state police shall retain the information contained on that record for not less than seven years.

(20) In a prosecution for a violation of subsection (4), the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

(21) Subject to subsection (23), as used in this section, "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

- (a) Except as provided in subsection (22), a violation or attempted violation of MCL 257.625 (1), (3), (4), (5), (6), or (7), MCL 257.625m, former MCL 257.625(1) or (2), or former MCL 257.625b.
- (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(22) Except for purposes of the enhancement described in subsection (9)(b), only one violation or attempted violation of MCL 257.625(6), or a local ordinance substantially corresponding to MCL 257.625(6), or a law of another state substantially corresponding to MCL 257.625(6) may be used as a prior conviction.

(23) If two or more convictions described in subsection (21) are convictions for violations arising out of the same transaction, only one conviction shall be used to determine whether the person has a prior conviction.

5.15a. Driving under influence of intoxicating liquor or controlled substance; warrantless arrests; preliminary chemical breath analysis, administration; evidence, presumptions.

(1) A peace officer may arrest a person without a warrant under either of the following circumstances:

- (a) The peace officer has reasonable cause to believe the person was, at the time of an accident in this city, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 5.15.
- (b) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this city if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 5.15.

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the city while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city while the person had any bodily alcohol content as that term is defined in section 5.15(4), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered under this subsection:

- (a) A peace officer may arrest a person based in whole or in part upon the result of a preliminary chemical breath analysis.

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- (b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15e(1) or in an administrative hearing for one or more of the following purposes:
 - (i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.
 - (ii) As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered under subsection (6).
 - (iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered under subsection (6).
 - (c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of sections 5.15c, 5.15d, 5.15e, and 5.15f for purposes of chemical tests described in those sections.
 - (d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under MCL 257.319d. A peace officer shall order out-of-service as required under MCL 257.319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out of service under MCL 257.319(d).

(4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.

(5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request 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.

(6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

- (a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.
- (b) A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:
 - (i) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer one of the chemical tests.

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- (ii) The results of the test are administered in a judicial proceeding as provided under this act and will be considered with other admissible evidence in determining the defendant's innocence or guilt.
 - (iii) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.
 - (iv) He or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain a court order.
 - (v) Refusing a peace officer's request to take a test described in subparagraph (i) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of six points to his or her driver record.
- (c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, MCL 333.16215, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or analysis is performed in a negligent manner.
- (d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing administer one of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.
- (e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.
- (f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controller substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the result to the department of state police.
- (g) The department of state police shall promulgate uniform rules in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the

administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.

(7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other admissible evidence bearing upon the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this section, "any bodily alcohol content" means either of the following:

- (a) An alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (b) Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

(8) If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

(9) Except in a prosecution relating solely to a violation of section 5.15(1)(b) or (4), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath, or urine gives rise to the following presumptions:

- (a) If there were at the time 0.07 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and the defendant was not under the influence of intoxicating liquor.
- (b) If there were at the time more than 0.07 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.
- (c) If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the breath or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.

(10) A person's refusal to submit to a chemical test is provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 5.15c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.

Sec. 5.15b. Misdemeanor violations, arraignment; pretrial conference; time limits, exceptions; adjudication, dismissal; sentencing, screening and assessment; revocation, suspension, restriction of license.

(1) A person arrested for a misdemeanor violation of section 5.15(1), (3), (4), or (5) or 5.15m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit.

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), (4) or (5) or section 5.15m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than one adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), or (4) or section 5.15m, within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit.

(4) Before accepting a plea of guilty or nolo contendere under section 5.15(1), (2), (3), or (4) the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state under section MCL 257.204a.

(5) Before imposing sentence for a violation of section 5.15(1), (3), (4), or (5) the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence. If the person has one or more prior convictions, the court shall order the person to participate in and successfully complete one or more appropriate rehabilitative programs as part of the sentence. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(6) If the judgment and sentence are appealed to circuit court, the court may ex parte order the secretary of state to stay the suspension, revocation, or restricted license issued by the secretary of state pending the outcome of the appeal.

Sec. 5.15c. Consent to chemical tests; exceptions; administration of tests.

(1) A person who operates a vehicle upon a public highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this city is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood or urine or the amount of alcohol in his or her breath in the following circumstances:

(a) If the person is arrested for a violation of section 5.15(1), (3), (4), or (5), section 5.15a(5), or section 5.15m.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 5.15a(6).

Sec. 5.15d. Refusal to submit to chemical tests; report.

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to 5.15a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

Sec. 5.15e. Refusal to submit to chemical tests; written notice by officer, form; request for hearing.

(1) If a person refuses to submit to a chemical test pursuant to 5.15d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in 5.15f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

Sec. 5.15f. Refusal to submit to chemical tests; sanctions when hearing not requested; hearing; record; review.

(1) If a person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days after the date of notice pursuant to section 5.15e, the secretary of state shall impose the following license sanctions:

- (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for six months or, for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months or, for a second or subsequent refusal within seven years, for one year.
- (b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for one year.
- (c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within ten years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than ten years and until the person is approved for the issuance of a vehicle group designation.
- (d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in MCL 257.322. Not less than five days notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 5.15d, and if the prosecuting attorney requests receipt of the notice, to the prosecuting attorney of the county where the arrest was made. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than one adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.

(4) The hearing shall cover only the following issues:

- (a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).
- (b) Whether the person was placed under arrest for a crime described in section 5.15c(1).
- (c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.
- (d) Whether the person was advised of the rights under section 5.15a(6).

(5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).

(6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to MCL 257.323 and not less than ten days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:

- (a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for six months or, for a second or subsequent refusal within seven years, for one year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for six months or, for a second or subsequent refusal within seven years, for one year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial as provided in MCL 257.323.
- (b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the

county in which the arrest was made to review the suspension or denial as provided in MCL 257.323.

- (c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanctions described in subdivisions (a) and (b).

(8) If the person who requested the hearing prevails, the peace officer who filed the report under section 5.15d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer as provided in MCL 257.323.

(9) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of each state in which he or she has a license to operate a motor vehicle.

Sec. 5.15g. Chemical tests; results; duties of peace officer; confiscation of license; temporary license.

(1) If a person refuses a chemical test offered pursuant to section 5.15a(6), or submits to the chemical test or a chemical test is performed pursuant to a court order and the test reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall do all of the following:

- (a) On behalf of the secretary of state, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the secretary of state.
- (b) Except as provided in subsection (2), immediately do all of the following:
- (i) Forward a copy of the written report of the person's refusal to submit to a chemical test required under section 5.15d to the secretary of state.
- (ii) Notify the secretary of state by means of the law enforcement information network that a temporary license or permit was issued to the person.
- (iii) Destroy the person's driver's license or permit.

(2) If a person submits to a chemical test offered pursuant to section 5.15a(6) that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the peace officer who requested the person to submit to the test shall comply with subsection (1)(a) pending receipt of the test report. If the report reveals an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately comply with subsection (1)(b). If the report does not reveal an unlawful alcohol content, the peace officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of arrest.

(3) A temporary license or permit issued under this section is valid for one of the following time periods:

- (a) If the case is not prosecuted, for 90 days after issuance or until the person's license or permit is suspended pursuant to section 5.15f, whichever occurs earlier. The prosecuting attorney shall notify the secretary of state if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the prosecuting attorney for prosecution.

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- (b) If the case is prosecuted, until the criminal charges against the person are dismissed, the person pleads guilty or nolo contendere to or is found guilty of or acquitted of those charges, or the person's license or permit is suspended pursuant to section 5.15f, whichever occurs earlier.

(4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:

- (a) If the person tested is less than 21 years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (b) If the person tested was operating a commercial motor vehicle within this city 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (c) If the person tested is not a person described in subdivision (a) or (b), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

Sec. 5.15h. (Reserved).

Sec. 5.15i. (Reserved).

Sec. 5.15j. (Reserved).

Sec. 5.15k. Breath alcohol ignition interlock devices; certification; list of manufacturers, affidavit, requirements.

(1) The department shall approve an ignition interlock device certified by a department-approved laboratory as complying with the national highway traffic safety administration's model specifications for breath alcohol ignition interlock devices (BAIID), 57 F.R. p. 11772, April 7, 1992. Subject to subsection (5), the department shall publish a list of all manufacturers of approved certified devices.

(2) The secretary of state shall promulgate rules to implement this section in compliance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(3) The manufacturer of an ignition interlock device shall bear the cost of the device's certification.

(4) A laboratory that certifies an ignition interlock device as provided in this section shall immediately notify the department of that certification.

(5) The department shall not include the manufacturer of a certified ignition interlock device on the list of manufacturers published under subsection (1) unless the manufacturer complies with all of the following:

- (a) The manufacturer has filed copies of all of the following with the department:
 - (i) A bond executed as provided in MCL 257.625o or a letter of credit.
 - (ii) Evidence of insurance as described in section 5.15l.
 - (iii) An affidavit that the ignition interlock device is all of the following:
 - (A) An alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level.
 - (B) Calibrated to render the motor vehicle incapable of being started if the device detects an alcohol content of 0.025 grams or more per 210 liters of breath of the person who offers a breath sample.
 - (C) Set to periodically take samples while the vehicle is in operation and to do one or both of the following:

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- (I) Emit a warning signal when the device detects an alcohol content of 0.025 grams or more per 210 liters of breath in the person who offers a breath sample.
 - (II) If it detects an alcohol content of 0.04 grams or more per 210 liters of breath of the person who offers the breath sample, render the vehicle inoperable as soon as the vehicle is no longer being operated.
- (b) The manufacturer of ignition interlock devices provides a list of installers who are authorized to install and service its ignition interlock devices to the secretary of state.
 - (c) Agrees to have service locations within 50 miles of any location within this state.
 - (d) Agrees to provide an ignition interlock device without cost to a person whose gross income for the immediately preceding tax year based on his or her state income tax return was less than 150 percent of the official poverty line for that same tax year established in the poverty guidelines issued by the secretary of health and human services under authority of section 673(2) of the Community Services Block Grant Act, subtitle B of title VI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, 42 U.S.C. 9902. A person in whose vehicle an ignition interlock device is installed without cost under this subdivision shall pay a maintenance fee to the installer of not more than \$1.00 per day.
 - (e) Agrees to periodically monitor installed ignition interlock devices and if monitoring indicates that the device has been circumvented, to communicate that fact to the secretary of state.
- (6) A manufacturer that has made a filing under subsection (5) shall immediately notify the department if the device no longer meets the requirements of subsection (5).
- (7) A person who negligently provides false information to the department under subsection (4) or (5) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, together with costs of the prosecution.
- (8) A person who negligently fails to comply with subsection (6) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both, together with costs of the prosecution.

Sec. 5.15l. Court ordered ignition interlock devices; warning label, tampering, etc.; violations; definition.

- (1) The manufacturer of an ignition interlock device shall design a warning label, and the person who has an ignition interlock device shall promptly affix that label to each ignition interlock device upon installation. The label shall contain a warning that any person tampering, circumventing, or otherwise misusing the device is guilty of a misdemeanor punishable as provided by law.
- (2) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.
- (3) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.
- (4) A person shall not tamper with or circumvent the operation of an ignition interlock device.
- (5) A person who violates subsection (2), (3), or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(6) As used in this article, "ignition interlock device" or "device" means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 grams per 210 liters of breath.

(7) The city or the department, its officers, employees, or agents are not liable in any claim or action that may arise, directly or indirectly, out of any act or omission by a manufacturer, installer, or servicing agent of an ignition interlock device that results in damage to persons or property.

(8) A person shall not sell, lease, install, or monitor in a vehicle in this city an ignition interlock device unless the ignition interlock device manufacturer and provider carries liability insurance covering product liability, including, but not limited to, insurance to indemnify the department and any person injured as a result of a design defect or the calibration or removal of the ignition interlock device or a misrepresentation about the ignition interlock device. The insurance required by this subsection shall be in an amount of not less than \$1,000,000.00 per incident.

(9) The provider of insurance described in this section may cancel the insurance upon 30 days written notice to the department and is not liable for a claim arising from an event that occurs after the effective date of a cancellation made in compliance with this section.

(10) An ignition interlock device shall be serviced according to manufacturer's standards. Service shall include, but not be limited to, physical inspection of the device and vehicle for tampering, calibration of the device, and monitoring of the data contained within the device's memory. Only authorized employees of the manufacturer or the department may observe the installation of a device. Reasonable security measures must be taken to prevent the customer from observing the installation of a device or obtaining access to installation materials.

Sec. 5.15m. Commercial motor vehicle drivers; operation of vehicle while intoxicated, blood alcohol limits; warrantless arrest; violation, penalty.

(1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but not more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial motor vehicle within this city.

(2) A peace officer may arrest a person without a warrant under either of the following circumstances:

- (a) The peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section.
- (b) The person is found in the driver's seat of a commercial motor vehicle parked or stopped on a highway or street within this township if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of this section.

(3) Except as otherwise provided in subsection (4), a person who is convicted of a violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

(4) A person who violates this section within seven years of one prior conviction may be sentenced to imprisonment for not more than 93 days or a fine not more than \$500.00, or both.

(5) A term of imprisonment imposed under subsection (4) shall not be suspended.

(6) Subject to subsection (7), "prior conviction" means a conviction for any of the following, whether under a law of this state, a local ordinance substantially corresponding to a law of this state, or a law of another state substantially corresponding to a law of this state:

- (a) Except as provided in subsection (7), a violation or attempted violation of this section, MCL 257.625(1), (3), (4), (5), (6), (7) or former MCL 257.625(1) or (2), or former MCL 257.625b.
- (b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(7) Only one violation or attempted violation of MCL 257.625(6), or a local ordinance substantially corresponding to MCL 257.625(6), or a law of another state substantially corresponding to MCL 257.625(6) may be used as a prior conviction.

(8) If two or more convictions described in subsection (6) are convictions for violations arising out of the same transaction, only one conviction shall be used to determine whether the person has a prior conviction.

Sec. 5.15n. Violations of §5.15; penalties with regard to the vehicle used in the offense; notice; forfeiture or return, seizure of vehicle; filing claim of interest; sale of seized vehicle, disposal of proceeds, priority; concealment to avoid forfeiture, violation, penalty.

(1) Except as otherwise provided in this section and in addition to any other penalty provided for in this act, the judgment of sentence for a conviction for a violation of 5.15(1) described in section 5.15(6), a violation of 5.15(3) described in section 5.15(8)(b), a violation of section 5.15(5) may require one of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

- (a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.
- (b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within seven days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with

the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under MCL 257.625, or a local ordinance substantially corresponding to MCL 257.625, or multiple suspensions, restrictions, or denials under section MCL 257.904 or section 5.62a of this article, or both. If the defendant has multiple convictions under section 5.15 or multiple suspensions, restrictions, or denials under section MCL 257.904 or section 5.62a of this ordinance or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle and dispose of the proceeds in the following order of priority.

- (a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.
- (b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to commission of the violation.
- (c) Satisfy any order of restitution in the prosecution for the violation.
- (d) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.
- (e) Pay any outstanding lien against the property that has been imposed by a governmental unit.
- (f) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property advertising and court costs.
- (g) The balance remaining after the payment of items (a) through (f) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25 percent of the money shall be used to implement the Crime Victim's Rights Act, 1985 PA, MCL 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the Crime Victim's Rights Act, 1985 PA 87, MCL 780.751 to 780.834.

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

(9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.

(10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or both.

(11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.

(12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other ordinance of this city.

Sec. 5.150. Ignition interlock device; bond requirements.

(1) A person shall not sell, lease, or install in a vehicle in this city an ignition interlock device unless the manufacturer of the device has obtained an executed bond described in subsection (2) or a renewal certificate for that bond.

(2) The bond required under subsection (1) shall be in the amount of \$50,000.00 with a surety approved by the department and shall be conditioned to indemnify or reimburse a person who has an ignition interlock device installed on his or her vehicle for monetary loss caused by the manufacturer's fraud, cheating, misrepresentation, or defaulting on a contractual obligation, whether the fraud, cheating, misrepresentation, or defaulting was done by the manufacturer or by an employee or agent of the manufacturer.

(3) The surety on the bond described in subsection (2) is required to make indemnification or reimbursement for a monetary loss only after final judgment has been entered in a court of record against the manufacturer or an employee or agent of the manufacturer. The surety on the bond may cancel the bond upon 30 days' written notice to the department and is not liable for a loss arising from an event that occurs after the effective date of the cancellation.

Sec. 5.82. Mandatory child restraints.

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, or federal regulation, each driver transporting a child in a motor vehicle shall properly secure each child in a child restraint system as follows:

- (a) Any child less than one year of age in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).
- (b) Any child one year of age or more but less than four years of age, when transported in the front seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, except as provided in subsection (6).
- (c) Any child one year of age or more but less than four years of age, when transported in the rear seat, in a child restraint system which meets the standards prescribed in 49 CFR 571.213, unless the child is secured by a safety belt provided in the motor vehicle, except as provided in subsection (6).

(2) This section does not apply to any child being nursed.

(3) This section does not apply if the motor vehicle being driven is a bus, school bus, taxicab, moped, motorcycle, or other motor vehicle not required to be equipped with safety belts under federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed for a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, a class of children from the requirements of this section, if the secretary of state determines that the use of the child restraint system required under subsection (1) is impractical because of physical unfitness, a medical problem, or body size. The secretary of state may specify alternate means of protection for children exempted under this subsection.

Sec. 5.83. Safety belt required; enforcement.

(1) This section shall not apply to a driver or passenger of:

- (a) A motor vehicle manufactured before January 1, 1965.
- (b) A bus.
- (c) A motorcycle.
- (d) A moped.
- (e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.
- (f) A motor vehicle which is not required to be equipped with safety belts under federal law.
- (g) A commercial or United States Postal Service vehicle which makes frequent stops for the purpose of pickup or delivery of goods or services.
- (h) A motor vehicle operated by a rural carrier of the United States Postal Service while serving his or her rural postal route.

(2) This section shall not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than four years of age shall be protected as required in section 5.82.

(4) Each driver of a motor vehicle transporting a child four years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt.

(5) Enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) Failure to wear a safety belt in violation of this section may be considered evidence of negligence and may reduce the recovery for damages arising out of the ownership, maintenance, or operation of a motor vehicle. However, such negligence shall not reduce the recovery for damages by more than five percent.

(7) A person who violates this section is responsible for a civil infraction.

(8) Points shall not be assessed for a violation of this section.

(9) This section does not apply if the motor vehicle is transporting more children than there are safety belts available for use and if all safety belts available in the motor vehicle are being utilized in compliance with this section.

Sec. 5.97. School buses; overtaking, meeting, or passing.

(1) The driver of a vehicle overtaking or meeting a school bus which has stopped and is displaying two alternately flashing red lights located at the same level shall bring the vehicle to a full stop not less than 20 feet from the school bus and shall not proceed until the school bus resumes motion or the visual signals are no longer actuated. At an intersection where traffic is controlled by an officer or a traffic stop-and-go signal a vehicle need not be brought to a full stop before passing a stopped school bus, but may proceed past the school bus at a speed not greater than ten miles an hour and with due caution for the safety of passengers being received or discharged from the school bus. The driver of a vehicle who fails to stop for a school bus as required by this subsection, who passes a school bus in violation of this subsection, or who fails to stop for a school bus in violation of an ordinance that complies with this subsection, is responsible for a civil infraction.

(2) The driver of a vehicle upon a highway which has been divided into two roadways by leaving an intervening space, or by a physical barrier, or clearly indicated dividing sections so constructed as to impede vehicular traffic, need not stop upon meeting a school bus which has stopped across the dividing space, barrier, or section.

(3) In a proceeding for a violation of subsection (1), proof that the particular vehicle described in the citation was in violation of subsection (1), together with proof that the defendant named in the citation was, at the time of the violation, the registered owner of the vehicle, shall constitute in evidence a presumption that the registered owner of the vehicle was the driver of the vehicle at the time of the violation.

(4) In addition to a civil fine and costs, the judge, district court referee, or district court magistrate may order a person who violates this section to perform not to exceed 100 hours of community service at a school.

Sec. 9.3. Penalties.

Violation of any provision of this ordinance [chapter] not constituting a civil infraction as that term is used and defined under the provisions of the Motor Vehicle Code of the State Act No. 300 of the Public Acts of Michigan of 1949 (MCL 257.1 et seq., MSA 9.1801 et seq.), as amended, shall be punishable by a fine of not more than \$100.00 or imprisonment for not more than 90 days or by both such fine and imprisonment, unless another penalty is expressly provided herein.

Sec. 9.3a. Civil infraction.

Any provision of this ordinance [chapter] which describes an act or omission which constitutes a civil infraction under the terms of the Motor Vehicle Code of the state shall be processed as a civil infraction under the procedures set forth in the Motor Vehicle Code. Violation of any provision of this ordinance [chapter] which is designated as a civil infraction in the Motor Vehicle Code is not a crime and shall not be punishable by imprisonment or a penal fine. If a person is determined to be responsible or responsible "with explanation" for a civil infraction, the judge, referee or district court magistrate may order such person to pay a civil fine of not more than \$100.00 along with costs which may include all expenses, direct and indirect, to which this township has been put in connection with the civil infraction. In no case, however, shall costs be ordered in excess of \$100.00.

(Ord. No. 23B, §§ I, II, 8-6-79; Ord. No. 01-3, § 1, 5-21-01)

Editor's note(s)—Ord. No. 01-3, § 1, adopted May 21, 2001, repealed the former § 50-27 (5.15—5.15f) and enacted a new § 50-27 (5.15—5.15o), as set out herein. The former § 50-27 (5.15—5.15f), pertained to similar subject matter and derived from Ord. No. 23B, §§ I, II, adopted August 6, 1979.

Secs. 50-28—50-50. Reserved.

ARTICLE III. SNOWMOBILES

Sec. 50-51. 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:

Highway or *street* means the entire width between the boundary lines of every right-of-way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Operate means to ride in or on and to control the operation of a snowmobile.

Operator means any person who operates or is in actual physical control of a snowmobile.

Owner means any person, other than a lienholder, having the property in or title to a snowmobile entitled to the use or possession thereof.

Roadway means that portion of a highway improved, designated, or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term roadway refers to any such roadway separately, but not to all such roadways collectively.

Snowmobile means any motorized vehicle designed for travel primarily on snow or ice steered by wheels, skis or runners.

(Ord. No. 33, § 1, 2-2-70)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 50-52. Registration.

No snowmobile shall be operated in the township unless properly registered under state law, and the registration number shall be properly displayed.

(Ord. No. 33, § 2, 2-2-70)

Sec. 50-53. Operation on roadway or highway.

No person shall operate, load or unload from a motorized conveyance a snowmobile, on the traveled portion of any sidewalk, street or roadway, or within ten feet of the traveled portion of the roadway except as follows:

- (1) Properly registered snowmobiles may cross sidewalks, streets and roadways, except for limited-access highways and freeways, if such crossing can be made in safety and does not interfere with free movement of pedestrian and vehicular traffic upon any sidewalk, street or highway; snowmobiles shall be brought to a full stop prior to crossing streets, highways or sidewalks.
- (2) Snowmobiles may be operated on a street or highway when so declared by the chief of police of the township during emergency periods and when regular vehicular traffic cannot travel.
- (3) Snowmobiles may be operated on streets and highways designated for snowmobile events of limited duration conducted according to prearranged schedule and sanctioned by the chief of police of the township.
- (4) Whenever it is impractical to gain immediate access to an area adjacent to a public highway where a snowmobile is to be operated, the vehicle may be operated adjacent and parallel to the highway for the purpose of gaining access to the area of operation. This subsection shall apply to the operation of a snowmobile from the point where the vehicle is unloaded from a motorized conveyance to and from the area where the snowmobile is to be operated when loading and unloading cannot be effected in the immediate vicinity of the area of operation without causing a hazard to vehicular traffic approaching from either direction on the highway. Loading or unloading must be accomplished with due regard to safety at the nearest possible point to the area of operation.

(Ord. No. 33, § 3, 2-2-70)

Sec. 50-54. Lights, brakes.

No snowmobile shall be operated in this state unless it has at least one headlight and one taillight, and adequate brakes capable of producing deceleration at 14 feet a second on level ground at a speed of 20 miles per hour.

(Ord. No. 33, § 4, 2-2-70)

Sec. 50-55. Operating restrictions.

No person shall operate a snowmobile:

- (1) At a rate of speed in excess of 15 miles per hour while being operated adjacent to or parallel to a highway or street and in all other locations at a rate of speed no greater than is reasonable and proper, having due regard for conditions then existing.
- (2) While under the influence of alcoholic liquor, drugs, depressant or stimulant, which could impair an operator's ability to operate a snowmobile in a safe manner.
- (3) During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and a lighted taillight.
- (4) In a nursery, planting area or natural area of forest reproduction and when growing stock may be damaged.
- (5) Unless it is equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke.
- (6) While transporting thereon a bow or a firearm unless the same be securely encased.
- (7) In or across a sidewalk, street, or highway within ten feet of the traveled portion of the roadway within the township, unless the operator shall have a valid driver's license or be accompanied by a licensed driver who is actually occupying a seat on the vehicle.
- (8) During the hours between 10:00 p.m. and 8:00 a.m. within 500 feet of any residence, except for the purpose of loading or unloading a snowmobile from another vehicle or trailer.
- (9) In disregard of the provisions of this article, except an authorized officer of the township police department or other police organization when performing regular police duties and in emergencies.

(Ord. No. 33, § 5, 2-2-70)

Sec. 50-56. Notice of accident.

The operator of a snowmobile involved in an accident resulting in injuries to or death of any person, or property damage in an estimated amount of \$100.00 or more, or some person acting for him, or the owner of the snowmobile having knowledge of the accident, shall immediately, by the quickest means of communication, notify the township police department.

(Ord. No. 33, § 6, 2-2-70)

Sec. 50-57. Restrictions on area.

Snowmobiles shall not be operated upon the following premises:

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- (1) Platted residential lots except by permission of the owner thereof.
 - (2) Fenced premises, except with the permission of the property owner, lessee or authorized representative.
 - (3) Premises which are posted in a conspicuous manner with signs against trespassing or "snowmobiles prohibited," except with the permission of the property owner, lessee, or authorized representative.
 - (4) Premises where notice against trespass is personally communicated to the snowmobile operator by the owner, lessee or authorized representative.
 - (5) On township park or school district property, except upon posted snowmobile trails; such trails shall be marked in an appropriate manner.

(Ord. No. 33, § 8, 2-2-70)

Sec. 50-58. Penalty.

Any person who violates the provisions of this article is guilty of a misdemeanor and shall be punished as provided in section 1-10 of this Code. In addition to fine or imprisonment the court enforcing this article may provide for impounding any snowmobile involved in the violation for a period of up to 90 days. If the violator is a juvenile and the jurisdiction of such violation is under the juvenile court, such impounding may be ordered by the juvenile judge having jurisdiction. The snowmobile, if impounded, shall be placed in the custody of the chief of police during the period of impounding.

(Ord. No. 33, § 7, 2-2-70; Ord. No. 33A, § 1, 1-11-71)

Secs. 50-59—50-80. Reserved.

ARTICLE IV. ABANDONED, INOPERABLE, JUNK VEHICLES²⁷

Sec. 50-81. Title.

This article shall be known and may be cited as the "Inoperable and Junk Vehicles Ordinance."

(Ord. No. 98-13, 7-6-98; Ord. No. 13-17, § 4, 12-19-13)

Sec. 50-82. Purpose.

It is the purpose of this article to correct and alleviate circumstances and conditions which occur when a vehicle is currently or hereafter inoperable, dismantled, partially dismantled, wrecked, or unlicensed, in places other than a properly designated area, which condition interferes and reduces the enjoyment of property, reduces the value of property, creates fire hazards, creates safety hazards, and tends to extend and aggravate urban blight and create hazards to the public health, safety, comfort, welfare, and happiness of the residents of the township, through the removal of inoperable or junk vehicles.

²⁷Editor's note(s)—Ord. No. 98-13, adopted July 6, 1998, set out provisions intended for use as art. II §§ 50-28—50-28.8. For purposes of classification, and at the editor's discretion, these provisions have been included as art. IV §§ 50-81—50-88.

Sec. 50-83. Definitions.

As used in this section:

Abandoned vehicle means a vehicle which has remained on public property or private property for a period of 48 hours after a police agency or other governmental agency designated by the police agency has affixed a written notice of abandoned vehicle to the vehicle.

Antique vehicle means a vehicle registered by the State of Michigan and plated with a historical or authentic vehicle plate. To qualify for a historical or authentic plate, the vehicle must be:

- a. 26 or more years old — based on vehicle model year subtracted from current calendar year
- b. Owned solely as a collector's item
- c. Used only for events such as historical club activities, parades, and car shows.

Boat means any vessel, motorized or not, which is primarily used for the transportation of a person or persons across or through bodies of water. This includes, but is not limited to motor boats, air boats, sailboats, canoes, paddle boats, jet skis, hovercrafts, or any other watercraft.

Camper means any motor vehicle or trailer, which is primarily used for temporary or recreational housing or shelter of a person or persons. This includes but is not limited to motorhomes, RVs, Winnebagos, 5th wheels, travel trailers, camper trailers, and pop-up trailers.

Equipment means any motorized or non-motorized implement, fixture, apparatus, or trailer which is generally used for construction or maintenance, or the housing of construction or maintenance equipment. This includes but is not limited to: dump trucks, back hoes, front end loaders, bull dozers, cement mixers, cranes, tractors, farm implements, mobile generators, air compressors, lathes, drill presses, milling machines, band saws, table saws, planers, grinders, sanders, augers, post hole diggers, roofing kettles, lawn mowers, snow blowers, and other equipment. This does not include hand tools or small portable power tools generally owned and operated, for use by an individual, for minor repairs or construction.

Junked vehicle means any vehicle located outside of a structure and which is not lawfully licensed or which may be licensed but is inoperable or the condition of which is wrecked, junked, dismantled, partially dismantled, inoperative, or discarded.

Motor vehicle means any vehicle which is self-propelled and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, tractors, go-carts, golf carts, and race cars.

Race car means any motor vehicle designed for or modified for use on race tracks.

Recreational vehicle means any electric or fuel propelled motorized vehicle which is primarily used for transportation of a person or persons, but generally used for off-road and trail riding, which generally cannot be licensed or registered for use upon the highways of the State of Michigan. This includes but is not limited to: golf carts, dune buggies, dirt bikes, mini bikes, three wheeled and four wheeled ATVs or ORVs, gators, snowmobiles, and other similar vehicles.

Registration means a certificate, plate, sticker, or other identifying object, issued by the State of Michigan, which permits the use of any recreational vehicle, boat, camper, equipment, or trailer, upon any highway, road, trail, body of water, or any other place, within the State of Michigan.

Seasonal vehicle shall mean any operative vehicle normally licensed for only part of the year.

Subject property means property at which an inoperable or junk vehicle is located.

Trailers means any motorized or non-motorized vehicle, designed for hauling persons or property.

Vehicle means any boat, camper, equipment, junk vehicle, motor vehicle, race car, recreational vehicle, seasonal vehicle and trailer as defined in this article.

(Ord. No. 98-13, 7-6-98; Ord. No. 12-13, § 2, 10-1-12 ; Ord. No. 13-17, § 6, 12-16-13 ; Ord. No. 16-02 , § 2, 3-7-16)

Sec. 50-84. Dismantled, inoperable, junk or other such motor vehicles prohibited and declared nuisance; exceptions.

- (a) No person shall park, store, leave, or permit the parking, storing, or leaving, of any junk vehicle, whether attended or not, upon any public or private property within the township. The presence of a junk vehicle, or parts thereof, on private or public property is hereby declared a public nuisance, and is subject to being removed by the township to abate said nuisance.
- (b) This section shall not apply to the following vehicles, whether or not it is a junk vehicle, as defined:
 - (1) Any vehicle enclosed within a building on private property.
 - (2) Any operative vehicle on a sales lot of a licensed motor vehicle dealer.
 - (3) Any vehicle on the premises of a licensed auto repair shop for the purpose of repairing the vehicle, provided the location of said vehicle does not violate the zoning ordinance.
 - (4) Any one of the following, provided said vehicle is covered by a tarp or similar protective cover maintained in good condition,
 - a. One operative seasonal vehicle;
 - b. One antique vehicle
 - c. One operative unlicensed vehicle, temporarily stored while the owner is temporarily absent from the premises because of school attendance, in the military or confined to a hospital or other similar institution;
 - d. One operative race car; provided that, as regulated by the zoning ordinance, there shall be no repairing of the vehicle.
 - (5) Any registered recreational vehicle.

(Ord. No. 98-12, 7-6-98; Ord. No. 12-13, § 3, 10-1-12 ; Ord. No. 13-17, § 7, 12-16-13 ; Ord. No. 16-02 , § 3, 3-7-16)

Sec. 50-85. Public nuisance, notice of violation, and/or for removal.

Whenever an inoperable or junk vehicle is located, a written violation notice shall be served by the township by posting said notice to the dwelling at which the vehicle is located, by first-class mail to the owner and occupant of the subject property and by first-class mail to the vehicle owner, if known.

(Ord. No. 98-13, 7-6-98; Ord. No. 12-13, § 4, 10-1-12 ; Ord. No. 13-17, § 8, 12-16-13)

Sec. 50-86. Responsibility for removal, removal by township.

Within ten days after service of the violation notice, the owner of the inoperable or junk vehicle and the owner and occupant of the subject property shall be responsible for removal of the offending vehicle. If the offending vehicle is not removed peaceably within ten days after service of the violation notice, the offending

vehicle is deemed a public nuisance and the township, its agents and employees may enter upon the subject property and may remove the nuisance vehicle. Any expenses incurred by the township shall be paid by the vehicle owner and by the owner and occupant of the subject property. If the expenses remain unpaid for ten days after an invoice is mailed, the township shall have a lien against the subject property in the amount of the expenses incurred. The lien shall be enforced in the same manner as a tax upon real property and collected as provided by law.

(Ord. No. 98-13, 7-6-98; Ord. No. 13-17, § 9, 12-16-13)

Sec. 50-87. Right to contest removal, obtain release of vehicle.

If any vehicle is removed by the township as set forth in this article or under the provisions of the Uniform Traffic Code, the registered owner may contest the fact the vehicle has been deemed abandoned or designated as a junk vehicle, or the reasonableness of the towing fees and daily storage fees by requesting a hearing, under the procedures and provisions set forth in chapter 50, article II, section 50-27, sections 2.5a (5),(6),(7).

(Ord. No. 98-13, 7-6-98)

Sec. 50-88. Sale of vehicle.

If the owner of a vehicle deemed abandoned, inoperable, or a junked motor vehicle, and removed by the township, does not redeem the vehicle or request a hearing within 20 days after the date of the notice listed above, or, if a hearing is held, not less than 20 days after the disposition of the hearing, the township shall offer the vehicle for sale at a public sale pursuant to chapter 50, article II, 50-27, section 2.5g.

If the owner of a vehicle deemed abandoned, inoperable, or a junked motor vehicle which has been removed and held by the township cannot be determined either because of the condition of the vehicle identification numbers or because of a check the records of the secretary of state does not reveal ownership, the township may sell the vehicle at public sale pursuant to chapter 50, article II, 50-27, section 2.5g, not less than 30 days after public notice of the sale has been published.

(Ord. No. 98-13, 7-6-98)

Sec. 50-89. Prohibited use.

The owner or person in control of a vehicle shall not allow it to collect or gather trash, junk, or other debris. The owner of a vehicle shall not allow it to be used for habitation by any person or animal; wild or domestic.

(Ord. No. 13-17, § 10, 12-16-13)

Sec. 50-90. Operability.

Any vehicle shall be in good, ready to use condition and operable. Any vehicle which appears to be in a state of disrepair will be considered to be inoperable. Visual cues used by a code enforcement officer to determine "a state of disrepair," include, but are not limited to: flat or damaged tires; weeds or other plants growing in and through; the accumulation of junk or debris, missing or damaged parts or part covers; rotting wood or significantly rusted metal planks, roofs, floors, and rails; and large oil, gas, or other fluid leak stains.

(Ord. No. 13-17, § 10, 12-16-13)

Sec. 50-91. Registration.

Any vehicle shall be registered or licensed as follows:

- (1) *Recreational vehicles.* Though recreational vehicles used on private property do not require any form of licensing or registration, any recreational vehicles which have been manufactured or modified so that they may be registered and licensed for use upon the highways of the State of Michigan must be registered, licensed, and insured in accordance with State law. Any license, registration, and insurance must be current and valid.
- (2) *Boats.* Any boat, vessel, or watercraft which must be registered or licensed for use within the State of Michigan must be registered and licensed in accordance with State law. Any license or registration must be current and valid.
- (3) *Campers.* A camper or camper trailer which must be registered or licensed for use within the State of Michigan must be registered and licensed in accordance with State law. Any license or registration must be current and valid.
- (4) *Trailers.* Any trailer designed for being drawn by a motor vehicle must be registered and licensed in accordance with State law. Any license or registration must be current and valid.

(Ord. No. 13-17, § 10, 12-16-13)

Sec. 50-92. Exception.

A vehicle which is fully contained within an enclosed permanent structure is not subject to the requirements of operability or registration.

(Ord. No. 13-17, § 10, 12-16-13)

Secs. 50-93—50-210. Reserved.

ARTICLE V. MICHIGAN VEHICLE CODE

Sec. 50-211. Adopted.

The Michigan Vehicle Code, 1949 PA 300, MCL 257.1 to 257.923, is adopted by reference, as adopted and amended from time to time.

(Ord. No. 02-7, § 1, 11-18-02; Ord. No. 03-7, § 1, 12-15-03)

Sec. 50-212. References in code.

References in the Michigan Vehicle Code to "local authorities" shall mean the Charter Township of Muskegon.

(Ord. No. 02-7, § 2, 11-18-02)

Sec. 50-213. Notice to be published.

The township clerk shall publish this ordinance in the manner required by law and shall publish, at the same time, a notice stating the purpose of the Michigan Vehicle Code and the fact that a complete copy of the code is available to the public at the office of the clerk for inspection.

(Ord. No. 02-7, § 3, 11-18-02)

Sec. 50-214. Penalties.

The penalties provided by the Michigan Vehicle Code are adopted by reference, provided, however, that the township may not enforce any provision of the Michigan Vehicle Code for which the maximum period of imprisonment is greater than 93 days.

(Ord. No. 02-7, § 4, 11-18-02)

Secs. 50-215—50-235. Reserved.

ARTICLE VI. PROHIBITED PARKING AND PARKING AND STORAGE

Sec. 50-236. Prohibited parking.

A vehicle shall not be parked, in any of the following places:

- (1) Within the right-of-way of Mill Iron Road from a point 4,865 feet northerly of MacArthur Road, northerly to the water's edge of Muskegon River, also described as the unpaved portion of Mill Iron Road right-of-way utilized as a boat launch ramp.
- (2) Within the right-of-way of Mill Iron Road 4,865 feet north of MacArthur Road along the western edge of the cul-de-sac as marked between signs.
- (3) Reserved.

(Ord. No. 03-05, § 1, 6-2-03; Ord. No. 05-01, § 2, 1-17-05)

Sec. 50-237. Parking and storage.

- (1) *General.* In all residential zoning districts, no vehicle shall be stored or parked unless located in the driveway, side or rear yard or within a completely enclosed private garage; provided, however, that a recreational vehicle, boat, camper, equipment, or trailer may be parked temporarily in the front yard or on a street or alley, the phrase "parked temporarily" being defined for purposes of this section only as being parked for no longer than 24 hours at one time and for no more than 48 hours in one week.
- (2) *Recreational vehicles.* Recreational vehicles must be stored in a neat and orderly fashion, immediately adjacent to a dwelling or out building. Between March 1st and November 1st, Snowmobiles must be stored on a trailer or within a completely enclosed private garage. No more than two recreational vehicles may be parked or stored on any property, unless parked or stored within a completely enclosed private garage.
- (3) *Boats.* Motorized boats or any other motorized watercraft must be stored on a trailer or within a completely enclosed private garage. If stored outdoors, they must be covered by an appropriate tarp or boat cover, which prohibits the accumulation of any junk, debris, or water. Non-motorized watercraft such as row boats,

paddle boats, canoes, or kayaks, must be stored adjacent to a dwelling or outbuilding, at least four inches off of the ground. They may either be stored keel-up, or they may be covered by an appropriate tarp or boat cover. No more than two boats may be parked or stored on any property, unless parked or stored within a completely enclosed private garage.

- (4) *Campers.* No more than one camper may be parked or stored on any property, unless parked or stored within a completely enclosed private garage.
- (5) *Equipment.* Equipment shall not be stored for a period exceeding 72 hours, unless the equipment is located within a completely enclosed private garage or shed. During the 72 hour period, all equipment must be stored neatly and orderly, adjacent to a dwelling or out building.
- (6) *Commercial equipment and vehicles.* No commercial equipment or trailers, or commercial vehicles, other than those classified by the State of Michigan to be Group "C" shall be parked or stored on any property within any residential zoning district unless parked or stored within a completely enclosed private garage; provided, however, that this section shall not prevent the temporary location of such vehicle on such property while engaged in a delivery, pickup, or service call, or upon the posting of a valid work or building permit issued to the property where located. No more than one commercial vehicle may be parked or stored on any property in a residential zoning district.
- (7) *Trailers.* No more than two trailers may be parked or stored on any property, unless parked or stored within a completely enclosed private garage.
- (8) *Limitations.* Not more than a combination of five recreational vehicles, boats, campers, equipment, or trailers, may be parked or stored on any property, unless parked or stored within a completely enclosed private garage.
- (9) *Vacant land.* The storage or parking of vehicles in all zoning districts is prohibited unless a main building or structure, as defined in section 58-3 of this chapter, is located on the parcel of land.

Exceptions:

- a. Vehicles may be parked on adjacent vacant land which is divided from the parcel of the main building or structure by a road, alley or public right of way if both parcels are titled to the same owner.
- b. Vehicles parked temporarily to attend a function or event. The phrase "parked temporarily" being defined for purposes of this section as being parked for no longer than six hours at one time.

(Ord. No. 13-17, § 11, 12-16-13 ; Ord. No. 15-13 , § 3, 10-5-15)

Chapter 54 UTILITIES²⁸

ARTICLE I. IN GENERAL

Secs. 54-1—54-25. Reserved.

²⁸Editor's note(s)—The utility ordinances are in the process of revision and will be published when adopted. Until that time the following ordinances, not published in this volume are not repealed: Ord. No. 43, 12-21-81; Ord. No. 45, 11-1-82; Ord. No. 001A, 5-12-80; Ord. No. SW-5A, 11-27-79; Ord. of 10-20-82; Ord. of 12-20-82; Ord. No. SW-5, 8-3-92; Ord. No. 001-A, 10-5-92; Ord. No. SW-5, 12-21-92.

ARTICLE II. WATER SUPPLY

DIVISION 1. GENERALLY²⁹

Sec. 54-26. Purpose.

It is hereby determined to be desirable and necessary for the public health, safety and welfare of this Township that the Muskegon County Regional Water System be operated on a public utility rate basis in accordance with the provisions of Act 94, Public Acts of Michigan, 1933, as amended, being MCL 141.101 et seq. (Ord. No. 05-07, § 1, 11-7-05)

Sec. 54-27. Definitions.

Contract means the Muskegon County Regional Water System Management Contract ("contract") dated April 14, 2005, as amended from time to time, between the County of Muskegon and the Townships of Dalton, Fruitland, Laketon and Muskegon.

D.P.W. board means the Muskegon County Board of Public Works.

System means the complete facilities of the Muskegon County Regional Water System including all pump stations, pumps, mains, laterals, service lines and transmission lines, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

Policy board means the Muskegon County Regional Water System Policy Board as established by the contract.

Revenues and net revenues shall have the meanings as defined in Section 3, Act 94, Public Acts of Michigan, 1933, as amended.

(Ord. No. 05-07, § 2, 11-7-05)

Sec. 54-28. System operation.

- (a) The operation and maintenance of the system shall be under the general supervision and control of the D.P.W. board, subject to the terms of the contract. Pursuant to the terms of the contract, this township has retained the exclusive right to establish, maintain and collect rates and charges for water supply service to its residents and in such capacity this township board may employ such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient establishment, maintenance and collection of such rates and charges.

²⁹Editor's note(s)—Ord. No. 05-07, §§ 1—11, adopted Nov. 7, 2005, amended Div. 1 in its entirety to read as herein set out. Former Div. 1, §§ 54-26—54-34, pertained to similar subject matter and derived from Ord. No. 98-7, adopted Apr. 20, 1998.

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- (b) The D.P.W. board shall conduct the above duties under policies formulated by the policy board established by the contract. The policy board shall make such rules, regulations and by-laws governing the operation of the water system, the collection of the charges therefor, and for the management and protection of the water system as it may deem necessary. Such rules, regulations and by-laws shall have the same force and effect as ordinances once they are approved by the townships and the Muskegon County Board of Public Works. The system rules and regulations are as stated in Appendix C to Ordinance No. 05-07.

(Ord. No. 05-07, § 3, 11-7-05)

Editor's note(s)—Appendix C to Ordinance No. 05-07 is not set out at length herein but is on file and available in the office of the township clerk.

Sec. 54-29. Rates and charges.

- (a) *Generally.* Rates and charges to be charged for service furnished by the system shall be as provided in appendices attached to and made a part of Ordinance No. 05-07. Rates and charges may be changed from time to time by resolution of the various municipalities based on the needs of the system and recommendation of the policy board.
- (b) *Water rates.* Quarterly water rates for users of the system are as stated in Appendix B. The quarterly ready-to-serve charge for water use shall be based upon meter size as stated in Appendix B. A commodity charge is imposed for all water used in excess of the minimum quantities as set forth in the schedule based on the applicable meter size as stated in Appendix B.
- (c) *Connection charge.*
- (1) *Direct connection.* For each direct connection to lines of the system there shall be charged a fee as stated in Appendix B per single-family residential equivalent unit (REU); provided, however, that credit against such charge shall be given for each unit of benefit specially assessed by law or contract, except the amount of such credit shall not exceed the amount of the connection charge.
 - (2) *Indirect connection.* In order to defray the proportional share of the necessary over sizing of trunk lines and appurtenances, for each indirect connection to the system there shall be charged a fee of one-half the direct connection charge for each single-family residential equivalent unit (REU). The indirect connection is defined as one made to lines added to the system after its original construction, the cost of which is paid for by private funds.
 - (3) *Equivalent user factor.* Each premises other than a single-family residence shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of water use by such class of premises to normal single family residential use, as stated in Appendix A.

The equivalent user factor shall be calculated for any establishment based on the use of the property at the time of original application for water service. Whenever the use of this property, from that stated in the original application, is changed, modified or enlarged, the township shall charge an additional connection charge, based on the current connection charge schedule as listed in subsection (1), for the additional equivalent user units over the number originally purchased with the initial application. However, the equivalent user factor charge shall not be revised below that for the initial application.

- (4) *Payment of connection charge.* Connection charges as set forth above may be paid in cash upon application for connection to the system or paid over a 15-year period in 15 approximately equal installments, the first such installment to be due and payable upon application for connection to system and the balance at yearly intervals thereafter, with each installment bearing interest at the rate established from time to time and stated in Appendix B.

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- (d) *Special rates.* For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the township board in consultation with the system policy board.
- (e) *Billing.* Bills will be rendered quarterly, payable without penalty within 15 days after the date thereon. Payments received after such period shall bear a penalty of ten percent of the amount of the bill. Large users may be billed monthly.
- (f) *Enforcement.*
- (1) The charges for services which are pursuant to Section 21 of Act 94 of the Public Acts of 1933, being MCL 141.121, are hereby made a lien on all the premises served whenever such charges are delinquent for a period of six months. The township official or officials in charge of the collection thereof shall certify annually on October 1 of each year such delinquencies to the tax assessing officer of the township, and said assessing officer shall enter such charges on the tax roll, and said amount shall be collected in the same manner as real estate taxes are collected on the premises.
 - (2) In addition to the foregoing, the township shall have the right to shut off water service to any premises for which charges for water service are more than three months delinquent, and such service shall not be re-established until all delinquent charges and penalties and a turn on charge, to be specified by the township board, have been paid. Further, such charges and penalties may be recovered by the township by court action.
- (g) *Transfer of connection charge lien.* When a parcel of property which is subject to a lien agreement for the payment of the connection charge in installments is acquired by a new owner, such owner has the right to assume the lien agreement under the following terms and conditions:
- (1) The new owner pays a fee as stated in Appendix B to cover the cost of executing and recording of the necessary documents.
 - (2) The new owner signs a new lien agreement for the balance of the payments due and owing.
 - (3) The new owner shall provide the township clerk with the necessary documents showing the transfer of ownership.
- (h) *Annual rate adjustment.*
- (1) Annually, the D.P.W. board shall submit an operations and maintenance budget to the system policy board. On approval by that board, the budget shall be submitted to each jurisdiction's legislative branch for formal approval as necessary.
 - (2) The approval of the budget shall incorporate any necessary rate and fee schedules so as to provide sufficient funds to operate the system.
- (i) *[Resell of water].* No customer shall resell, distribute or bill another person, resident, entity of business, for water supplied by the township, at a rate which is higher than that being charged by the township. Discounts in the water rates authorized by the township's board shall be extended to all qualifying water consumers, even though not directly billed or connected directly to the township's system.

(Ord. No. 05-07, § 4, 11-7-05; Ord. No. 08-01, § 1, 2-4-08; Ord. No. 13-13, § 2, 12-2-13)

Editor's note(s)—Appendices to Ordinance No. 05-07 are not set out at length herein but are on file and available in the office of the township clerk.

Sec. 54-30. Mandatory connection.

- (a) The water distribution system of any building in which plumbing fixtures are installed shall be connected to a public water supply if available. Where a public water supply is not available, an individual water supply system shall be provided.
- (b) A public water supply system shall be deemed available to existing premises used for human occupancy if such premises are within 200 feet of a street, alley, or easement containing a public water supply, and a connection conforming with the standards set forth by the plumbing code and by local regulation shall be made thereto. A public water supply system shall be deemed available to any proposed premises used for human occupancy where the property on which the premises is to be located is adjacent to any street, alley, or easement containing a public water supply, and a connection conforming with the standards set forth by the plumbing code and by local regulation shall be made thereto.
- (c) It shall be mandatory for that residence or establishment to connect to the system whenever any one of the following occurs:
 - (1) Sale of a residence or establishment by deed, land contract, or other conveyance, said connection upon such transfer shall be made within 120 days of the date thereof.
 - (2) New construction.
 - (3) New well or replacement.
 - (4) Alterations to the following extent which require a permit according to the plumbing or building code adopted by the township:
 - a. Plumbing—50 percent change or alteration in existing plumbing system.
 - b. Building—25 percent of the then current state equalized value of the structure.
- (d) *Attorney fees and costs.* The owner(s) of any existing premises that fails to comply with the time constraints for mandatory connection contained within this section, shall be responsible for all of the costs and attorney fees associated with the township's enforcement of this section. If unpaid, such costs and attorney fees may be assessed as a tax against the real property and collected as provided by law.

(Ord. No. 05-07, § 5, 11-7-05; Ord. No. 13-08, § 1, 9-3-13)

Sec. 54-31. Free service.

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

(Ord. No. 05-07, § 6, 11-7-05)

Sec. 54-32. Expenses.

The rates established hereby are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the said system as are necessary to preserve the same in good repair and working order, to provide for the payment of the debt service obligations, and to provide for such other expenditures and funds for said system as this division may require. Such rates shall be fixed and revised by resolution of the township board from time to time as may be necessary to produce these amounts.

(Ord. No. 05-07, § 7, 11-7-05)

Sec. 54-33. Operating year.

The system shall be operated on the basis of an operating year commencing on October 1 and ending on the last day of September next following.

(Ord. No. 05-07, § 8, 11-7-05)

Sec. 54-34. System revenue.

The revenues of the system shall be set aside as collected and deposited in a depository account in the township's duly designated depository of Muskegon, Michigan, a bank duly qualified to do business in Michigan, in an account to be designated "Muskegon County Regional Water System Receiving Fund" (hereinafter, for brevity, referred to as the "receiving fund"), and said revenues so deposited shall be transferred from the receiving fund periodically in the manner and at the times specified in the contract to the Muskegon County Regional Water System Pooled Account.

- (1) *Operation, maintenance and debt service.* The D.P.W. board shall pay from and charge to the said pooled account, first, all costs of operation, maintenance and management of the system and second, debt service costs of the bonds to be issued by the county to finance construction of the system. Operation, maintenance and management costs shall include but not be limited to costs of water purchased, wages and salaries for labor and administration related to the system, materials expense, supplies, utility charges and insurance.
- (2) *Surplus monies.* Any surplus monies remaining from time to time in the pooled account shall be retained by the D.P.W. board to pay other system costs, such as repair, replacement or extension and improvement of the System and as a debt service reserve.
- (3) *Township remittances.* The township treasurer shall remit to the pooled account all monthly collections of rates and charges other than charges for inspections of connections in the manner and at the times specified in the contract following such collection.
- (4) *Bank account.* All moneys belonging to the receiving fund may be kept in one bank account, in which event the moneys shall be allocated on the books and records of this township within this single bank account, in the manner above set forth. Any other public corporation acting as operating agent for this township shall be authorized to act for this township to establish, maintain and fund the aforesaid account.

(Ord. No. 05-07, § 9, 11-7-05)

Sec. 54-35. Hardship.

The owner or owners of a single-family residence in which residence said owner or owners reside and upon which a connection charge or special assessment has been imposed may submit a hardship application to this township board seeking a deferment in the partial or total payment of the connection charge or special assessment provided for herein based upon a showing of financial hardship, subject to and in accordance with the following:

- (1) The owners of the premises shall, under oath, complete a hardship application provided by this township board and file said application, together with all other information and documentation reasonable required by this township, with this township board not less than 60 days prior to the due date of such charge. An application shall be completed and filed by each and every legal and equitable

interest holder in the premises, excepting financial institutions having security interests in the premises.

- (2) Hardship applications shall be reviewed by this township board, and after due deliberation of hardship applications, this township board shall determine in each case whether there has been an adequate showing of financial hardship, and shall forthwith notify the applicants of said determination.
- (3) An applicant aggrieved by the determination of this township board may request the opportunity to appear before this township board in person for the purposes of showing hardship and presenting any argument for additional evidence. A denial of hardship following such a personal appearance before this township board shall be final and conclusive.
- (4) In the event that the township board makes a finding of hardship, the township board shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, said applicant shall immediately notify the clerk of this township so that a further review of the matter may be made by this township board, and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
 - a. A change in the financial status of any applicant which removes the basis for financial hardship.
 - b. A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof.
 - c. A death of any of the applicants.
- (5) Upon a determination of this township board deferring all or part of the charges imposed, the owners of the premises shall, within one month after such determination, execute and deliver to this township, as the secured party, a recordable security instrument covering the premises guaranteeing payment of the deferred amounts on or before the death of any of the applicants or, in any event, upon the sale or transfer of the premises. Said security interest shall guarantee payment of an amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for said security interest being the grant of deferment pursuant to this division.

(Ord. No. 05-07, § 10, 11-7-05)

Sec. 54-36. Criminal violation.

Any unauthorized person who shall take water from the system without payment therefor, or disturb, tap into, change, obstruct, or interfere with the System and any person who shall intentionally damage the system shall be guilty of a misdemeanor, and upon conviction, be subject to a fine not exceeding \$500.00 or imprisonment for not more than 93 days, or both. Each day shall be a separate offense.

(Ord. No. 05-07, § 11, 11-7-05)

Secs. 54-37—54-45. Reserved.

DIVISION 2. CROSS CONNECTIONS

Sec. 54-46. 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:

Backflow means water of questionable quality, wastes or other contaminants entering the public water supply system due to a reversal of flow.

Cross connection means a connection or arrangement of piping or appurtenances through which a backflow could occur.

Public water supply system or water utility means the Muskegon County Water Supply System No. 5 or any other water supply system within the township.

Safe air gap means the minimum distance of a water inlet or opening above the maximum high water level or overflow rim in a fixture, device or container to which public water is furnished which shall be at least two times the inside diameter of the water inlet pipe; but shall not be less than one inch and need not be more than 12 inches.

Secondary water supply means a water supply system maintained in addition to the public water supply, including, but not limited to water systems from ground or surface sources not meeting the requirements of Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 et seq.), as amended, or water from the public water supply which in any way has been treated, processed, or exposed to any possible contaminant or stored in other than an approved storage facility.

Submerged inlet means a water pipe or extension thereto from the public water supply terminating in a tank, vessel, fixture or appliance which may contain water of questionable quality, waste or other contaminant and which is unprotected against backflow.

(Ord. No. 44, § 1, 11-1-82)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 54-47. Compliance with existing laws.

A connection with the public water supply system constructed outside of the public right-of-way shall comply with the provisions of the ordinances and plumbing code of each township.

(Ord. No. 44, § 2, 11-1-82)

Sec. 54-48. Cross connections prohibited.

All cross connections of the public water supply system and any other water supply system or source, including, but not limited to the following, are prohibited:

- (1) Between the public water supply system and a secondary water supply.
- (2) By submerged inlet.
- (3) Between a lawn sprinkling system and the public water supply system.
- (4) Between the public water supply system and piping which may contain sanitary waste or a chemical contaminant.
- (5) Between the public water supply system and piping immersed in a tank or vessel which may contain a contaminant.

(Ord. No. 44, § 3, 11-1-82)

Sec. 54-49. Corrections and protective devices.

Any user of public water shall obtain a written permit from the water utility of any proposed corrective action or protective device before using or installing the same. The expenses of elimination of cross connections shall be that of the owner of the property on which such cross connections exist. The time allowed by the water utility, if any, for completion of the necessary corrections shall be dependent upon the degree of hazard involved and may include the time required to obtain and install equipment. If the cross connection has not been removed within the time as determined by the water utility, the water utility shall physically separate the public water supply from the onsite piping system in such a manner that the two systems cannot again be connected by any unauthorized person. The expenses incurred by the water utility in such separation of water supplies shall be payable by the property owner.

(Ord. No. 44, § 4, 11-1-82)

Sec. 54-50. Piping identification.

When a secondary water source is used in addition to the public water supply to the premises, exposed public water and secondary water piping shall be identified by distinguishing colors or tags and so maintained that each pipe may be traced readily in its entirety. If piping is so installed that it is impossible to trace it in its entirety, it will be necessary to protect the public water supply at the service connection in a manner acceptable to the water utility.

(Ord. No. 44, § 5, 11-1-82)

Sec. 54-51. Private water storage tanks.

A private water storage tank supplied from the public water supply system shall be deemed a secondary water supply, unless it is designed and approved by the water utility for potable water usage.

(Ord. No. 44, § 6, 11-1-82)

Sec. 54-52. Inspection.

It shall be the duty of the water utility to cause inspections to be made of all properties served by the public water supply system where cross connections with the public water supply are deemed possible. The frequency of inspections and reinspections based on potential health hazard involved shall be established by the water utility and as approved by the state department of public health.

(Ord. No. 44, § 7, 11-1-82)

Sec. 54-53. Right to enter for purpose of inspection.

The water utility shall have the right to enter at any reasonable time any property served by a connection to the public water supply for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner of any property so served shall furnish to the inspector any pertinent information regarding the piping system or systems on such property. The refusal of access, when requested, shall be deemed evidence of the presence of cross connections and subject the user to discontinuance of water supply service, the water utility may procure a court-authorized search warrant, or both, in its discretion.

(Supp. No. 16)

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(Ord. No. 44, § 8, 11-1-82)

Sec. 54-54. Discontinuance of water service.

The water utility is hereby authorized and directed to discontinue water service after eight hours notice to any property wherein any connection in violation of this division exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water system. The expense of discontinuance shall be that of the property owner. Water service to such property shall not be restored until the cross connections have been eliminated in compliance with the provisions of this division.

(Ord. No. 44, § 9, 11-1-82)

Sec. 54-55. Penalty.

Every person convicted of a violation of any provision of this article shall be punished as provided in section 1-8 of this Code.

(Ord. No. 44, § 10, 11-1-82)

Secs. 54-56—54-75. Reserved.

ARTICLE III. SEWER SERVICE³⁰

Sec. 54-76. 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:

Net revenues means the same as defined in Section 3 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended.

Operation and maintenance costs means all costs, direct and indirect, inclusive of all expenditures attributable to administration, replacement, and treatment and collection of sewage or wastes on a continuing basis in conformance with the NPDES permit, and other applicable regulations.

Replacement costs mean all expenditures and costs for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the system to maintain the capacity and performance for which the system was designed and constructed.

System means the complete Muskegon County Wastewater Management System (Muskegon Township Extension), including all sewers, pumps, lift stations, and all other facilities used or useful in the collection and disposal of domestic, commercial or industrial wastes, including all appurtenances thereto and including all extensions and improvements thereto, which may hereafter be acquired.

³⁰Editor's note(s)—The Cities of Montague, Muskegon Heights, North Muskegon, Norton Shores and Whitehall and the Townships of Dalton, Egelston, Laketon, Montague and Muskegon have adopted a uniform wastewater control ordinance. The township adopted this uniform ordinance number 001A on June 12, 1980. It is not printed in this Code but it is not repealed.

(Ord. No. SW-5, § 2, 11-7-77; Ord. No. 02-1, § 1, 3-4-02)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 54-77. Purpose.

It is hereby determined to be described and necessary, for the public health, safety and welfare of the township, that the Muskegon County Wastewater Management System No. One (Muskegon Township Extension) be operated by the township as lessee of the county and the county department of public works under Act No. 185 of the Public Acts of Michigan of 1957 (MCL 123.731 et seq., MSA 5.570(1) et seq.), as amended, on a public utility rate basis in accordance with the provisions of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended.

(Ord. No. SW-5, § 1, 11-7-77)

Sec. 54-78. Operation and maintenance.

The operation and maintenance of the system shall be under the supervision and control of the township, subject to the terms of the contract dated September 12, 1977 between the county and the township as amended. Pursuant to the terms of such contract the township has retained the exclusive right to establish, maintain and collect rates and charges for sewer collection and disposal service and in such capacity the township board may employ such person or persons in such capacity or capacities as it deems advisable and may make such rules, orders and regulations as it deems advisable and necessary to assure the efficient establishment, maintenance and collection of such rates and charges.

(Ord. No. SW-5, § 3, 11-7-77)

Sec. 54-79. Rates and charges.

Rates and charges for the use of the wastewater system of the township are hereby established and made against each lot, parcel of land, or premises which may have direct or indirect connections to the system or which may otherwise discharge wastewater either directly or indirectly into the system. The rates and charges hereby established shall be based upon a methodology which complies with applicable federal and state statutes and regulations. The amount of the rates and charges shall be sufficient to provide for debt service and for the expenses of operation, maintenance, and replacement of the system as necessary to preserve the same in good repair and working order. The amount of the rates and charges shall be reviewed annually and revised when necessary to ensure system expenses are met and that all users pay their proportionate share of the operation, maintenance, and equipment replacement expenses. The amount of such rates and charges and the intervals at which users of the wastewater system are billed shall be determined by resolution of the township board. The rates and charges for operation, maintenance, and replacement hereby established shall be uniform within the area serviced by the township. All customers of the township wastewater system may receive, upon request, an annual notification which will show the breakdown of the wastewater disposal bill into its components for operation, maintenance and replacement, and debt service.

(1) *Sewer use charges.*

- a. To each single-family residential premises without metered water, sewer use charges shall be in an amount to be determined by resolution of the township board.
- b. To each single-family residential premises with metered water, sewer use charges shall be in an amount to be determined by resolution of the township board.

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- (2) *Connection charge.*
- a. *Direct connection.* For each direct connection to lines of the system there shall be charged a fee per single-family residence equivalent set by the Muskegon Charter Township board. Any connection charge may be amended from time to time by resolution of the township board.
 - b. *Indirect connection.* In order to defray the proportional share of the necessary oversizing of trunk and pumping stations, for each indirect connection to the system there shall be charged a fee of 50 percent of the direct connection fee per single-family residence equivalent. An indirect connection shall be defined as one made to lines added to the system after its original construction, the cost of which is paid from special assessments or private funds.
 - c. *Equivalent user factor.* Each premises other than a single-family residence shall pay either a direct or indirect connection charge multiplied by a factor representing a ratio of sewage use by such class of premises to normal single-family residential use, as reflected in appendix A. The equivalent user factor shall be calculated for any establishment based on use of the property at time of application for service. Whenever the use of a property, from that stated in the original application, is changed, modified, or enlarged, the township shall charge an additional connection charge based on the current connection charge schedule for the additional equivalent user units over the number originally purchased with the initial application. However, the equivalent user factor charge shall not be revised below that for the initial application, except when calculating sewer use charges per paragraph (1)(a) or (1)(b).
 - d. *Payment of connection charge.* Connection charges as set forth above shall be due and payable in cash upon application for connection to the system, or the charges may be payable in installments with interest at the annual rate of six percent per annum on the unpaid balance, the installment period for payment for the initial construction being for ten years. If paid in installments, the first installment of the connection charge shall be payable upon application for connection, and all subsequent installments plus interest shall be payable annually. New construction will pay in full at the time of application prior to occupation.
- (3) *Industrial cost recovery charge.* The township board shall establish a system of industrial cost recovery charges applicable to any user of the system consistent with the terms and conditions of the federal grant financing part of the cost of the system, which charges shall be collected, held and used in the manner required by the federal grant.
- (4) *Special rates.* For miscellaneous or special services for which a special rate shall be established, such rates shall be fixed by the township board.
- (5) *Billing.* Bills will be rendered either monthly or quarterly as directed by resolution of the township board and are payable on or before the twentieth day of the month following the billing date, except when the 20th day of the month is a Saturday, Sunday or federal holiday the due date shall be extended to the next regular business day. Payments received after the time limited therefore shall include a late charge or penalty of ten percent which shall be added thereto and shall be included in the debt and lien owing thereof.
- (6) *Enforcement.* The charges for services which are under the provisions of Section 21 of Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq.), as amended, made a lien on all premises served thereby, unless notice is given that a tenant is responsible, are hereby recognized to constitute such lien, and, whenever any such charge against any piece of property shall be delinquent for three months, the township official or officials in charge of the collection thereof shall certify annually, on September 30 of the year, to the tax assessing officer of the township the facts of such delinquency, whereupon such charge plus an administrative fee equal to one percent of such charge shall be by him entered upon the next tax roll as a charge against such premises and shall be collected and the lien

thereof enforced, in the same manner as general township taxes against such premises are collected and the lien thereof enforced.

- (7) *Rates and charges.* No one person, firm, entity, corporation or collection of individuals shall charge any other person, resident, or business wastewater system charges which are higher than the rates authorized by the township's board. Discounts on sanitary sewer charges authorized by the township board should be extended to all qualifying customers even if not directly billed or connected directly to the township's system.

(Ord. No. SW-5, § 4, 11-7-77; Ord. of 10-20-82; Ord. No. 02-1, §§ 2—4, 3-4-02; Ord. No. 05-03, § 1, 5-2-05; Ord. No. 06-01, §§ 1, 2, 5-15-06; Ord. No. 08-02, § 1, 2-4-08; Ord. No. 10-8, § 3, 5-3-10; Ord. No. 11-01, § 1, 3-7-11; Ord. No. 17-10, § 2, 8-7-17)

Sec. 54-80. No free service.

No free service shall be furnished by the system to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. No. SW-5, § 5, 11-7-77)

Sec. 54-81. Mandatory connection.

It is hereby determined and declared that public sanitary sewer systems are essential to the health, safety, and welfare of the people of the township; that all premises on which structures in which sanitary sewage originates are situated shall connect to the system at the earliest reasonable date as a matter for the protection of the public health, safety, and welfare of the people of the township.

- (1) *Sewer availability.* The system shall be deemed available to existing premises used for human occupancy if such premises are within 200 feet of a street right-of-way, alley, or easement containing public sanitary sewers of the system and a connection conforming with the standards set forth in the International Plumbing Code and by local regulations shall be made thereto. The system shall be deemed available to any proposed premises used for human occupancy where the affected property is adjacent to any street right-of-way, alley, or easement containing a public sanitary sewer and a connection conforming with the standards set forth in the International Plumbing Code and by local regulations shall be made thereto.
- (2) *Time constraints.* Existing premises in which sanitary sewer originates presented with sewer availability shall connect to the system within 180 days after the mailing or posting of notices to such premises by the appropriate township official that such services are available. Proposed premises in which sanitary sewer will originate shall connect prior to occupancy. Said notification and enforcement of this section shall be in conformity with Act 288 of the Public Acts of 1972.
- (3) *Attorney fees and costs.* The owner(s) of any existing premises that fails to comply with the time constraints for mandatory connection contained within this section shall be responsible for all of the costs and attorney fees associated with the township's enforcement of this section. If unpaid, such costs and attorney fees may be assessed as a tax against the real property and collected as provided by law.

(Ord. No. SW-5, § 6, 11-7-77; Ord. No. 02-1, § 5, 3-4-02; Ord. No. 09-04, § 1, 12-21-09)

Sec. 54-82. Use of revenues.

The rates are estimated to be sufficient to provide for the payment of the expenses of administration and operation, such expenses for maintenance of the system as are necessary to preserve them in good repair and working order, to provide for the payment of the contractual obligations of the township to the county pursuant to the aforesaid contract between the county and the township as the same become due, and to provide for such other expenditures and funds for the system as this article may require. Such rates shall be fixed and revised by resolution of the township board as may be necessary to produce these amounts.

(Ord. No. SW-5, § 7, 11-7-77)

Sec. 53-83. Operating year.

The system shall be operated on the basis of an operating year commencing on January 1 and ending on the last day of December each year.

(Ord. No. SW-5, § 8, 11-7-77)

Sec. 54-84. Accounting procedures, funds.

- (a) *Depository account.* The revenues of the system shall be set aside, as collected, and deposited in a separate depository account in a local bank of Muskegon, Michigan, a bank duly qualified to do business in the state, in an account to be designated the sewer system receiving fund (hereinafter, for brevity, referred to as the receiving fund), and the revenues so deposited shall be transferred from the receiving fund periodically in the manner and at the times hereafter specified.
- (b) *Operation and maintenance fund.* Out of the revenues in the receiving fund there shall be first set aside quarterly into a depository account, designated operation and maintenance fund, a sum sufficient to provide for the payment of the next quarter's current expenses of administration and operation of the system, and such current expenses for the maintenance thereof as may be necessary to preserve the same in good repair and working order.
- (c) *Contract payment fund.* There shall next be established and maintained a depository account, to be designated contract payment fund, which shall be used solely for the payment of the township's obligations to the county pursuant to the aforesaid contract. There shall be deposited in the fund quarterly, after requirements of the operation and maintenance fund have been met, such sums as shall be necessary to pay said contractual obligations when due. Should the revenues of the system prove insufficient for this purpose, such revenues may be supplemented by any other funds of the township legally available for such purpose.
- (d) *Replacement fund.* There shall next be established and maintained a depository account, designated replacement fund, which shall be used solely for the purpose of making major repairs and replacements to the system if needed. There shall be set aside into the fund, after provision has been made for the operation and maintenance fund and the contract payment fund, such revenues as the township board shall deem necessary for this purpose.
- (e) *Improvement fund.* There shall next be established and maintained an improvement fund for the purpose of making improvements, extensions and enlargements to the system. There shall be deposited into the fund, after providing for the foregoing fund, such revenues as the township board shall determine.
- (f) *Surplus moneys.* Moneys remaining in the receiving fund at the end of any operating year, after full satisfaction the requirements of the foregoing funds, may, at the option of the township board, be

transferred to the improvement fund or used in connection with any other project of the township reasonably related to purposes of the system.

- (g) *Bank accounts.* All moneys belonging to any of the foregoing funds or accounts may be kept in one bank account, in which event the moneys shall be allocated on the books and records of the township within this single bank account, in the manner above set forth.

(Ord. No. SW-5, § 9, 11-7-77)

Sec. 54-85. Transfers to operation and maintenance fund.

If the moneys in the receiving fund are insufficient to provide for the current requirements of the operation and maintenance fund, any moneys and/or securities in other funds of the system, except sums in the contract payment fund derived from tax levies, shall be transferred to the operation and maintenance fund, to the extent of any deficit therein.

(Ord. No. SW-5, § 10, 11-7-77)

Sec. 54-86. Investment of funds.

Moneys in any fund or account established by the provisions of this division may be invested in obligations of the United States of America in the manner and subject to the limitations provided in Act No. 94 of the Public Acts of Michigan of 1933 (MCL 141.101 et seq., MSA 5.2731 et seq.), as amended. If such investments are made, the securities representing the same shall be kept on deposit with the bank or trust company having on deposit the fund or funds from which such purchase was made. Income received from such investments shall be credited to the fund from which the investments are made.

(Ord. No. SW-5, § 11, 11-7-77)

Sec. 54-87. Deferment of payments; hardship application.

- (a) The owner or owners of a single-family residence, in which residence the owner or owners reside and upon which a connection charge has been imposed, may submit a hardship application to the sewer appeal board seeking a deferment in the partial or total payment of the connection charge provided for herein, based upon a showing of financial hardship.
- (b) The board shall have three members, one of whom shall be the township supervisor and two members of the public from the area served, who shall be appointed by the supervisor and confirmed by the township board, and who shall serve at the pleasure of the board. Any two members of the sewer appeal board shall constitute a quorum for the purpose of taking action on any application. The members of the sewer appeal board shall be paid such compensation as the township board of trustees shall set.
- (c) The owners of the premises shall, under oath, complete a hardship application provided by the sewer appeals board, and file the application, together with all other information and documentation reasonably required by the township, with the sewer appeals board not less than 60 days prior to the due date of the annual installment of such charge. Any such deferment shall be for the current annual installment only. An application shall be completed and filed by each and every legal and equitable interest holder in the premises, excepting financial institutions having security interests in the premises.
- (d) As used in this section, "undue financial hardship" shall mean that the cost of installing the sewer from the property line to the structure to be served and connecting the structure to the sewer, plus the total of the

cash charges and fees imposed by this ordinance will exceed 50 percent of the annual household income as such income is defined in the Michigan Income Tax (Act No. 20 of the Public Acts of Michigan of 1973).

- (e) Undue financial hardship shall be conclusively presumed in all cases where the applicant's annual household income (as defined in the Michigan Income Tax Act referred to above) is less than \$6,000.00 per year and where the applicant lives on the premises which are required to be connected to the sewer.
- (f) In all other applications coming before the sewer appeal board, the board may determine that the applicant is subjected to undue financial hardship if it finds that paying the costs of connecting to the sewer will be an intolerable burden on the applicant and his family when applicant's household income is considered in relationship to unusual expenses and obligations of applicant.
- (g) In all cases where the sewer appeal board finds that the property owner will be subjected to undue financial hardship if required to connect to an available sanitary sewer, the board may defer the connection of the structure to the sewer, or may defer all or part of the charges and fees imposed by this division. In all such cases the sewer appeal board shall require as a condition to the granting of such relief that the applicant agrees in writing that the structure will be connected and the then applicable fees and charges paid (either in cash or on time) at such time as the premises are sold or transferred and, in any event, on the death of the survivor of the applicant and his spouse.
- (h) An applicant aggrieved by the determination of the sewer appeals board may request the opportunity to appear before the township board in person for the purpose of showing hardship and presenting any argument or additional evidence. A denial of hardship following such a personal appearance before the township board shall be final conclusive.
- (i) If the township board makes a finding of hardship, the township board shall fix the amount of partial or total deferment of the charge so imposed, and in so doing, shall require an annual filing of financial status by each applicant, providing that upon a material change of financial status of an applicant, the applicant shall immediately notify the clerk of the township so that a further review of the matter may be made by the sewer appeals board, and provided further that the duration of the deferment granted shall be self-terminating upon the occurrence of any one of the following events:
 - (1) A change in the financial status of any applicant which removes the basis for financial hardship.
 - (2) A conveyance of any interest in the premises by any of the applicants, including the execution of a new security interest in the premises or extension thereof.
 - (3) A death of any of the applicants.
- (j) Upon a determination of the sewer appeal board deferring all or part of the charges imposed, the owners of the premises shall, within one month after such determination, execute and deliver to the township as the secured party a recordable security instrument covering the premises, guaranteeing payment of the deferred amounts on or before the death of any of the applicants, or, in any event, upon the sale or transfer of the premises. The security interest shall guarantee payment of any amount necessary to cover all fees and charges deferred and all costs of installation and connection, if applicable, the consideration for the security interest being the grant of deferment pursuant to this section.

(Ord. No. SW-5, § 12, 11-7-77)

Secs. 54-88—54-100. Reserved.

ARTICLE IV. PUBLIC UTILITY PROCEDURE

Sec. 54-101. Public utility procedure and inspection.

This article shall be known as the "public utility procedure and inspection ordinance."

(Ord. No. 01-4, § 1, 9-4-01)

Sec. 54-102. Final plan for subdivision, site condominium, and PUD.

The final plan for the subdivision, site condominium, PUD or other project wherein ownership is conveyed to the township shall include construction plans for public water and sewer systems within the development, if applicable. The final plan shall also include construction plans for storm water management and roads. Construction plans shall be prepared, signed, and sealed by a licensed professional engineer of the state. Construction plans submitted shall be accompanied by complete construction specification manuals for all proposed construction of public utilities (including water, sanitary sewer, storm water management, and roadways). Construction plans for each utility shall be submitted by the township to the appropriate reviewing agency for comment and approval. All necessary utility easements shall be secured and be shown on the final plans as submitted.

(Ord. No. 01-4, § 2, 9-4-01)

Sec. 54-103. Requirements for subdivision, site condominium, and PUD plans.

- (a) Prior to acceptance of the completed subdivision, site condominium, or PUD by the township, the following requirements shall be complied with:
- (1) All utilities shall be built in accordance with the approved final plan and specifications.
 - (2) Developer shall secure the services of a licensed professional engineer of the state who shall perform full-time inspection during the period when underground utilities are being constructed and tested.
 - (3) Licensed professional engineer shall, upon completion of the construction of the subdivision, site condominium, or PUD, submit to the township, a certification that all utilities have been constructed in accordance with the approved final plan and specifications. Engineer shall submit to the township, the Muskegon County Department of Public Works, and/or the City of Muskegon D.P.W., as necessary, including, but not limited to, pressure testing, disinfection testing, conductivity testing, alignment and grade, density, and material certifications.
 - (4) Licensed professional engineer or surveyor shall, upon completion of the construction of the subdivision, site condominium, or PUD, submit certified "as-built" drawings of all utilities. The township, Muskegon County D.P.W and/or City of Muskegon D.P.W., as necessary, shall each receive one set each of reproducible drawings and prints.
 - (5) Licensed professional engineer shall, upon completion of the construction of the subdivision, site condominium, or PUD, submit witness location sheets for water services, water valves, and sewer services. Each service witness sheet and valve witness sheet shall contain a minimum of three independent and unique witnesses to the service or valve. Services and valves shall not be witnessed to like items (i.e. do not witness a service to another service.) However, at intersections where there are two or more valves located within close proximity, the distance and direction between the valves is required. Witnesses shall be of a "permanent" nature such as manholes, fire hydrants, power/telephone poles, building corners, etc. Witness sheets shall contain, at a minimum, a drawing of the relative information, a north arrow, sufficient descriptions of relevant items, and measurement arrows indicating distance and direction to witnesses. Witness sheets for sewer services shall also show

the depth of the sewer service at the point terminus. Witness sheet sets shall be submitted to the township, Muskegon County Department of Public Works, and/or City of Muskegon D.P.W., as necessary, upon completion of construction of the subdivision, site condominium, or PUD.

- (6) Upon submission of all required information and acceptance of same by township, Muskegon County Department of Public Works and/or City of Muskegon D.P.W., as necessary, the utilities shall be adopted into the public utility systems and shall be deemed usable. No permits to connect to the systems shall be issued by the township prior to adoption of the utilities into the public systems.
- (7) The township shall also receive from the developer a warranty against defects in materials and construction of all utilities for a period of one year from the date of acceptance of said utilities into the public systems.

(Ord. No. 01-4, § 3, 9-4-01)

Sec. 54-104. Sewer/water review.

- (a) Prior to acceptance of the sewer/water system by the township, the following shall be submitted, reviewed, and approved by the township:
 - (1) Waiver of lien and sworn statement from the contractor/developer.
 - (2) Maintenance bond—50 percent of the value of the sewer/water system for two years.
 - (3) Bill of sale or dedication for sewer/water.
 - (4) Executed sewer/water easements.
 - (5) "As-built" mylar of sanitary sewer/water system.
 - (6) Witness location sheets for all service leads.
 - (7) Engineer's certificate of completion.
 - (8) Copies of certified test results.

(Ord. No. 01-4, § 4, 9-4-01)

Secs. 54-105—54-124. Reserved.

ARTICLE V. ELECTRICAL POWER FRANCHISES

Sec. 54-125. Grant of power franchise and consent to laying of wires, etc.

Subject to all the terms and conditions mentioned in this article, the Charter Township of Muskegon may grant a nonexclusive franchise to an electrical power company, its successors and assigns, to lay, maintain, operate, and use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, wires, transformers, and other electrical appliances and any other necessary equipment in the highways, streets, alleys, and other public places in the Charter Township of Muskegon, Muskegon County, Michigan. The franchise, if granted to the company, its successors and assigns, provides them with the authority to transact local business in the Charter Township of Muskegon for the purposes of conveying electricity into and through, and supplying and selling power in the Charter Township of Muskegon and all other matters incidental thereto.

(Ord. No. 10-09, § 2, 6-21-10)

Sec. 54-126. Power services and extension of system.

If a franchise is granted and accepted by the company, then the company shall furnish electricity to applicants residing therein in accordance with applicable laws, rules and regulations, and other applicable provisions now or from time to time hereafter contained in the power company's rules and regulations for electrical service, as filed with the Michigan Public Service Commission or successor agency having similar jurisdiction.

(Ord. No. 10-09, § 2, 6-21-10)

Sec. 54-127. Use of streets and other public places.

- (a) A franchisee shall not unnecessarily obstruct the passage of any of the highways, streets, alleys, or other public places within the Charter Township of Muskegon and shall, within a reasonable time after making an opening or excavation, repair the same and leave it in as good a condition as before the opening or excavation was made. The company receiving a franchise, its successors, assigns, and employees shall use due care in exercising the privileges herein contained and shall be liable to the Charter Township of Muskegon for all damages and costs which may be recovered against the Charter Township of Muskegon arising from the default, carelessness, or negligence of the company or its officers, agents, employees, and servants. The company, its successors or assigns, shall hold the Charter Township of Muskegon harmless and shall indemnify them for any and all losses associated with the installation and distribution of electricity, but only to the extent that such losses do not arise out of the negligence of the township, its officials, employees, agents and servants.
- (b) No road, street, alley, or highway shall be opened for the laying of trunk lines or lateral lines except upon application to the director of public works for the Charter Township of Muskegon or other authority having jurisdiction in the premises, stating the nature of the proposed work and the route. Upon receipt of such application, it shall be the duty of the director of public works or the township, or such other authority as may have jurisdiction, to issue a permit to the company to do the work proposed.
- (c) A franchisee's towers, masts and poles shall be neat and sightly, and so placed on either side of the highways, streets, alleys, and bridges as not to unnecessarily interfere with the use thereof for highway, street and alley purposes. All of the franchisee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways, streets, alleys, and public places. All work performed by the franchisee in said highways, streets and alleys shall be done so as not to interfere with the use thereof, and when completed, the same shall be left in as good a condition as when work was commenced. The grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the department of public works.

(Ord. No. 10-09, § 2, 6-21-10)

Sec. 54-128. Standards and conditions of service; rules, regulations and rates.

A franchise may only be granted to a company under the jurisdiction of the Michigan Public Service Commission to the extent provided by statute; and the rates to be charged for electricity, and the standards and conditions for service and operation hereunder, shall be the same as set forth in the company's schedule of rules, regulations, and rates as applicable in the several cities, villages, and townships in which the company is now rendering power service, or as shall thereafter be validly prescribed for the Charter Township of Muskegon under the orders, rules, and regulations of the Michigan Public Services Commission or other authority having jurisdiction in the premises.

(Ord. No. 10-09, § 2, 6-21-10)

Sec. 54-129. Underground relocation.

If the franchisee has its facilities on aboveground utility poles and the owner of said poles relocates its facilities to an underground conduit, the franchisee shall relocate its facilities in the same underground conduit.

(Ord. No. 10-09, § 2, 6-21-10)

Sec. 54-130. Terms of franchise.

The term of any franchise granted hereunder shall be not more than 30 years in duration. Renewals or extensions shall be governed in the same manner as original applications. However, in all instances, this article and the franchise granted hereunder shall be revocable at the will of the Charter Township of Muskegon.

(Ord. No. 10-09, § 2, 6-21-10)

Chapter 58 ZONING³¹

ARTICLE I. IN GENERAL

DIVISION 1. GENERALLY

Sec. 58-1. Title.

This chapter shall be known and may be cited as the "Muskegon Charter Township Zoning Ordinance."

(Ord. No. 7, § 1.1, 4-18-83)

Sec. 58-2. Rules of construction.

The following listed rules of construction shall apply to the text of this chapter:

- (1) The particular shall control the general.
- (2) Except with respect to the definitions which follow in section 58-3, the headings which title a chapter, section or subsection are for convenience only and are not to be considered in any construction or interpretation of this chapter or as enlarging or restricting the terms and provisions of this chapter in any respect.
- (3) The word "shall" is always mandatory and not discretionary. The word "may" is permissive.

³¹Cross reference(s)—Buildings and building regulations, ch. 6; businesses, ch. 10; environment, ch. 18; fire prevention and protection, ch. 22; subdivisions, ch. 42; utilities, ch. 54.

State law reference(s)—Township zoning, MCL 125.271 et seq.

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- (4) Unless the context clearly indicates to the contrary: words used in the present tense shall include the future tense; words used in the singular number shall include the plural number; and words used in the plural number shall include the singular number.
 - (5) A "building" or "structure" includes any part thereof.
 - (6) The word "person" includes a firm, association, partnership, joint venture, corporation, trust, municipal or public entity or equivalent entity or a combination of any of them as well as a natural person.
 - (7) The words "used" or "occupied," as applied to any land, building or structure, shall be construed to include the words "intended," "arranged" or "designed" to be used or occupied.
 - (8) The words "erected" or "erection," as applied to any building or structure, shall be construed to include the words "built," "constructed," "reconstructed," "moved upon" or any physical operation or work on the land on which the building or structure is to be built, constructed, reconstructed or moved upon, such as excavation, filling, drainage or the like.
 - (9) The word "township" means the Township of Muskegon, County of Muskegon, Michigan.
 - (10) The words "township board" means the Muskegon Township Board.
 - (11) The words "planning commission" mean the Muskegon Township Planning Commission.
 - (12) The words "board of appeals" mean the Muskegon Township Zoning Board of Appeals.
 - (13) The words "building official" mean the Muskegon Township Building Official, or authorized agent.
 - (14) The words "legal record" mean the circumstance where the legal description of a lot or parcel of land has been recorded as part of a document on record in the office of the register of deeds of the county.

(Ord. No. 7, § 2.1, 4-18-83)

Sec. 58-3. 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. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.

Accessory building or structure means a structure, building or portion or a main building or structure on the same lot or parcel of land as the main building or buildings, the use of which is of a nature customarily and clearly incidental and subordinate to that of the main building or structure.

Accessory use means a use of a nature customarily and clearly incidental and subordinate to the main use of the land, lot, building or structure.

Agriculture means any of the following:

- (1) Cultivation of the soil for the production of crops.
- (2) Horticulture.
- (3) Nurseries.
- (4) Hatcheries.
- (5) Poultry farms.
- (6) Dairy farms.
- (7) Apiaries.

Alcohol manufacturer means a person engaged in the manufacture of alcoholic liquor, including, but not limited to, a distiller, a rectifier, a wine maker, and a brewer.

Alley means a public controlled right-of-way not more than 30 feet wide affording only secondary means of vehicular access to abutting lots and land and which is not intended for general traffic circulation.

Altered or alteration means any change, addition or modification in the construction of any building or structure including, without limitation, any change in the supporting member, bearing walls, columns, posts, beams, girders or roof structure, any architectural change of the interior or exterior of a building or structure which may affect its structural integrity, or any addition to or diminution of a structure or building.

Basement means that portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling.

Boardinghouse means a dwelling where meals with or without lodging are furnished for compensation on a daily, weekly or monthly basis to three or more persons who are not members of the family occupying the dwelling.

Brewer means a person located in this state that is licensed to manufacture and sell to licensed wholesalers beer produced by it.

Brewery means a facility that is licensed by the Michigan Liquor Control Commission to manufacture and sell to licensed wholesalers, beer produced by it. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

Brewpub means an establishment with a license issued by the State of Michigan that authorizes the person licensed to manufacture and brew not more than 5,000 barrels of beer per calendar year in Michigan and sell at those licensed premises the beer produced for consumption on or off the licensed brewery premises in the manner provided for in sections 405 and 407 of the Michigan Liquor Control Act.

Buffer or green belt means a strip of land of specified width and location reserved for the planting of shrubs, trees and/or fences to serve as an obscuring screen or buffer strip.

Building means anything which is erected, including a mobile home, having a roof, which is used or erected for the shelter or enclosure of persons, animals or personal property or for carrying on business activities or other similar uses.

Building height means the vertical distance from the established grade of the center of the front of the building to the highest point of the roof surface of a flat roof, to the deck line of a mansard roof, and to the mean height level between eaves and ridge of a gable, hip or gambrel roof.

Cabins means any building, tent or similar structure, exclusive of hotels, motels, boardinghouses or tourist homes, which is maintained, offered or used for sleeping quarters for transients or for temporary residence.

Camp means temporary or permanent buildings, tents or other structures, together with the appurtenances pertaining thereto, established or maintained as living quarters for children or adults, or both, operated continuously for a period of five days or more, for recreation, education or vacation purposes, whether operated on a profit or nonprofit basis; provided, however, that buildings, tents or other structures maintained by the owner or occupant of a farm to house his farm labor shall not be considered a camp.

Carport means a partially open structure, intended to shelter one or more vehicles. Such structures shall comply with all yard requirements applicable to private garages.

Certificate of zoning compliance means a certificate issued by the official charged with administering this chapter to a party or parties intending to initiate any work or change any use of property in the township.

Condominium unit means that portion of a condominium subdivision designed and intended for occupancy and use by the unit owner consistent with the provisions of the master deed. A condominium is not a lot or a parcel as those terms are used in this ordinance.

Development or site plan means the drawings and specifications of a proposed development showing its topography, the location of buildings and structures, all nonenclosed uses, parking, loading and traffic handling facilities, storm drainage, typical floor plan, elevation drawings, a detailed statement of the proposed use or uses, and other relevant information, data and documentation concerning the proposed development, all in sufficient detail to enable the township to study and evaluate the proposed development.

Distiller means any person licensed to manufacture and sell spirits or alcohol, or both, of any kind.

Distillery means a facility that is licensed by the Michigan Liquor Control Commission to manufacture and sell spirits, alcohol, or both, of any kind. These facilities may also contain a restaurant, bar or tasting room as an accessory use.

District means an area of land for which there are uniform regulations governing the use of buildings and premises, density of development, yard requirements and height regulations.

Drive-in means a business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for vehicles to serve patrons while in or on the vehicle, rather than within a building or structure.

Drive-in restaurant means any restaurant designed to permit or facilitate the serving of meals, sandwiches, ice cream, beverages or other food, served directly to, or permitted to be consumed by, patrons in or on vehicles parked on the premises, or permitted to be consumed by patrons elsewhere on the site outside the main building.

Dwelling means a building, mobile home, premanufactured or precut dwelling structure designed and used for the complete living accommodations of a single family complying to the following standards:

- (1) Having a minimum living area of 860 square feet for a one- or two-bedroom dwelling, for three bedrooms or more 960 square feet of living area and with a minimum floor to ceiling height of 7.5 feet.
- (2) At least 50 percent of the longest side of a dwelling must also have a depth of not less than 24 feet.
- (3) Firmly attached to a solid foundation constructed on the site having a pitched roof and otherwise be in accordance with the township building code and having the same perimeter dimensions as the dwelling, which attached shall also meet all building codes or other applicable state regulations. In the case of a mobile home, the mobile home shall be secured to the premises by an anchoring system or device compatible with those required by the Michigan Mobile Home Commission pursuant to regulations promulgated under Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.), as amended. All construction required herein shall be commenced only after a building permit has been obtained in accordance with the township building code.
- (4) No exposed wheels, towing mechanisms, undercarriage or chassis shall be permitted. Any space that may exist between the foundation and the ground floor of the dwelling shall be fully enclosed by an extension of the foundation wall along the perimeter of the dwelling.
- (5) The dwelling shall be connected to a public sewer and water supply or to such private facilities approved by the local health department.
- (6) The dwelling must contain steps connected to exterior door areas or to porches connected to the door areas where a difference in elevation requires the same.
- (7) The dwelling must contain no additions of rooms or other areas which are not constructed with an appropriate foundation and permanent attachment to the principal structure.

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- (8) The dwelling, except for a mobile home, complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards," effective June 15, 1976, as amended. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction, those standards or regulations shall apply and supersede any such standards or regulations imposed by the township building code.
 - (9) The dwelling is aesthetically compatible in design and appearance with other residences in the vicinity, with either a roof overhang of not less than six inches on all sides, or alternatively with window sills and roof drainage systems concentrating roof drainage along the sides of the dwelling; with not less than two exterior doors with one being in the front of the dwelling and the other being in either the rear or side of the dwelling, contains firmly attached steps connected to the exterior door areas or to porches connected to the door areas where a difference of design and appearance shall be determined in the first instance by the township building official upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party from the receipt of notice of the building official's decision. Any determination of compatibility shall be based upon the standards set forth in the definition of "dwelling" as well as the character of residential development outside of mobile home parks within 2,000 feet of the subject dwelling where such area is developed with dwellings to the extent of not less than 20 percent of the area; or where the area is not so developed, by the character of residential development outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the common or standard designed home.
 - (10) Prior to locating a dwelling as herein defined on the property, application for a building permit, including plot plan and construction plans, shall be provided to the building official.
 - (11) The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state law or otherwise specifically required in the ordinance of the township pertaining to such parks.

The definition of "dwelling" or "residence" shall also include energy-saving earth shelter homes either constructed with a completely earth-covered roof having a structural roof system with a slope of not less than one-half inch or rise per foot of run, or constructed with a roof which is not completely earth-covered having a slope with at least a five-inch rise for each 12 inches of run, and, in either case, containing at least one exposed vertical exterior elevation not less than 7½ feet in height by 24 feet in width designed and constructed in accordance with standard building code regulations pertinent thereto and without any accommodations for any dwelling units aboveground.

Dwelling, multiple family means a dwelling designed for use and occupancy by three or more families and having separate living, cooking and eating facilities for each family. Multiple family dwellings may include the fourplex, a building designed for use and occupancy by four families four dwelling units, having separate living, cooking and eating facilities for each family; the high rise apartment, a building designed for use and occupancy by more than 12 families and having separate living, cooking and eating facilities for each family, and being more than three stories in height; and the townhouse, a building designed for use and occupancy by more than six families, having separate living, cooking and eating facilities for each family, being not more than two stories in height, utilizing a minimum of land area for buildings, preserving the natural setting and landscaped areas and providing adequate and convenient offstreet parking.

Dwelling, single-family means a dwelling designed for use and occupancy by one family only.

Dwelling, two-family or duplex means a dwelling designed for use and occupancy by two families only having separate living, cooking and eating facilities for each family.

Dwelling unit means a room or suite of rooms designed for use and occupancy by one family only.

Educational institution means preschools, childcare, K-12 schools, colleges, and universities.

Educational institution garden means the use of food-producing bushes, trees and plants to teach students how their choices of food affect their health, the environment and their communities.

Essential public services means services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead electrical, gas, steam, water, sanitary sewerage, stormwater drainage, and communications systems and accessories thereto, such as poles, towers, wires, main drains, water storage tanks, conduit cables, traffic signals, pumps, lift stations and hydrants, but not including buildings.

Family means one or two persons or parents, with their direct lineal forbears and descendants, adopted children and legally placed foster children (and including the domestic employees thereof) together with not more than two persons not so related, living together in whole or part of a dwelling comprising a single housekeeping unit shall be considered a separate family.

Farm means all contiguous, neighborhood or associated lands utilized as a single unit for an agricultural enterprise wherein the agricultural enterprise is operated on a commercial profit-making basis. Farms shall include establishments operated as bona fide greenhouses, nurseries, orchards, hatcheries, dairy farms, poultry farms, apiaries; establishments keeping furbearing animals or game or operating fish hatcheries or stockyards are not farms unless combined as one operation with other operations on the same tract of land, which are defined herein as farming operations.

Farm building means any building or structure, other than a dwelling, which is customarily used in connection with the agricultural activities conducted on the farm.

Floor area means the sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, private attached garages, breezeways and enclosed and unenclosed porches.

Garage, commercial means a building used for parking, storing, caring for, renting, servicing, repairing, refinishing, equipping, adjusting and otherwise working on vehicles for compensation.

Garage, private means part of a building or an accessory building used primarily for the parking or storage of vehicles necessary in connection with the permitted use of the main building, where there is no vehicle servicing for compensation.

Gasoline service station means a building, structure and/or land used in combination for either or both the sale and installation in or upon vehicles of the usual operating commodities such as gasoline, fuel oil, grease, alcohol, water, batteries, tires, lightbulbs, windshield wipers and other minor accessories, or services such as hand washing, wiping, cleaning and waxing without automatic equipment or repair of tires, lights, changing of batteries and tuneups. General repairs, rebuilding, or reconditioning of engines or vehicles, collision service (including body repair and frame straightening), painting, upholstering or vehicle steam cleaning or undercoating shall be considered outside this definition of a gasoline service station.

Grade means the elevation or the curb at the midpoint of the front of the lot. Where no curb has been established the township will establish such curb, level or grade.

Home occupation means any accessory use of a dwelling unit for gainful employment of the family members only.

Junk and junkyard. The term "junkyard" means an establishment or place of business which is maintained, operated or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard. The term "junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material, or stored material previously used and salvaged for another use, whether such materials have value for reuse or resale after its original use. The term "automobile graveyard" means any

establishment or place of business which is maintained, used, or operated for storing, keeping, buying or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.

Kennel means any land, building or structure where five or more cats and/or dogs over three months of age are either permanently or temporarily boarded, housed, bred or sold.

Livestock means all animals such as buffalo, chickens, cows, ducks, goats, hogs, horses, rabbits, sheep and all those animals not normally considered household pets.

Lot means contiguous land in the same ownership which is not divided by any street or alley, including any part thereof subject to any easement for any purpose other than a street or alley, devoted to a particular use (and accessory use) requiring a building or structure.

Lot, corner means a lot located at the intersection of two or more streets where the corner interior angle formed by the intersection of the streets is 135 degrees or less or a lot abutting upon a curved street or streets if tangents to the curve, at the two points where the lot lines meet the curve, form an interior angle of 135 degrees or less.

Lot, interior means a lot other than a corner lot.

Lot, through means an interior lot having frontage on two or more streets.

Lot line, front means the lot line separating the lot from the street.

Lot line, rear means the lot line which is opposite and most distant from the front lot line. The rear lot line in any irregular or triangular lot shall be a line entirely within the lot at least ten feet long and generally parallel to and most distant from the front lot line.

Main building or structure means a building or structure on a parcel in which the primary use of the property is conducted, and which has an address assigned by the Muskegon Township Assessor.

Master distributor means a wholesaler that acts in the same or similar capacity as a brewer, wine maker, outstate seller of wine, or outstate seller of beer for a brand or brands of beer or wine to other wholesalers on a regular basis in the normal course of business.

Micro brewer means a brewer that produces in total less than 60,000 barrels of beer per year and that may sell the beer produced to consumers at the licensed brewery premises for consumption on or off the licensed brewery premises and to retailers as provided in section 203. In determining the 60,000-barrel threshold, all brands and labels of a brewer, whether brewed in this state or outside this state, shall be combined and all facilities for the production of beer that are owned or controlled by the same person shall be treated as a single facility.

Mobile home means a structure, transportable in one or more sections which is built on a chassis and designed to be used as a dwelling unit with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure. The term "mobile home" does not include a recreational vehicle.

Mobile home park means a parcel or tract of land under the control of a person upon which one or more mobile homes are located on a continual nonrecreational basis and which is offered to the public for that purpose regardless of whether a charge is made therefor, together with any buildings, structure, enclosure, street, equipment or facility used or intended to the occupancy of a mobile home and which is not intended for use as a temporary trailer park.

Modular housing unit means a dwelling unit constructed solely within a factory, as a single unit, or in various sized modules or components, which are then transported by truck or other means to a site where they are assembled on a permanent foundation to form a dwelling unit, and meets all codes and regulations applicable to conventional single-family home construction.

Motel means a building or series of buildings attached or detached, designed, used or offered for residential occupancy on a temporary basis and designed primarily to accommodate the traveling public.

Nonconforming building (nonconforming structure) means a building or structure (or portion thereof) lawfully existing on April 18, 1983 that does not conform to the provisions of this chapter relative to height, bulk, area, placement or yards for the zoning district in which it is located.

Nonconforming use means a use which lawfully occupied a structure or land at the time of adoption of this chapter, or any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

Parks means any noncommercial recreational area.

Person means the person or entity that owns, rents, occupies, or controls the property upon which a temporary storage unit is placed.

Pond means an outdoor body of standing water, accumulated in a natural or artificially constructed basin or depression in the earth, either above or below or partly above or partly below grade, capable of holding water to a depth of greater than two feet when filled to capacity.

Preexisting single- and two-family dwellings means any dwelling designed for use and occupancy by a single family or two families having separate living facilities, that was lawfully existing and occupied at the time of the adoption of this chapter or any amendment thereto.

Private road means a privately controlled right-of-way which affords principal means of ingress and egress from a public road right-of-way.

Public utility means any governmental unit, board or commission, or any person (under public regulation if a private agency) furnishing to the public transportation, water, gas, electricity, telephone, steam, telegraph, sewage disposal, or other essential public service.

Recreational vehicle means any house car, motor home, travel trailer, house trailer, bus, trailer home, camper, trailer coach or similar transportable unit used or designed as to permit its being used as a conveyance on streets and intended for occasional or short-term occupancy during travel, recreational or vacation use.

Roadside stand means a farm building or structure used solely by the owner or tenant of the farm on which it is located for the sale of agricultural products produced on the farm where the roadside stand is located.

Screen means the planting of trees or shrubs or the placement of fences on a buffer or green belt. Such screen shall be composed of: deciduous and/or evergreen trees not less than 12 feet in height and spaced not more than 25 feet apart; not less than one row of dense shrubs not less than five feet in height and spaces not more than three feet apart; fencing not less than four feet in height and no solid portion shall be more than six feet in height and shall be maintained in good condition.

Setback means the minimum horizontal distance between the front line of the building, excluding steps, and the street line.

Sign means any display, device, figure, painting, sign, drawing, message, placard, poster, or other thing designed, intended or used to advise or inform.

Small distiller means a manufacturer of spirits annually manufacturing in Michigan not exceeding 60,000 gallons of spirits, of all brands combined.

Small wine maker means a wine maker licensed to manufacture or bottle not more than 50,000 gallons of wine in one calendar year.

Special use permit means a zoning permit issued to a person or persons intending to undertake the operation of an activity upon land or within a structure for those special uses mentioned in this chapter which possess

unique characteristics and are found to be not injurious to the health, safety, convenience, and general welfare of the township's inhabitants.

Street means a publicly controlled right-of-way which affords principal means of access to abutting property including any avenue, place, way, drive, lane, boulevard, highway, road or other thoroughfare, of a width greater than 66 feet.

Structure means any constructed, erected or placed material or combination of materials in or upon the ground, including, but not by way of limitation, buildings, radio towers, sheds, satellite dishes, antennas, signs and storage bins, but excluding sidewalks and paving on streets, driveways, parking areas and patios.

Supplier means the company or vendor that supplies the temporary storage unit.

Swimming pool means a structure either above or below or partly above and partly below grade, whether located inside, outside or partly in each, designed to hold water to a depth of greater than two feet when filled, and intended to be used for swimming purposes.

Temporary dwelling structure means a cabin, mobile home, recreational vehicle, private garage, or other accessory building or structure, cellar, basement, or other form of temporary dwelling, whether of a fixed or moveable nature that can meet all local and state regulations to constitute a dwelling while a permanent structure is being built.

Temporary storage unit means a transportable unit, container or structure designed and used primarily for temporary storage of personal property, household goods, and other such materials for use on a temporary basis. Such unit shall not be considered an accessory structure as provided in section 58-26 of the zoning ordinance.

Titleholder means anyone holding equitable or legal title to a property.

Tourist home means a family dwelling where lodging, with or without meals, is furnished for compensation chiefly on an overnight basis to transients.

Trash, rubbish or refuse means any combustible and noncombustible waste material, including, but not limited to, animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food, leaves, brush, tree limbs, wood, lumber, grass or other yard waste, ashes, industrial byproducts or waste, garbage, food containers, bottles, crockery or utensils, debris or any other material which constitutes a threat or menace to the health, safety or general welfare of the public.

Unwholesome substance means any trash, garbage, tin can, automobile body, trailer body, stone, junk, offal, refuse, rubbish, food containers, bottles, crockery or utensils, stoves, ashes, clinker, cinders, night soil, industrial byproducts or waste, flammable matter or substances, debris, filth, or any other material which constitutes a threat or menace to the health, safety or general welfare of the public.

Variance means a modification of the literal provisions of this chapter granted when strict enforcement of this chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a street, excepting devices propelled by human power or used exclusively upon stationary rails or tracks.

Waterfront lot means a yard fronting on a lake or stream, which shall have frontage on a public street. Waterfront lots not fronting on a public street must have a special use permit before any structure can be built.

Wine maker means a wine maker licensed to manufacture or bottle and sell at wholesale or retail, wine manufactured by that person.

Winery means a facility that is licensed by the Michigan Liquor Control Commission to manufacture and sell wine they produce to licensed Michigan wholesalers, to licensed Michigan retailers, to consumers for off-premises

consumption, offer free or include a charge for samples to consumers from the winery premises. These facilities may also contain a restaurant or tasting room as an accessory use.

Yard means a required open space other than a court, unoccupied and unobstructed by any building or structure or portion thereof; provided, however, that fences, walls, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility. Yard measurements shall be taken from the foundation line. Attached garages and enclosed porches shall be considered as part of the building. Steps shall not be considered as part of the building. Compliance with minimum yard width requirements shall be determined by measurement at the required front yard setback line.

Yard, front means a yard extending across the full width of the lot or parcel of land, the depth of which is the distance between the front lot line and the foundation line of the building or structure.

Yard, rear means a yard, unoccupied except for accessory buildings, extending across the full width of the lot or parcel of land, the depth of which is the distance between the rear lot line and the rear foundation line of the main building.

Yard, side means a yard between a main building and the side lot line extending from the front yard to the rear yard. The width of the required side yard shall be measured from the nearest point of side lot line to the nearest part of the main building.

Zoning act means Act No. 488 of the Public Acts of Michigan of 1988 (MCL 125.271 et seq., as amended).

(Ord. No. 7, 4-18-83; Ord. No. 10-11, § 1, 12-6-10; Ord. No. 13-15, § 2, 12-16-13 ; Ord. No. 14-01, § 2, 3-3-14 ; Ord. No. 14-06, § 2, 8-21-14 ; Ord. No. 15-03 , § 2, 4-6-15; Ord. No. 15-06 , § 2, 7-20-15; Ord. No. 15-13 , § 3, 10-5-15)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 58-4. Purpose.

This chapter is based on the township comprehensive development plan and is designed to promote the public health, safety, morals and general welfare; to encourage the use of lands and natural resources in the township in accordance with their character and adaptability; to limit the improper use of land; to provide for the timely and orderly development of the township; to reduce hazards to life and property; to establish the location, size of the specific uses for which dwellings, buildings and structures may hereafter be erected or altered, and the minimum open spaces, sanitary, safety and protective measures that shall be required for such dwellings, buildings and structures; to lessen congestion on streets; to provide safety in traffic and vehicular parking; to facilitate the development of an adequate system of transportation, education, recreation, sewage disposal, safe and adequate water supply and other public requirements; to conserve life, property and natural resources, and the expenditure of funds for public improvements and services; and to encourage the most advantageous use of land, resources and properties.

(Ord. No. 7, § 1.2, 4-18-83)

Sec. 58-5. Legal basis.

This chapter is enacted pursuant to Act No. 488 of the Public Acts of Michigan of 1988 (MCL 125.271 et seq., MSA 5.2963(1) et seq.), as amended.

(Ord. No. 7, § 1.3, 4-18-83)

Sec. 58-6. Conflicting provisions.

This chapter shall not repeal, abrogate, or annul or in any way impair or interfere with existing provisions of other laws, ordinances or regulations, except those repealed herein by specific reference, or with private restrictions placed upon property by covenant, deed or other private agreement, or with restrictive covenants running with the land to which the township is a party. Where this chapter imposes greater restrictions, limitations or requirements upon the use of buildings, structures, or land; the height of buildings or structures; lot coverage; lot area; yards or other open spaces; or any other use or utilization of land imposed or required by such existing laws, ordinances, regulations, private restrictions or restrictive covenants, the provisions of this chapter shall control.

(Ord. No. 7, § 1.4, 4-18-83)

Sec. 58-7. Scope.

Zoning applies to all lots and parcels of land and to every building, structure or use. No lot or parcel of land, no existing building, structure or part thereof and no new building, structure or part thereof shall hereafter be located, erected, altered, occupied or used except in conformity with this chapter.

(Ord. No. 7, § 3.1, 4-18-83)

Sec. 58-8. Use of nonconforming land, buildings and structures.

- (a) Except where specifically provided to the contrary, and subject to the provisions of sections 58-9, 58-10 and 58-11, the lawful use of any building or structure or of any lot or parcel of land which is existing and lawful on the effective date of this chapter or, in the case of an amendment of this chapter, then on the effective date of such amendment, may be continued although such use does not conform with the provisions of this chapter or any amendment thereto, as the case may be. In addition, except where specifically provided to the contrary, and subject to the provisions of sections 58-9, 58-10 and 58-11, a building or structure which is existing and lawful on the effective date of this chapter or, in the case of an amendment to this chapter, then on the effective date of such amendment, may be maintained and continued although such building or structure does not conform with the provisions of this chapter or any amendment thereto, as the case may be.
- (b) No building, structure or use which is nonconforming under this chapter or any amendment thereto may be extended, enlarged, altered, remodeled or modernized unless such extension, enlargement, alteration, remodeling or modernization is first authorized as a special use by the planning commission. In considering such authorization, the planning commission shall consider the following standards: whether the extension, enlargement, alteration, remodeling or modernization will substantially extend the probable duration of the nonconforming structure, building or use; whether the extension, enlargement, alteration, remodeling or modernization of the nonconforming structure, building or use will interfere with the use of adjoining lands or other properties in the surrounding neighborhood for the uses for which they have been zoned pursuant to the provisions of this chapter; and the effect of the nonconforming structure, building or use and such extension, enlargement, alteration, remodeling or modernization thereof on adjoining lands in the surrounding neighborhood.
- (c) The nonconforming use of any building, structure or land shall not be changed to any other nonconforming use.
- (d) Whenever the nonconforming use of any building, structure or land has been changed to a conforming use, the nonconforming use shall not thereafter be reestablished. In addition, if a building or structure is altered,

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remodeled or modified so as to eliminate or remove any or all of its nonconforming characteristics, then such nonconforming characteristics shall not be later reestablished.

- (e) If the nonconforming use of any building, structure, lot or parcel of land is discontinued through vacancy, lack of operation or use, or otherwise for a continuous period of 180 days or more, then any future use of such building, structure, lot or parcel of land shall conform to the provisions of this chapter; provided, however, that a seasonal nonconforming use of any building, structure, lot or parcel of land may be reestablished as long as the seasonal vacancy or lack of operation does not at any time exceed nine consecutive months.
- (f) If the use of any nonconforming building or structure is discontinued through vacancy, lack of operation or otherwise for a continuous period of 90 days or more, then the use of such building or structure shall not be resumed until such building or structure has been altered or otherwise modified so as to be in conformance with all of the provisions of this chapter; provided, however, that the use of a nonconforming building or structure which is used on a seasonal basis only may be continued as long as the use of the nonconforming building or structure is not discontinued through vacancy or lack of operation for a period of nine consecutive months or more.
- (g) Nonconforming rural residential parcels may be split for R-1 residential use only. The parcel to be split must comply with minimum requirements of the single-family residential district (R-1). A written request for a split must be submitted to the planning commission for their approval.
- (h) Notwithstanding any other provisions of this chapter, if the use of any preexisting nonconforming building or structure as a single- or two-family dwelling has been discontinued through vacancy for a continuous period of 180 days or more, the use may be continued or resumed per zoning administrator and building official approval.

(Ord. No. 10-11, § 2, 12-6-10; Ord. No. 7, § 3.2, 4-18-83; Ord. No. 10-11, § 2, 12-6-10; Ord. No. 19-4, § 1, 6-17-19)

Sec. 58-9. Repair, improvement and completion of nonconforming buildings and structures.

- (a) Preexisting single- or two-family dwellings and their accessory buildings located in a district which does not permit the same can be repaired or reinforced.
- (b) Repairs and reinforcements of any nonconforming building or structure are permitted if necessary to maintain the building or structure in a sound condition; provided, however, that no such repair or reinforcement shall permit the use of such building or structure beyond its normal period of usefulness.

(Ord. No. 7, § 3.3, 4-18-83; Ord. No. 10-11, § 3, 12-6-10; Ord. No. 19-4, § 1, 6-17-19)

Sec. 58-10. Building or structure under construction on effective date of chapter.

Any building or structure shall be considered existing and lawful and, for the purposes of section 58-8, to have been in use for the purpose for which constructed if, on the effective date of this chapter: a building permit has been obtained therefor, if required, or, if no building permit is required, a substantial start has been made toward erection of the building or structure; and erection is thereafter pursued diligently to conclusion.

(Ord. No. 7, § 3.4, 4-18-83; Ord. No. 10-11-10)

Sec. 58-11. Restoration and use of damaged nonconforming buildings and structures.

- (a) Preexisting single- or two-family dwellings and their accessory buildings located in a district which does not permit the same can be reconstructed, repaired, reinforced or restored.

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- (b) The reconstruction, repair, reinforcement or restoration and resumption of use of any nonconforming building or structure damaged by fire, wind, flood, collapse, explosion, act of God, or acts of a public enemy is permitted if the total cost and expense of such reconstruction, repair, reinforcement or restoration does not exceed the state equalized valuation of the nonconforming building or structure or portion thereof so damaged on the date such damage has occurred. The planning commission may, as a special use, authorize an additional period of up to 90 days to begin such reconstruction, repair, reinforcement or restoration. In considering such authorization, the planning commission shall consider the following standards: the reason or reasons why construction cannot be begun within such 90-day period; any factors beyond control which prevent beginning construction within such 90-day period such as weather, lack of availability of labor or materials, or lack of availability of professional services necessary for such reconstruction, repair, reinforcement or restoration; and any relationship between beginning the reconstruction, repair, reinforcement or restoration and the receipt of insurance proceeds with respect to the damage. Once begun, such reconstruction, repair, reinforcement or restoration shall be completed within one year from the beginning date, provided, however, that the planning commission may, as a special use, authorize an extension of such completion date of up to one year. In considering such authorization, the planning commission shall consider the following standards: the reason or reasons why it is impossible to complete the reconstruction, repair, reinforcement or restoration within such one-year period; any reasons or factors beyond control such as weather, strikes, accidents, acts of God, availability of material or labor, or availability of other professional services which prevent completion of the reconstruction, repair, reinforcement or restoration within such one-year time period. Resumption of the use of the building or structure shall begin within 30 days after completion of reconstruction, repair, reinforcement and restoration.

(Ord. No. 7, § 3.5, 4-18-83; Ord. No. 10-11, § 4, 12-6-10; Ord. No. 19-4, § 1, 6-17-19)

Sec. 58-12. Yard, area and lot relationships.

- (a) No more than one main building, with accessory buildings and structures, shall be erected on any lot or parcel of land unless such lot or parcel of land is held in single ownership and is to be used for multiple-family, agricultural, commercial, industrial, municipal or school purposes.
- (b) No lot or parcel of land shall be divided, altered or reduced by sale, gift or other disposition so that the yards, parking area, or other open spaces or the land area thereof is less than the minimum required by this chapter. If already less than the minimum requirements of this chapter, no lot, parcel of land, parking area, or other open space shall be divided, altered or reduced by sale, gift or other disposition so as to increase its noncompliance with such minimum requirements.
- (c) In determining lot, land, yard, parking area or other open space requirements, no area shall be ascribed to more than one main building or use, and no area necessary for compliance with the space requirements for one main building or use shall be included in the calculation of the space requirements for any other building, structure or use.
- (d) No lot or parcel of land shall be divided, altered or reduced by sale, gift, or other disposition so that frontage along public or private road is less than minimums required by this chapter, except:
- The planning commission may under special use permit allow a parcel division creating a flag lot if all of the following conditions are met.
- (1) The access drive (flag pole) must directly abut, or empty onto, a public road.
 - (2) The new parcel accessed by the access drive must meet minimum lot requirements for this chapter. In evaluating the shape and square footage, the area within the access drive (flag pole) shall not be included.

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- (3) When the new parcel accessed by the access drive is greater than four times the minimum lot requirements for the zoning district that the parent parcel is situated in, the access drive must be at least 66 feet in width at its narrowest point when measured at right angles to the linear boundaries of said drive.

When the new parcel accessed by the access drive is equal to or less than four times the minimum lot requirements for the zoning district that the parent parcel is situated in, the access drive must be at least 33 feet in width at its narrowest point when measured at right angles to the linear boundaries of said drive.

The planning commission, at its discretion, may address other circumstances as may be requested with the restriction that the access drive will never be less than 33 feet in width at its narrowest point when measured at right angles to the linear boundaries of said drive, but may require the access drive to be more than 66 feet in width at its narrowest point when measured at right angles to the linear boundaries of said drive.

- (4) No two access drives (flag poles) may share a common boundary.
- (e) If a lot or parcel of land in an agricultural or residential zoning district which is platted or otherwise of legal record as of the effective date of this chapter, or any applicable subsequent amendment thereof, does not comply with the area or width requirements of its zoning district such lot or parcel of land may be utilized for a one-family dwelling only where two or more such noncomplying lots or parcels of land have a common side lot line and are in common ownership, such lots or parcels of land shall be combined so that the lot or lots or parcel or parcels of land created by this combination comply with the minimum requirements of this chapter.
- (f) Storage sheds of 120 square feet or less may be placed within three feet of the rear or side yard property lines. Sheds will be located in the rear or side yard, except for corner lots. The building official or planning commission must approve setbacks for all corner lots.

(Ord. No. 7, § 3.6, 4-18-83; Ord. No. 98-8, 5-4-98)

Sec. 58-13. Causes of blight or blighting factors.

It is hereby determined that the following uses, structures and activities are causes of blight or blighting factors which, if allowed to exist, will tend to result in blighted and undesirable neighborhoods. No person, firm, corporation, or business of any kind shall maintain or permit to be maintained any of the following upon any property in Muskegon Charter Township owned, leased, rented or occupied by such person, firm, corporation or business.

- (1) The storage upon any property of junk automobiles, except in a completely enclosed building. For the purpose of this section, the term "junk automobiles" shall include any vehicle which is not registered for use upon the highways of the State of Michigan, and shall also include, whether so registered or not, any vehicle which is inoperative.
- (2) The storage upon any property of building materials unless there is in force a valid building permit issued by Muskegon Charter Township for construction upon said property and said materials are intended for use in connection with such construction. Building materials shall include, but shall not be limited to: lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, heating ducts or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure.
- (3) The storage or accumulation of stump boxes, barrels or similar containers, junk, trash, rubbish or refuse of any kind without a landfill permit, except domestic refuse stored in such a manner as not to create a nuisance for a period not to exceed 15 days.

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- (4) The existence of any structure or part of any structure which, because of fire, wind or other natural disaster, or physical deterioration is no longer habitable, if a dwelling, nor useful for any other purpose for which it may have been intended.
 - (5) The existence of any vacant dwelling, garage or other out-building unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals or other unauthorized persons.
 - (6) The existence of any partially completed structure unless such structure is in the course of construction in accordance with a valid building permit issued by Muskegon Charter Township.

(Ord. No. 13-15, § 3, 12-16-13 ; Ord. No. 16-10 , § 2, 12-19-16)

Editor's note(s)—Ord. No. 13-15, § 3, adopted Dec. 16, 2013 , repealed the former section 58-13, and enacted a new section 58-13 as set out herein. The former section 58-13 pertained to unwholesome substances and derived from Ord. No. 7, § 3.7, 4-18-83 and Ord. No. 13-06, § 2, 7-15-13 .

Sec. 58-14. Restoring unsafe buildings.

Subject to the provisions pertaining to nonconforming buildings, structures and uses contained in sections 58-7 through 58-11, nothing in this chapter shall prevent the strengthening or restoring to a safe condition of any part of a building or structure which is unsafe.

(Ord. No. 7, § 3.8, 4-18-83)

Sec. 58-15. Traffic visibility at corners.

In each quadrant of every street intersection there shall be designated a visual clearance triangle bounded by the street centerline and a line connecting them 250 feet from a class A highway, 150 feet from a class B highway, and 100 feet from a class C highway intersection. If two highways of a different class intersect, the largest distance shall apply to both centerlines. Within this triangle, no object over 2½ feet in height above these streets shall be allowed if it obstructs the view across the triangle. Posts or open fences are excluded from this provision. Tree trunks shall be exempt where they are unbranched to a height of ten feet and located a minimum of 30 feet apart.

(Ord. No. 7, § 3.9, 4-18-83)

Sec. 58-16. Height exemptions.

The following buildings and structures shall be exempt from height regulations in all zoning districts: parapet walls, chimneys, cooling towers, elevator bulkheads, fire towers, gas tanks, grain elevators, silos, stacks, stage towers or scenery lofts, penthouses housing necessary mechanical appurtenances, flour mills, communication towers, television and radio reception and transmission antennas and towers, elevated water tanks and water towers, monuments, cupolas, domes, spires and windmills.

(Ord. No. 7, § 3.10, 4-18-83)

Sec. 58-17. Mixed occupancies.

If any part of any building is used for residential purposes and the remainder thereof is used for business, commercial, or other nonresidential use, the part thereof used for residence purposes shall in its interior space and appointments comply with all applicable requirements of the R-1 zoning district.

(Ord. No. 7, § 3.11, 4-18-83)

Sec. 58-18. Right-of-way.

Unless otherwise permitted within a PUD, no building shall be erected unless the lot or parcel of land upon which it is to be erected abuts upon a public street which has been approved by the township and the county road commission for the use of the public.

(Ord. No. 7, § 3.12, 4-18-83; Ord. No. 10-04, § 3, 4-19-10)

Sec. 58-19. Outdoor lighting.

All outdoor lighting shall be designed and arranged so that it will not shine directly on adjacent occupied dwellings or interfere with the vision of traffic on streets or alleys.

(Ord. No. 7, § 3.13, 4-18-83)

Sec. 58-20. Moving of buildings or structures.

No existing building or structure of any kind or type shall be moved into, out of or from one location to another within the township unless authorization therefor is obtained from the building official as a special use. Buildings or structures of balloon-type construction shall not be moved into the township or from one location to another in the township. Application for authorization as a special use to move a building or structure shall be made on forms provided by the township. In considering the granting of such authorization, the building official shall consider the following standards: the type and kind of construction of the existing structure or building in relation to its strength and whether or not said structure or building may be a fire hazard; the type and kind of buildings and structures adjoining and in the neighborhood surrounding the lot or parcel of land to which the building or structure is to be moved and whether or not the type and age of the buildings or structures which are adjoining and in the surrounding neighborhood, and the type and kind of materials used in the construction relate and compare to the type and kind of materials used in the construction of other buildings and structures adjoining and in the neighborhood surrounding the lot or parcel of land to which the building or structure is to be moved; and all buildings shall conform with the local building code for the purpose for which it is to be used. If such authorization is granted by the building official, the township board may in its discretion require the filing with the township of a performance bond written by an insurance company licensed to do business in the state, accruing to the township or the deposit with the township treasurer of a cash deposit, certified or cashier's check payable to the township, or an irrevocable bank letter of credit as a condition precedent to the issuance of a building permit in an amount sufficient to pay all costs and expenses associated with moving the building or structure and the costs of rebuilding and reconstructing at the site to which the building or structure is to be moved, as well as all costs and expenses associated with cleaning up and restoring to acceptable condition the site from which the building or structure was moved. The building official shall specify in its authorization the time period for completion of moving the building or structure, completion of such rebuilding and reconstruction as is required at the site to which the building or structure is to be moved, and completion of cleanup and restoration to acceptable condition the site from which the building or structure was moved.

(Ord. No. 7, § 3.14, 4-18-83)

Sec. 58-21. Reserved.

Editor's note(s)—Formerly, section 58-21 pertained to keeping of animals and derived from Ord. No. 7, § 3.15, 4-18-83.

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Sec. 58-22. Reserved.

Editor's note(s)—Formerly, section 58-22 pertained to nuisance parking and derived from Ord. No. 7, § 3.16, 4-18-83.

Sec. 58-23. Accessory uses.

In any zoning district, accessory uses, incidental only to a permitted use, are permitted when located on the same lot or parcel of land; provided, however, that such accessory uses shall not involve the conduct of any business, trade or industry when located in a residential zone. Mobile homes are not permitted as an accessory use to a permitted principal use.

(Ord. No. 7, § 3.17, 4-18-83)

Sec. 58-24. Razing of buildings.

No building or structure, excluding farm buildings and farm structures, shall be razed unless a permit therefor has first been obtained from the building official. Such razing shall be completed within such reasonable time period as shall be specified by the building official in the razing permit. Such razing shall be completed in such a manner as to not be obnoxious to occupants of surrounding properties on account of dust, noise, vibration, traffic and the like; make adequate provisions for the safety of person and property; remove all waste materials from the razing site; remove all debris and rubble (including concrete and brick) from the razing site; and restore the razing site to a level grade. All underground tanks shall be removed or filled with sand or as determined by the building official or designated agent. The building official, may, in his discretion, require that the razing permit applicant file with the township a performance bond written by an insurance company licensed to do business in the state accruing to the township, or deposit with the township treasurer a cash deposit, certified or cashier's check payable to the township, or an irrevocable bank letter of credit to guarantee compliance by the applicant with all the requirements of this section and completion of the razing within the time specified in the razing permit as a condition precedent to the issuance of the permit. The amount of such bond or other financial guarantee shall be determined by the building official.

(Ord. No. 7, § 3.18, 4-18-83)

Sec. 58-25. Control of heat, glare, fumes, dust, noise, vibration and odors.

Every use shall be so conducted and operated that it is not obnoxious or dangerous by reason of heat, glare, fumes, odors, dust, noise or vibration beyond the lot or parcel of land on which the use is located.

(Ord. No. 7, § 3.19, 4-18-83)

Sec. 58-26. Accessory buildings and temporary storage units.

- (a) Accessory buildings may be erected in any residential zoning district only as an accessory to the existing residence (which includes being built simultaneously with the construction of the residence), except as otherwise permitted in this section, and shall be limited to two per parcel. Accessory buildings shall be subject to the following:
 - (1) *Detached accessory buildings/location.* Detached accessory buildings shall be located in the rear yard or side yard (except as provided in subsection d. hereinafter). Detached buildings 120 square feet and smaller shall be not less than three feet from rear and side property lines. All detached accessory

buildings larger than 120 square feet (see Sec. 58-12(f)) shall not be located less than ten feet to the rear and side lot lines for parcels with public sewer or 12 feet to the rear and side lot lines for parcels without public sewer.

- (2) *Principal building required.* Accessory buildings may not be constructed, or if constructed may not remain, on a parcel without a principal dwelling. The zoning administrator shall have the authority to grant a temporary exception to this prohibition, subject to reasonable conditions, if the zoning administrator finds that the temporary exception is consistent with the purposes of this section.
- (3) *Size and height of accessory buildings.* The permitted accessory building(s) shall be subject to a maximum aggregate size restriction as follows:
 - a. Nine hundred sixty square feet in area for parcels under one-half acre.
 - b. One thousand two hundred square feet for parcels between one-half and one acre.
 - c. For parcels one acre and larger, 1,920 square feet plus one percent of the lot area after the one acre. Further, however, in no event shall the maximum accessory building exceed 5,000 square feet.

The maximum height of an accessory building shall not be more than two stories or 35 feet from ground to top of roof, but in the case of parcels under one-half acre, the maximum height of an accessory building may never exceed the height of the main principal building.

For any parcel containing one or more accessory buildings, the maximum total ground coverage of the accessory building or buildings shall not exceed that provided by this section following a land division, lot line adjustment or other property line change that reduces the size of the parcel. In the event a parcel containing an accessory building or buildings is reduced to a size that would render the accessory building or buildings in violation of this section, the parcel owner shall remove that portion of the accessory building or buildings necessary to maintain compliance with this section.

- (4) If the accessory building is integrated into the permitted principal building, it shall not be considered an accessory building, but an attached garage, and shall therefore comply in all respects with the requirements of this section that apply to the permitted principal building, including, but not limited to setback requirements, unless specifically stated to the contrary herein. The term integrated shall mean that the accessory building shares a common wall with the principal building, or is connected by an enclosed breezeway. An attached garage shall be no larger than the main principal building footprint.
 - (5) *Distance between buildings.* The distance between a detached accessory building and the main principal building shall not be less than six feet (foundation to foundation). Accessory buildings shall be considered attached to the principal building when the distance between the two buildings is solidly covered by a breezeway, portico, covered colonnade or similar architectural device.
 - (6) *Construction.* Any accessory structure placed in a residential property or zone in the township, shall be of residential construction, properly maintained with paint or siding, and must meet snow and wind load requirements.
 - (7) *Accessory buildings; waterfront.* An accessory building may be constructed, erected and placed in the front yard of any waterfront lot if it is an accessory building and if it is approved by staff.
 - (8) *Permit required.* No accessory building larger than 200 square feet shall be erected, constructed or installed prior to the issuance of a building permit.
- (b) Temporary storage units may be used for temporary storage in any residential zoning district and shall be subject to the following:
- (1) Prior to the initial delivery of a temporary storage unit, a person or the supplier shall apply for approval of the placement of the temporary storage unit with the inspection department.

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- (2) Application requires the completion of the temporary use permit to include the person's name, the size of the temporary storage unit, the address at which the temporary storage unit will be placed, the delivery date, removal date, and a sketch depicting the location and the placement of the temporary storage unit.
 - (3) The effective date of the application shall be determined by the inspection department.
- (c) *Requirements for placement of temporary storage units.* The following requirements shall apply to the placement of temporary storage units:
- (1) It shall be unlawful to place or permit the placement of a temporary storage unit on property located within the township unless it is approved by the inspection department in subsection (a)(1) above.
 - (2) Temporary storage units shall only be placed upon or within a driveway or a parking area.
 - (3) No temporary storage unit shall be placed upon or within a public right-of-way including without limitation, a street, sidewalk, or terrace.
 - (4) Each lot is limited to one temporary storage unit approval good for a period not to exceed 30 days per every six months, including the days of delivery and removal or loading and unloading. Exceptions to this limit are:
 - a. If a temporary storage unit is used in conjunction with a construction project for which a permit has been issued, the building official or zoning administrator may extend the time period to coordinate with the corresponding project permit effective date.
 - b. Upon written request to the inspection department stating emergency need, an additional 30-day approval may be granted at the discretion of the building official or zoning administrator.
 - (5) The temporary storage unit shall not exceed eight feet in height, eight feet in width, or 16 feet in length.
 - (6) The temporary storage unit shall be secured in a manner that does not endanger the safety of persons or property in the vicinity of such unit.
 - (7) The temporary storage unit shall be maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing or other holes or breaks at all times.
 - (8) No temporary storage unit shall be used for human occupancy or to store solid waste, construction debris, demolition debris, business inventory, commercial goods, goods for property other than the property where the temporary storage unit is located, or any other illegal or hazardous material. Upon reasonable notice, the township may inspect the contents of any temporary storage unit at any reasonable time to ensure that it is not being used to store said materials.
 - (9) A sign advertising the supplier's business and mounted on a temporary storage unit does not require a sign permit provided that the temporary storage unit is in compliance with this chapter.

(Ord. No. 7, § 3.20, 4-18-83; Ord. No. 98-11, 6-1-98; Ord. No. 11-06, § 2, 6-6-11; Ord. No. 13-12, § 2, 12-16-13 ; Ord. No. 14-06, §§ 3—5, 8-18-14 ; Ord. No. 14-11, § 2, 12-1-14 ; Ord. No. 17-13 , §§ 1, 2, 10-2-17; Ord. No. 17-14 , § 1, 1-16-18)

Sec. 58-27. Health department approval.

No permit shall be issued for the construction of a building or structure which is to have drinking water and/or sanitary facilities located therein and which is to be located on a lot or parcel of land which is not served by both public water and sewer facilities if its water supply and/or sewage disposal facilities, as the case may be, do not comply with the rules and regulations governing waste and sewage disposal of the county.

(Ord. No. 7, § 3.21, 4-18-83)

Sec. 58-28. Maintenance of buffers.

The owner of the land on which a buffer is required shall initially plant or cause to be planted the buffer and shall, thereafter, make and perform or cause to be made and performed all necessary maintenance and replacement for the buffer. All trees in a buffer lost or seriously damaged for any reason shall be replaced not later than the following planting season with trees meeting the minimum buffer requirements as specified in this chapter.

(Ord. No. 7, § 3.22, 4-18-83)

Sec. 58-29. Native protective strip.

- (a) A minimum strip, at least 25 feet in depth bordering each bank of any watercourse, as measured from the top of the bank, line shall be maintained in its natural vegetative state, except for the permitted clearing of dead or noxious plants or as otherwise permitted in this section.
- (b) Within this strip, a space of no greater than ten feet in width may be selectively trimmed and pruned to allow for the placement of walkways, and/or for a view of the waterway, with the approval of the building official. Any walkway constructed inside the strip shall be on the land side and may be oriented perpendicular or parallel to the water line. Because the intent of the native protective strip is water quality protection, porous materials such as wood chips or gravel shall be used.
- (c) The building official may allow limited clearing of the vegetative strip, only when required for construction of a permitted building or structure outside the vegetative strip, provided that the land cleared is returned to a vegetative state which is approximately the same quality or greater and extent as that which existed prior to the clearing.
- (d) Individual trees within the native protective strip may be removed which are in danger of falling, causing damage to dwellings or other structures, or causing blockage of the watercourse.
- (e) The native protective strip shall not be used for any motorized vehicular traffic, parking, or for storage of any kind, including junk, waste, or garbage, or for any other use not otherwise authorized by this chapter.

(Ord. No. 02-5, § 2, 7-1-02)

DIVISION 2. PLANNING COMMISSION

Sec. 58-30. Scope, purpose and intent.

This division is adopted pursuant to the authority granted the township board under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq., to establish a planning commission with the powers, duties and limitations provided by those acts and subject to the terms and conditions of this division and any future amendments to this division.

The purpose of this division is to provide that the Muskegon Charter Township Board shall hereby confirm the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., of the Muskegon Charter Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., to establish the appointments, terms, and membership of the planning

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commission; to identify the officers and the minimum number of meetings per year of the planning commission; and to prescribe the authority, powers and duties of the planning commission.

(Ord. No. 10-05, 4-26-10)

Sec. 58-31. Establishment.

The township board hereby confirms the establishment under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., of the Muskegon Charter Township planning commission, formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq. The Muskegon Charter Township planning commission shall have seven members. Members of the Muskegon Charter Township planning commission as of the effective date of this division shall, except for an ex officio member whose remaining term on the planning commission shall be limited to his or her term on the township board, continue to serve for the remainder of their existing terms so long as they continue to meet all of the eligibility requirements for planning commission membership set forth within the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq.

(Ord. No. 10-05, 4-26-10)

Sec. 58-32. Appointments and terms.

The township supervisor, with the approval of the township board by a majority vote of the members elected and serving, shall appoint all planning commission members, including the ex officio member. The planning commission members, other than an ex officio member, shall serve for terms of three years each. A planning commission member shall hold office until his or her successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as the original appointment. Planning commission members shall be qualified electors of the township, except that one planning commission member may be an individual who is not a qualified elector of the township. The membership of the planning commission shall be representative of important segments of the community, such as the economic, governmental, educational, and social development of the township, in accordance with the major interests as they exist in the township, such as agriculture, natural resources, recreation, education, public health, government, transportation, industry, and commerce. The membership shall also be representative of the entire geography of the township to the extent practicable.

One member of the township board shall be appointed to the planning commission as an ex officio member. An ex officio member has full voting rights. An ex officio member's term on the planning commission shall expire with his or her term on the township board. No other elected officer or employee of the township is eligible to be a member of the planning commission.

(Ord. No. 10-05, 4-26-10)

Sec. 58-33. Removal.

The township board may remove a member of the planning commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing.

(Ord. No. 10-05, 4-26-10)

Sec. 58-34. Conflict of interest.

Before casting a vote on a matter on which a planning commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the planning commission.

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Failure of a member to disclose a potential conflict of interest as required by this division constitutes malfeasance in office.

For the purposes of this section, conflict of interest is defined as, and a planning commission member shall declare a conflict of interest and abstain from participating in planning commission deliberations and voting on a request, when:

- (a) An immediate family member is involved in any request for which the planning commission is asked to make a decision;
 - (1) "Immediate family member" is defined as an individual's father, mother, son, daughter, brother, sister, and spouse and a relative of any degree residing in the same household as that individual.
- (b) The planning commission member has a business or financial interest in the property involved in the request or has a business or financial interest in the applicant's company, agency or association;
- (c) The planning commission member owns or has a financial interest in neighboring property;
 - (1) For purposes of this section, a neighboring property shall include any property falling within the notification radius for the application or proposed development, as required by the zoning ordinance or other applicable ordinance.
- (d) There is a reasonable appearance of a conflict of interest, as determined by a majority vote of the remaining members of the planning commission.

(Ord. No. 10-05, 4-26-10)

Sec. 58-35. Compensation.

The planning commission members may be compensated for their services as provided by township board resolution. The planning commission may adopt bylaws relative to compensation and expenses of its members for travel when engaged in the performance of activities authorized by the township board, including, but not limited to, attendance at conferences, workshops, educational and training programs and meetings.

(Ord. No. 10-05, 4-26-10)

Sec. 58-36. Officers and committees.

The planning commission shall elect a chairperson and a secretary from its members, and may create and fill other offices as it considers advisable. An ex officio member of the planning commission is not eligible to serve as chairperson. The term of each office shall be one year, with opportunity for reelection as specified in the planning commission bylaws. The planning commission may also appoint advisory committees whose members are not members of the planning commission.

(Ord. No. 10-5, 4-26-10)

Sec. 58-37. Bylaws, meetings and records.

The planning commission shall adopt bylaws for the transaction of business. The planning commission shall hold at least four regular meetings each year, and shall, by resolution, determine the time and place of the meetings. Unless otherwise provided in the planning commission's bylaws, a special meeting of the planning commission may be called by the chairperson or by two other members, upon written request to the secretary. Unless the bylaws otherwise provide, the secretary shall send written notice of a special meeting to planning commission members at least 48 hours before the meeting.

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The business that the planning commission may perform shall be conducted at a public meeting held in compliance with the Open Meetings Act, Public Act 267 of 1976, MCL 15.261 et seq. The planning commission shall keep a public record of its resolutions, transactions, findings, and determinations. A writing prepared, owned, used, in the possession of, or retained by a planning commission in the performance of an official function shall be made available to the public in compliance with the Freedom of Information Act, Public Act 442 of 1976, MCL 15.231 et seq.

(Ord. No. 10-05, 4-26-10)

Sec. 58-38. Annual report.

The planning commission shall make an annual written report to the township board concerning its operations and the status of the planning activities, including recommendations regarding actions by the township board related to planning and development.

(Ord. No. 10-05, 4-26-10)

Sec. 58-39. Authority to make master plan.

Under the authority of the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq., and other applicable planning statutes, the planning commission shall make a master plan as a guide for development within the township's planning jurisdiction. Final authority to approve a master plan or any amendments thereto shall rest with the planning commission unless the township board passes a resolution asserting the right to approve or reject the master plan.

Unless rescinded by the township, any plan adopted or amended under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq., need not be readopted under the Michigan Planning Enabling Act, Public Act 33 of 2008, MCL 125.3801 et seq.

(Ord. No. 10-05, 4-26-10)

Sec. 58-40. Zoning powers.

The township board hereby confirms the transfer of all powers, duties, and responsibilities provided for zoning boards or zoning commissions by the former Township Zoning Act, Public Act 184 of 1943, MCL 125.271 et seq.; the Michigan Zoning Enabling Act, Public Act 110 of 2006, MCL 125.3101 et seq.; or other applicable zoning statutes to the Muskegon Charter Township planning commission formerly established under the Township Planning Act, Public Act 168 of 1959, MCL 125.321 et seq. Any existing zoning ordinance shall remain in full force and effect except as otherwise amended or repealed by the township board.

(Ord. No. 10-05, 4-26-10)

Sec. 58-41. Subdivision and land division recommendations.

The planning commission may recommend to the township board provisions of an ordinance or rules governing the subdivision of land. Before recommending such an ordinance or rule, the planning commission shall hold a public hearing on the proposed ordinance or rule. The planning commission shall give notice of the time and place of the public hearing not less than 15 days before the hearing by publication in a newspaper of general circulation within the township.

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The planning commission shall review and make recommendation on a proposed plat before action thereon by the township board under the Land Division Act, Public Act 288 of 1967, MCL 560.101 et seq. Before making its recommendation, the planning commission shall hold a public hearing on the proposed plat. A plat submitted to the planning commission shall contain the name and address of the proprietor or other person to whom notice of a hearing shall be sent. Not less than 15 days before the date of the hearing, notice of the date, time and place of the hearing shall be sent to that person at that address by mail and shall be published in a newspaper of general circulation in the township. Similar notice shall be mailed to the owners of land immediately adjoining the proposed platted land.

(Ord. No. 10-05, 4-26-10)

Secs. 58-42—58-50. Reserved.

ARTICLE II. SPECIAL USES

Sec. 58-51. Purpose.

- (a) Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the functions and characteristics of an increasing number of new kinds of land uses combined with conclusive experience regarding some of the older, familiar kinds of uses call for a more flexible and equitable procedure for properly accommodating these activities in the township. It should be recognized that the forces that influence decisions regarding the nature, magnitude and location of such types of land use activities are many and varied depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provision for the security of the health, safety, convenience and general welfare of the township's inhabitants.
- (b) In order to accomplish such a dual objective, provision is made in this chapter for a more detailed consideration of each specified activity as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population, processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as special uses and may be authorized by the issuance of a special use permit with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare.
- (c) The following sections in this article, together with references in other chapters, designate what uses require a special use permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated.
- (d) Unlisted uses. If an application is submitted for a use not listed in a zoning district, the planning/zoning administrator, consistent with section 58.4 and 58.51 of the zoning ordinance and with planning commission approval, shall make a determination as to the proper zone district and use classification for the new or unlisted use.

(Ord. No. 7, § 4.0, 4-18-83; Ord. No. 12-06, § 2, 6-4-12)

Sec. 58-52. Procedures for making application.

- (a) *Applicant.* Any person owning fee title or equitable interest in the subject property may file an application for one or more special use permits provided for in this chapter in the zoning district in which the land is situated.
- (b) *Application.* Application shall be submitted through the township zoning administrator to the planning commission on a special form for that purpose; each application shall be accompanied by the payment of a fee in accordance with the duly adopted schedule of fees to cover costs of processing the application. No part of the application fee shall be refundable.
 - (1) Failure to obtain approval of application before work commences shall cause penalty of double the application fee to be charged to applicant.
- (c) *Data required in application.* Every application shall be accompanied by the following information and data:
 - (1) Special form supplied by the building official filled out in full by the applicant.
 - (2) Site plan, plot plan, or development plan, drawn to a readable scale, of the total property involved showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses.
 - (3) Preliminary plans and outline specifications of the proposed development.
 - (4) A statement with supporting evidence regarding the required findings specified in section 58-54.
 - (5) The planning commission may require site plans, maps, soil and hydrographic studies, engineering or architectural drawings and plans, photographs, legal surveys, and in cases of larger projects, environmental impact statements, but the planning commission is not limited hereby, and may require such other documents and information as may be appropriate or germane to its review.

(Ord. No. 7, § 4.1, 4-18-83; Ord. No. 14-13, § 2, 12-1-14)

Sec. 58-53. Review and findings of the planning commission public hearing.

The planning commission shall review the application at its next regular meeting following filing and shall set a date for public hearing within 45 days thereafter. The planning commission shall cause to be published one notice of public hearing not less than five nor more than 15 days before the date the application will be considered. The notice shall be delivered personally or by mail to the parties of interest and all property owners within 300 feet of the subject property at the address given in the last assessment roll.

(Ord. No. 7, § 4.2, 4-18-83)

Sec. 58-54. Recommendation to township board.

Upon conclusion of the public hearing or at the next meeting thereafter, the planning commission shall recommend approval or denial of an application for a special use permit to the township board. Recommendations shall include an accurate description of the proposed special use, a description of the property upon which the special use is sought to be located, and recommendations and proposed conditions of the planning commission, along with a summary of the comments at the meeting of the planning commission considering the application.

(Ord. No. 7, § 4.3, 4-18-83; Ord. No. 10-02, § 1, 3-15-10)

Sec. 58-55. Issuance/denial of special use permit.

- (a) The township board may affirm, modify or deny the application for a special use permit with all conditions and, if approved, instruct the building and zoning administrator to issue the special use permit with the conditions. If conditions are required prior to or with the permit, they shall be typed on paper and signed by the township clerk, as authorized by the board and the applicant, and recorded with the county register of deeds, and shall be binding on the owners of the property or their successors.
- (b) Upon making a decision, the township board shall incorporate, in a statement of conclusion, the factual basis and reasons for the grant or denial of the application for a special use permit in written findings of fact. Such findings shall be adopted contemporaneously with the action of the grant or denial, and placed on file with the clerk as a public record.
- (c) Once approval of a special use permit plan has been granted by the township board, changes to the approved plan shall require a resubmission to the board of the modifications, which shall not require the other procedural steps.

(Ord. No. 7, § 4.4, 4-18-83; Ord. No. 10-02, § 2, 3-15-10)

Sec. 58-56. Appeal.

Any interested person considering himself aggrieved by the decision of the township in the granting or denial of the special use permit shall have the right to appeal the said decision to the circuit court within 30 days after a written decision is submitted to the clerk. An "interested person" shall be the owner-developer, a person living within 300 feet of the site or a person who can show a significant interest, whether economic or not. There will be no appeal to the board of appeals.

(Ord. No. 7, § 4.5, 4-18-83; Ord. 10-02, § 3, 3-15-10)

Sec. 58-57. General standards for making determinations.

The planning commission and township board shall, upon separate occasions, review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (1) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the general plan or current adoption.
- (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.
- (3) Will not be hazardous or disturbing to existing or future neighboring uses.
- (4) Will be a substantial improvement to property in the immediate vicinity and to the township as a whole.
- (5) Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.
- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the township.

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- (7) Will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
 - (8) Will be consistent with the intent and purposes of this chapter.

(Ord. No. 7, § 4.6, 4-18-83; Ord. No. 10-02, § 4, 3-15-10)

Sec. 58-58. Conditions and safeguards.

- (a) The planning commission may recommend any conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the special use permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who utilize the land use or activity and the township as a whole; and be consistent with the general standards as established in this chapter and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (b) Upon granting approval, the township board may require any conditions or limitations upon the establishment, location, construction, maintenance or operation of the use authorized by the special use permit as in its judgment may be necessary for the protection of the public interest. Conditions imposed shall further be designed to protect natural resources, the health, safety and welfare, as well as the social and economic well-being of those who utilize the land use or activity and the township as a whole; and be consistent with the general standards as established in this chapter and therefore be necessary to meet the intent and purpose of the regulations contained therein.
- (c) Conditions and requirements stated as part of special use permit authorization shall be a continuing obligation of special use permit holders or their successors. Township staff shall make periodic investigations of developments authorized by special use permits to determine compliance with all requirements.
- (d) Special use permits may be issued for time periods as determined by the township board. Special use permits maybe renewed in the same manner as originally applied for.
- (e) In authorizing a special use permit, the township board may require that a bond, or other financial guarantee acceptable to the township, or ample sum be furnished by the developer to ensure compliance with such requirements as drives, walks, utilities, parking, landscaping and the like. The financial guarantee shall be deposited with the township treasurer at the time of issuance of the permit authorizing the use or activity. As work progresses, the township board may authorize a proportional rebate of the financial guarantee upon completion of significant phases or improvements.
- (f) All plans, specifications, and statements submitted with the application for a special use permit shall become, with any changes ordered by the township board, a part of the conditions to any special use permit issued thereto.
- (g) No application for a special use permit which has been denied wholly or in part by the township board shall be resubmitted until the expiration of one year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the township board.
- (h) The foregoing general standards are basic to all special uses; and the specific requirement accompanying the following sections relating to particular uses are in addition to and shall be required in all applicable situations, including all federal, state and local permits and licenses.

(Ord. No. 7, § 4.7, 4-18-83; Ord. No. 10-02, § 5, 3-15-10; Ord. No. 15-09 , § 2, 7-20-15)

Sec. 58-59. Revoking a special use permit.

- (a) The township board shall have the authority to revoke any special use permit if one or more of the following conditions apply:
 - (1) The holder of the special use permit violates any term of the permit or the property is not being used in conformance with the approved special land use.
 - (2) Failure or neglect to comply with the any provisions of the zoning ordinance or any other duly adopted ordinance.
 - (3) The special use permit is issued erroneously on the basis of incorrect or misleading information supplied by the applicant.
 - (4) The permitted use ceases to continuously operate for a six-month period as determined by the zoning administrator.
- (b) Prior to revoking a special use permit, the township shall give written notice to the holder of the special use permit, by first class mail or by personal delivery of the date and time the revocation will be considered by the township board. Said notice shall include reasons why the special use permit is being considered for revocation, and notify applicant of the right to speak at the referenced township board meeting. In the event the township board determines one or more of the above conditions exist and revokes the special use permit, the permit holder shall have 30 days to cease the revoked use. The holder shall reimburse the township for its costs, including consulting and attorney fees associated with or resulting from the revocation process.
- (c) Any applicant considering himself aggrieved by the revocation decision shall have the right to appeal to the circuit court within 30 days of the decision.

(Ord. No. 15-09 , § 3, 7-20-15)

Sec. 58-60. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-60, which pertained to automobile service stations, commercial garages and automotive repair shops and derived from Ord. No. 7, § 4.9, 4-18-83; Ord. No. 10-02, § 6, 3-15-10 and Ord. No. 11-08, § 2, 6-6-11.

Sec. 58-61. Wireless communication facilities.

The following definitions shall apply in the interpretation of this section.

Alternative tower structure means manmade trees, clock towers, bell steeples, church spires, light poles, elevator bulkheads and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless communication signals or other communication signals.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Height means the distance measured from the finished grade of the parcel at the center of the front of the building or structure to the highest point on the tower or other building or structure, including the base

pad and any antenna, when referring to a tower or other building or structure upon which an antenna is mounted.

Preexisting towers and preexisting antennas means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of the amendment to the ordinance from which this division is derived, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guyed towers or monopole towers, used for the transmission or reception of radio, telephone, cellular telephone, television, microwave or any other form of telecommunication signals. The term includes the structure and any support for the structure.

- (a) *Intent*. It is the intent of this section to provide regulations for the placement of siting wireless communication towers, antennas support facilities.
- (b) *General requirements*.
 - (1) *Principal accessory use*. Antennas and towers may be considered either principal or accessory uses. A different existing use of or on the same lot shall not preclude the installation of an antenna or tower on that lot.
 - (2) *Lot size*. Even though antennas or towers may be located on leased portions of a lot, the dimensions of the entire lot shall be used to determine if the installation of a tower or antenna complies with the regulations of the applicable zoning district, including but not limited to setback requirements, lot-coverage requirements and other such requirements.
 - (3) *Tower finish*. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (4) *Tower site*. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 - (5) *Antenna color*. An antenna and its supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - (6) *Lighting*. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
 - (7) *State or federal requirements*. All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised and applicable standards and regulations within six months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to comply with such revised and applicable standards and regulations shall constitute grounds for the township to seek a court order, authorizing the township or its designee to remove the tower or antenna at the owner's expense.
 - (8) *Signs*. No signs shall be allowed on an antenna or tower.
- (c) *Generally*. The uses listed in this section are deemed to be permitted uses by right in any zoning district and shall not require a special use permit.

(1) *Permitted uses.*

- a. Antennas or towers located on property owned, leased, or otherwise controlled by the township are permitted uses, provided a license or lease authorizing such antenna or tower has been approved by the township.
- b. Antennas not more than 30 feet in height and located upon legally- existing lattice electric transmission towers are permitted uses.

(2) *Special use permits.*

- a. Generally. The following provisions shall govern the issuance of special use permits for towers or antennas.
- b. If the tower or antenna is not a permitted use as described above, then a special use permit shall be required for the construction of a tower or the placement of an antenna in any zoning district.
- c. Applications for special use permits under this section shall be subject to the general procedures and requirements of Article II of the zoning ordinance.
- d. In granting a special use permit, the planning commission and Township Board may impose such conditions that they conclude are necessary to minimize any adverse effect of the proposed tower or antenna on adjoining properties.
- e. Information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer, and shall include the following:
 1. A scaled site plan showing the location, type and height of the proposed tower or antennas; on site land uses and zoning; adjacent land uses and zoning (even if adjacent to another municipality); adjacent roadways; proposed means of access, setbacks from property lines, elevation drawings of the proposed tower or antenna and any other structures; topography; parking; and other information deemed necessary by the zoning administrator, planning commission, or township board to assess compliance with this chapter;
 2. Legal description of the lot and the leased portion of the lot (if applicable);
 3. The setback distance between the proposed tower or antenna and the nearest dwelling, platted residentially zoned properties, and unplatted residentially zoned properties;
 4. Method of fencing, finished color and, if applicable, the method of camouflage and illumination;
 5. A description of the services to be provided by the proposed new tower or antenna.
- f. Factors considered in granting special use permits for towers or antennas. In addition to any other standards specified in this division for considering special use permit applications, the planning commission and Township Board shall consider the following factors in determining whether to issue a special use permit under this chapter:
 1. Height of the proposed tower or antenna;
 2. Proximity of the proposed tower or antenna to residential structures and residential district boundaries;

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3. Nature of uses on adjacent and nearby properties;
 4. Surrounding topography;
 5. Surrounding tree coverage and foliage;
 6. Design of the proposed tower or antenna, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
 7. Proposed ingress and egress to the proposed tower or antenna;
 8. The effect of the proposed tower or antenna on the surrounding neighborhood.
- g. Setbacks. The following setback requirements shall apply all towers:
1. Towers must be set back a distance of one foot for every foot of potential fall.
 2. Guys and accessory buildings must satisfy the minimum setback requirements for the applicable zoning district.
- h. Security fencing. Towers for which a special use permit is required shall be enclosed by security fencing not less than six feet in height and shall also be equipped with appropriate anticlimbing devices.
- i. Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required.
1. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences or included in a residential zone, The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
 2. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible, in some cases, such as towers sited on large wooded lots, the planning commission and city council may conclude that natural growth around the property perimeter may be a sufficient buffer.
- (d) *Accessory utility buildings.* All utility buildings and structures accessory to a tower or an antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (e) *Removal of abandoned antennas and towers.* Notwithstanding anything to the contrary elsewhere in this zoning ordinance, any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the city notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within the 90 days shall be grounds for the city to proceed under applicable state law to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- (f) *Expansion of nonconforming use.* Notwithstanding any other provisions of this division to the contrary, towers that are constructed and antennas that are installed in accordance with this chapter shall not be deemed to be the expansion of a nonconforming use or structure.

(g) *Amateur radio station operator/receive only antennas.* Antennas and towers less than 70 feet in height may be erected in the designated rear yard in any zoning district if in compliance with the following restrictions:

- (1) No part of any tower or antenna shall be constructed, located or maintained at any time, permanently or temporarily, in or upon any required setback area for the district within which the antenna or tower is located.
- (2) The required setback for antenna and tower not rigidly attached to a building, shall be equal to the height of the antenna and tower. Those antenna and towers rigidly attached to a building and whose base is on the ground, may reduce this required setback by the amount equal to the distance from the point of attachment to the ground.
- (3) No tower shall be in excess of height equal to the distance from the base of the antenna and tower to the nearest overhead electrical power line which serves more than one dwelling or place of business, less five feet.
- (4) Metal towers shall be constructed of, or treated with, corrosive resistant material. Wooden poles shall be impregnated with rot-resistant substances.
- (5) No part of any antenna or tower, nor any lines, cables, equipment or wires or braces in connection with either, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
- (6) Towers with antenna shall be designed to withstand a uniform wind loading as prescribed by the applicable state construction code, the provisions of which are hereby incorporated by reference.
- (7) Antenna and metal towers shall be grounded for protection against direct strikes by lightning and shall comply as to electrical wiring and connections with all applicable local statutes, regulations and standards.
- (8) Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.

(Ord. No. 7, § 4.10, 4-18-83; Ord. No. 10-02, § 7, 3-15-10; Ord. No. 15-04, § 2, 4-20-15)

Sec. 58-62. Essential public services.

- (a) The erection, alteration, maintenance or use by public utilities of underground or overhead gas, electrical, steam or water distribution, transmission, collection, communication, supply or disposal systems including mains, drains, sewers, pipes, conduits, wires, cables, fire alarm boxes, police communication equipment and accessories, traffic signals, hydrants, towers, poles, electrical substations, utility pumping and metering stations and other similar equipment and accessories, but not including buildings, reasonably necessary for the furnishing of adequate services by such public utilities for public health, safety or general welfare shall be permitted as authorized and regulated by law and other ordinances of the township in any zoning district.
- (b) The provision or existence of essential public services may be construed by the planning commission to be crucial to favorable disposition of a plat or building application, at its discretion. It may approve, modify or reject proposals on the basis of the adequacy or inadequacy of public facilities. It may modify the proposed height, bulk or density of building or structures within a district according to its determination of the carrying capacity of the site and net impact on the general public. Factors to be considered in all projects include, but are not limited to septic suitability, existence or impending installation of sewers, existence or impending construction of roads, adequacy of drainage, and the capacity of schools, both existing and proposed, to absorb new students. The planning commission shall be governed in its deliberations by the Michigan

Subdivision Control Act, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq.), as amended.

- (c) The planning commission may authorize the erection, maintenance and use of a building, or an alteration or addition to an existing building by a public utility for public utility purposes as a special use. In addition, the board of appeals may authorize the erection, maintenance and use of a public utility building with a greater height or of a larger area than otherwise authorized by the zoning district in which the building is located. Any building authorized by this section shall be designed, erected and landscaped to conform harmoniously with the general architecture and plan of the neighborhood in which the building is located. In considering the authorization of a public utility building or a public utility building with a greater height or a larger area than otherwise authorized by the zoning district in which the building is located, the planning commission shall consider the following standards:
- (1) The size, proposed location, type of construction and general character of the building.
 - (2) The effect, if any, of the building on the light and air circulation of adjoining lands.
 - (3) Whether the building will adversely affect the view of any adjoining lands.
 - (4) The reason and necessity for the construction of building.
 - (5) The impact of the building on adjoining lands and uses in the surrounding neighborhood.

(Ord. No. 7, § 4.11, 4-18-83)

Sec. 58-63. Kennels.

Except as specifically permitted in the zoning district no kennel shall be erected, maintained or operated in the township unless first authorized by the township planning commission and township board as a special use in accordance with article II, special uses, sections 58-52 through section 58-59 of the Muskegon Charter Township Code of Ordinances. In considering such authorization, the planning commission and township board shall additionally consider the following standards.

- (1) The size, nature and characteristics of the kennel.
- (2) The proximity of the kennel to adjoining lands and the surrounding neighborhood on account of the operation of the kennel.
- (3) Potential traffic congestion on account of the kennel.
- (4) The nature and character of the buildings and structures to be utilized for the kennel operation.
- (5) Kennel operation must comply with all county and state licensing requirements.

(Ord. No. 7, § 4.12, 4-18-83; Ord. No. 10-02, § 8, 3-15-10; Ord. No. 10-06, § 1, 6-21-10; Ord. No. 15-15, § 1, 10-5-15; Ord. No. 19-1, § 1, 6-17-19)

Sec. 58-64. Keeping of animals.

- (a) The keeping as household pets of cats, dogs, household fish, household birds, hamsters and other animals generally regarded as household pets by Muskegon Charter Township is expressly permitted as an accessory use; provided, however, that no more than four household pets shall be kept in or at one dwelling unit.
- (b) The keeping of hen chickens, hen turkeys, ducks, and geese ("poultry") is permitted as an accessory use in single family residential (R1) and rural residential (RR); provided, however:
- (1) Keeping of chickens and turkey are hens only.

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- (2) The keeping of poultry shall be done in a manner to mitigate any potential adverse impacts on surrounding properties.
 - (3) Maximum number that may be kept per lot:
 - a. Four, in any combination, in R1.
 - b. A maximum of four, in any combination, per half acre up to a maximum of 12, in any combination, in RR.
 - (4) Male chickens (roosters) and male turkey (toms and jakes) are prohibited.
 - (5) Poultry shall be kept in a covered and fenced enclosure located in the rear yard only. The enclosure shall be no closer than six feet to any lot line, and shall be located at least 25 feet from any dwelling on an adjacent lot.
 - (6) Covered enclosures shall not exceed 120 square feet and shall be a maximum of eight feet in height. This square footage shall not count against the total allowable accessory building square footage or number of allowable accessory buildings per this chapter.
 - (7) All feed and other items associated with the keeping of poultry shall be secured and protected in sealed containers.
 - (8) Poultry shall be kept in compliance with all applicable generally accepted agricultural and management practices, as established by the state from time to time.
- (c) The keeping of monkeys of a species whose average adult weight is less than 20 pounds and is not classified as a dangerous animal according to chapter 4 of the Muskegon Charter Township Code of Ordinances is permitted in single family residential (R1) and rural residential (RR) under the following conditions:
- (1) No more than one is permitted per parcel.
 - (2) Township notification and authorization
 - a. The township must be notified in writing of the property owner's intent to house a monkey upon the property.
 - b. The notification must include copies of all necessary federal and state permits required to acquire and possess a monkey.
 - c. The applicant must include a health certification from a veterinarian including the name, address and contact information of the certified veterinarian that will be handling the ongoing care of the monkey.
 - d. The owner of the monkey must, by April 1 of each year, provide documentation from their certified veterinarian a current health certification confirming that the monkey remains in good health and is current on its vaccinations. Failure to provide said documentation will result in the monkey being deemed a dangerous animal and will no longer be permitted in Muskegon Charter Township and must be removed immediately.
 - e. All pet monkeys must be spayed/neutered by 18 months of age.
 - (3) The monkey must remain secured within the home at all times. If the monkey is to leave the dwelling it must be maintained on a leash with harness at all times.
 - (4) The combined number of allowed animals, in addition to the one monkey allowed, is reduced from four to two.

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- (5) If the monkey at any time is found to have harmed any person or animal the monkey will be deemed a dangerous animal and will no longer be permitted in Muskegon Charter Township and must be removed immediately.
 - (d) The keeping of reptiles whose average adult weight is less than ten pounds and is not classified as a dangerous animal according to chapter 4 of the Muskegon Charter Township Code of Ordinances is permitted in single family residential (R1) and rural residential (RR) under the following conditions:
 - (1) No more than two are permitted per residential parcel.
 - (2) Township notification and authorization
 - a. The township must be notified in writing of the property owner's intent to house reptiles upon the property.
 - b. The notification must include copies of all necessary federal and state permits required to acquire and possess the reptiles if applicable.
 - c. The applicant must include all documentation that the reptiles are current on all required vaccinations.
 - (3) The reptiles must remain secured within the home at all times. The reptiles are not to leave the dwelling unit unless being transported, in a proper reptile transportation enclosure, to or from a veterinary clinic.
 - (4) The combined number of allowed animals is reduced to three.
 - (5) If the reptile at any time is found to have harmed any person or animal, it will be deemed a dangerous animal and will no longer be permitted in Muskegon Charter Township and must be removed immediately.
 - (e) Any other animals in any zoning district except livestock in the rural residential (RR) zoning district is prohibited. Prohibition of fish does not apply to fish kept in approved ponds in residential zones.
 - (f) The keeping of any livestock in the rural residential (RR) zoning district shall be limited to one per five acres of land for the first such animal and one additional such animal for each additional one acre of land; and the building and fenced-in area which will house the livestock must have a front yard setback of 150 feet and side and rear yard setbacks of 100 feet each.

(Ord. No. 7, § 4.13, 4-18-83; Ord. No. 14-12, § 2, 12-1-14; Ord. No. 19-6, § 1, 9-16-19)

Sec. 58-64.1. Reserved.

Editor's note(s)—Sec. 58-64.1, Keeping of dangerous and exotic animals, was repealed by Ord. No. 10-01, § 2, 2-1-10. The information is now included as chapter 4 of this Code.

Sec. 58-65. Swimming pools.

- (a) *Permit required.* No person shall erect, install, locate or maintain a swimming pool (hereinafter referred to in this section only as "pool") unless a permit therefore has first been obtained from the building official. The application for the pool permit shall include the size of the pool, type of construction, and shall be on the forms provided by the township.
- (b) *Location.* No pool shall be located in the front yard. The outside edge of the pool wall shall not be located nearer than four feet to any lot or property line; provided, however, that if any part of the pool walls are

more than three feet above the surrounding grade level, then the outside edge of the pool wall shall not be located nearer than ten feet from the lot or property line.

- (c) *Construction.* Any pool constructed of poured concrete shall have a bottom not less than six inches thick and walls not less than eight inches thick, such bottom and walls to be reinforced with metal reinforcing rods. Liner type pools may be constructed or installed if the liner used is made and furnished by a manufacturing concern which, as a part of its business, regularly make pool liners out of plastic, rubber, fiberglass, steel or other suitable type product and the bottom and walls of the liner type pool are constructed in accordance with the specifications of the manufacturer of the liner.
- (d) *Electrical.* All electrical wiring and electrical installations shall be in conformance with the National Electrical Code, as amended from time to time.
- (e) *Water supply.* Cross connections of the township water supply with any other source or sources of water supply for the pool are prohibited. The line from the public water supply to the pool shall be protected against back flow of polluted water by means of an air gap and shall discharge at least six inches above the maximum highwater level of the pool makeup tank or the pool itself.
- (f) *Storm sewer connection.* The drain line for the pool shall be connected to the storm sewer, if one is available within 200 feet of the pool drain outlet. Where storm sewer is unavailable, and lots have an area greater than 12,000 square feet, discharge may be directly into the ground at a rate not to exceed 75 cubic feet per minute.
- (g) *Construction and operation.* The pool shall be constructed in such a manner that all scum, splash and deck water shall not return to the pool except through the filter system. The pool shall be kept free at all times of floating materials, sediment and debris either by an automatic surface skimmer, scum gutter or by some other acceptable means approved by the building official.
- (h) *Filtration.* The pool recirculating system shall be capable of filtering and recirculating the entire volume content of the pool during a twelve-hour period. The rate of application of pool water on the filters shall not be greater than three gallons per minute per square foot of filter area.
- (i) *Chlorination.* Provision shall be made in the pool design for positive germicidal or bacterial control by the use of chlorine, bromine or other such disinfecting agents as may be approved by the county health department. Such disinfection agents shall be applied to the pool water at a rate so as to keep the germicidal or bacterial protection of the water in the pool equal to the standard 0.5 parts per million to 1.0 parts per million chlorine residual. Testing devices capable of accurately measuring such residual shall be provided as part of the permanent pool equipment.
- (j) *Fence.* Each pool which is located outside shall be enclosed by a fence or wall of a height of not less than four feet or more than six feet in height, which is constructed in such a manner that no person may enter the yard or the area where the pool is located without passing through a gate or door located on the lot or parcel of land on which the pool is situated. Such wall or fence shall be of a type not readily climbed by children. All gates and doors which permit access to the pool area shall be capable of being locked and shall be locked at all times when no person is present on the lot or parcel of land on which the pool is located. All gates and doors shall be of the self-closing and latching type, with the latch on the inside of the gate positioned in such a manner that it is not readily available for children to open. Notwithstanding the foregoing, if the entire lot or parcel of land on which the pool is located is enclosed, then the foregoing requirements for the maintenance of a fence or wall may be waived by the building official if it determines that all the requirements for the pool fence or wall specified above are complied with. In the case of a pool, the top of which is four or more feet above grade, which does not have a deck with readily climbable supports, and is, itself, constructed in such a manner that it is not readily climbable, the building official may, in his discretion, waive the requirements herein contained for a pool fence or wall if the access to the pool and the gate and door arrangements are as is provided herein. In the case of a pool which has a top which is four or more feet above grade which has readily climbable supports, such pool shall either be fenced as provided herein or

appropriate means shall be taken to render the supports to the deck and/or pool structure not readily climbable.

- (k) *Inspections.* The county health department and the building official shall have the right at any reasonable hour to inspect any pool for the purposes of determining compliance with this section.
- (l) *Multifamily community pools.* Swimming pools installed, designed, or used by more than the owner shall seek approval consistent with article II of the zoning ordinance entitled "Special Uses" as that relates to the development of the entire project for which the pool is intended to serve.

(Ord. No. 7, § 4.14, 4-18-83; Ord. No. 10-02, § 9, 3-15-10; Ord. No. 10-06, § 2, 6-21-10)

Sec. 58-66. Fences, hedges and walls in residential zones.

All fences, hedges and walls shall be subject to the following restrictions and regulations.

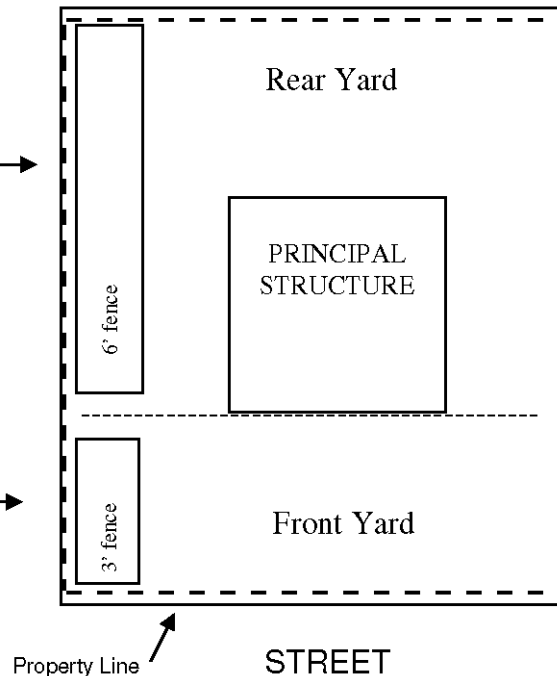
- (a) *Materials and maintenance.* Fences shall be maintained in good repair and in safe condition. They shall be made of ornamental metal, weather-resistant or treated wood, chain link or other high-quality, durable materials. Masonry walls shall be designed and constructed so as not to modify natural drainage or endanger adjacent property.
- (b) *Setbacks.* Fences may be located on the lot line, outside of the public right of way.
- (c) *Front yards.* The height of a fence, wall or hedge in a front yard, as defined by this ordinance, shall not exceed three feet, unless an open fence is provided (e.g. chain link, picket) in which case it may be a maximum height of four feet.
- (d) *Rear yards.* In any residential district, a wall or fence may not exceed six feet in height.
- (e) *Corner clearance.* No fence, hedge, wall, berm or planting shall be erected or maintained in such a way as to obstruct vision of traffic.
- (f) *Prohibited material.* No barbed wire fences are allowed, unless approved by the Planning Commission as part of an authorized Special Use.
- (g) *Finished side.* The finished side of a fence shall face outward toward the abutting lots and rights of way.
- (h) *Corner lots.*

Rear Yard (Behind Front Building Line):

- Fences can't be higher than 6 feet
- No barbed wire allowed

Front Yard (In front of Building Line):

- Fence height can't exceed 3 feet unless as described in section described in section 58-66(c)



Corner lots: Each yard facing a street is considered a "front yard" when defining fence height and must comply with front yard fence requirements above. It is advised to review corner lot fences with Zoning Administrator.

(Ord. No. 7, § 4.15, 4-18-83; Ord. No. 10-02, § 10, 3-15-10; Ord. No. 10-06, § 3, 6-21-10; Ord. No. 12-09, § 2, 9-4-12 ; Ord. No. 15-14 , § 2, 10-5-15)

Sec. 58-67. Cemeteries and burial grounds.

No land in the township may be used for a cemetery or burial ground unless such use is first approved by the township board as a special use. In considering such authorization, the township board shall consider the following standards:

- (1) The total land area available for the proposed cemetery.
- (2) The financial resources and the financial solvency of the cemetery owner.
- (3) The need in the township for an additional cemetery.
- (4) The arrangements proposed by the owner of the proposed cemetery for development of the cemetery and insurance of its continuity and continued upkeep and maintenance.
- (5) Any traffic congestion which would be caused by the proposed cemetery.
- (6) The effect of the proposed cemetery on adjoining lands and the surrounding neighborhood.

(Ord. No. 7, § 4.16, 4-18-83; Ord. No. 10-02, § 11, 3-15-10)

Sec. 58-68. Outdoor ponds.

- (a) No person shall erect, install, locate or maintain a pond unless it has first been authorized by the township board as a special use. This requirement shall not apply to detention ponds and related depressions designed

and intended for the purpose of managing and controlling stormwater runoff. A pond special use application shall be on forms provided by the township and shall include the name of the person who shall be the owner of the pond; the location of the proposed or existent pond; the safety precautions to be taken to protect those making use thereof or who might be endangered thereby; the size, depth and water capacity of the pond; the water source and method of water discharge; the method of filtration and treatment of the water, if required; and such further additional information necessary for the protection of the public health and safety as may be required by the planning commission. The application shall also contain a plot plan of the land where the pond is to be located as well as the type of wall, fence or enclosure around the pond and the relation of the pond and the wall, fence or enclosure to lot lines, as well as a sketch or plan for the construction of the pond and full information as to the type of construction, height and location of the wall, fence or enclosure surrounding the pond, number of gates or doors therein, and method of latching and locking such gates and doors.

- (b) A pond shall comply with all the yard requirements for the zoning district in which it is located. A pond may be located in any zoning district and shall be considered as an accessory use in any residential district. As part of its authorization of a pond, the planning commission may approve the location of a pond in a front yard.
- (c) If the township board shall determine in the course of its approval of a pond that the protection of the general public requires that the pond be enclosed, the township board shall require that the pond be enclosed by a wall, fence or other type of enclosure. Such wall, fence or other type of enclosure shall not be less than four feet above the grade line. The wall, fence or other type of enclosure shall be designed so there are no openings of such a nature or size as to permit any child to pass through or under the fence, wall or other type of enclosure except at a gate or door, and shall be of a type not readily climbed by children. All gates or doors leading to a pond except a door in any building forming part of the enclosure shall be kept closed when the pond is not in actual use and such gates and doors shall be fitted with a positive latching device which shall automatically latch them when said gate or door is in a closed position. Unless the pond is in actual use, all gates and doors leading to the pond shall be kept locked at all times when the owners of the building situated on the property where the pond is located is absent or away from said property. If any pond shall be located on a parcel of land where there is no building actually occupied by the owner, then all gates and doors to the pond shall be kept securely closed, latched and locked when the pond is not in actual use.
- (d) No person shall permit the use of any pond for swimming purposes unless the pond meets all of the applicable requirements for swimming pools set forth in section 58-65.
- (e) No pond shall be used or maintained unless adequate public health measures are periodically taken to ensure that the existence and/or use thereof will not cause the spread of disease, stagnation or otherwise provide conditions dangerous or injurious to the public health.
- (f) The discharge pipe from any pond without a direct outlet to an established drain shall not exceed two inches in diameter. The discharge pipe shall be constructed with galvanized iron or such other standard and durable material as may be approved by the building official. No pond shall be wholly or partially emptied in any manner that will cause water to flow upon the land of another and no pond shall be wholly or partially emptied upon any land if a storm drain is readily accessible to the premises on which the pond is located. Discharge into the public sanitary sewer is prohibited.
- (g) No public water shall be used in connection with the filling or operation of a pond when limitations on the consumption and use of public water are in effect.
- (h) The slopes of the banks or sides of the pond shall be constructed so that for each one foot of rise there shall be a minimum of three feet of run. This minimum slope angle must be maintained and extended into the pond to a depth of three feet.
- (i) No pond shall be constructed, installed or maintained which either causes or contributes to the erosion of any adjacent, abutting or nearby lands.

(Ord. No. 7, § 4.17, 4-18-83; Ord. No. 10-02, § 12, 3-15-10; Ord. No. 10-04, § 4, 4-19-10)

Sec. 58-69. Home occupations.

All home occupations shall be subject to the following restrictions and regulations and governed by the building official:

- (1) The home occupation shall be conducted in the home building by members of the family residing in such building, and that no one shall be hired by the person to whom a home occupation permit is granted.
- (2) No home occupation shall occupy more than 20 percent of the floor area of the home building; provided, however, that in no event shall the home occupation occupy more than 300 square feet. No rooms which are constructed or erected by the conversion of a garage, porch or other similar part of a home building not included in the floor area of the home building originally shall be considered as part of the floor area until two years after the date of the completion thereof as shown by the records of the building official.
- (3) For the purposes of identification, one non-illuminated nameplate not exceeding three square feet in area shall be permitted. Such identification name plate shall identify only the name and profession, vocation or trade of the person or persons operating the home occupation. No other sign shall be utilized in connection with such home occupation.
- (4) No motors other than electrically operated motors shall be used in conjunction with the home occupation. The total horsepower of all electrical motors utilized in the home occupation shall not exceed three horsepower. No single electrical motor used in the home occupation shall exceed one horsepower. All electrical motors and equipment used in the conduct of the home occupation shall be shielded so as not to cause radio or television interference for adjoining properties.
- (5) In no event shall the use of a home building for a home occupation alter the residential character of the home building.
- (6) No merchandise or articles for sale shall be displayed on the lot or parcel of land utilized for the home occupation.
- (7) No article or material used in connection with the home occupation shall be stored other than in the home building.
- (8) If application and/or chemical survey for home occupation is such that requires a site plan review, the building official or fire inspector may use their discretion to forward to the planning commission for direction.

(Ord. No. 7, § 4.18, 4-18-83; Ord. No. 10-02, § 13, 3-15-10; Ord. No. 10-06, § 4, 6-21-10; Ord. No. 14-14, § 2, 12-1-14)

Sec. 58-70. Temporary uses or structures requiring building official authorization.

- (a) Upon application, the building official shall issue a permit for a temporary office building or yard for construction materials and/or equipment which is both incidental and necessary to construction at the site where located. Each permit shall be valid for a period of not more than six calendar months and shall be renewed by the building official for not more than four additional successive periods of six calendar months or less at the same location if such building or yard is still incidental and necessary to construction at the site where located.

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- (b) Upon application, the building official shall issue a permit for a temporary office which is both incidental and necessary for the sale or rental of real property in a new subdivision or housing project. Each permit shall specify the location of the office and area and shall be valid for a period of not more than six calendar months and shall be renewed by the building official for not more than four additional successive periods of six calendar months at the same location if such office is still incidental and necessary for the sale or rental of real property in a new subdivision or housing project.

(Ord. No. 7, § 4.19, 4-18-83)

Sec. 58-71. Nonresidential accessory buildings.

Accessory buildings in residential zoning districts which are not to be used as private garages, storage buildings or swimming pool houses or buildings, shall not be erected or used without first being authorized by the township board as a special use. In considering such authorization the planning commission shall consider the following standards:

- (1) The intended use for the building.
- (2) The size, proposed location, type and kind of construction and general architectural character of the building.
- (3) The type and kind of principal, accessory buildings and structures located on properties which are adjoining and in the same neighborhood.
- (4) Whether the building will affect the light and air circulation of any adjoining properties.
- (5) Whether the building will adversely affect the view of any adjoining property.
- (6) The extent the building absorbs required yards and other open spaces.

(Ord. No. 7, § 4.20, 4-18-83; Ord. No. 10-02, § 14, 3-15-10)

Sec. 58-72. Planned unit developments.

- (a) *Intent.* It is recognized that traditional zoning, with its segregation of uses and rigid dimensional requirements, may not be suitable in all situations to best achieve the objectives of the township relative to desired land use and preservation of the community's resources and character. In order to permit and encourage more creative and innovative land development for the benefit of the community as a whole and in furtherance of the vision and goals of the township master plan, planned unit development may be permitted as a special use in any zoning district where it is demonstrated that one or more of the following purposes can be achieved:
- (1) Provide for flexibility in development that will result in a better project for the developer, residents and users, as well as for the community in general;
 - (2) Preserve existing natural assets, such as stands of trees, floodplain, open fields, wetlands, lakes, streams and the like;
 - (3) Accomplish a more desirable residential environment than would be possible through the strict application of minimum requirements of this chapter;
 - (4) Encourage the utilization of open space and the development of recreational amenities generally located within walking of all living units;
 - (5) Encourage the use of lands in ways which are most in accord with their character and adaptability; and

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- (6) Encourage the efficient use of land by facilitating economical and suitable arrangements for buildings, streets, utilities and other land use features.
- (b) *Qualifying conditions.*
- (1) *Minimum area.* Minimum project area required for planned unit developments shall be 20 acres.
 - (2) *Location.* Planned unit developments may be located in any district, subject to the provisions of this section.
 - (3) *Ownership.* The PUD application must be filed by the landowner, jointly by all landowners if more than one owner, or by an agent. If the application is filed by an agent, written approval from all landowners must be submitted with the application.
 - (4) *Utilities.* The PUD shall be served by public water and sanitary sewer treatment facilities.
- (c) *General requirements.*
- (1) *Permitted uses.* The following uses of land and/or buildings may be permitted under the provisions of this section:
 - a. All uses permitted by right or special use in the zoning district in which the planned unit development is located.
 - b. Additional uses which can be shown to be compatible with the general objectives of the township master plan, as well as integral to the specific planned unit development in which they would be located. For the purpose of this section, an integral use shall be defined as a use which has a specific functional relationship with other uses contained in the development, as for example, a day care center which serves primarily the needs of residents or employees of the PUD, an athletic facility within a business park PUD, or a neighborhood convenience center in the midst of a large residential PUD.
 - (2) *Minimum requirements.* The district regulations applicable to a land use in a PUD may be modified, including, but not limited to, lot area and width, building setbacks, lot coverage, parking and signs. The applicant for a PUD shall identify, in writing, all modifications being proposed. Modifications may be approved during the special use and preliminary or final PUD plan review by the township board, after planning commission recommendation. Modifications may be permitted only if they will result in a higher quality of development, preservation of significant natural features or in better integration of the proposed use with surrounding uses. The modification shall also satisfy at least one of the following criteria:
 - a. Preserves the best natural features of the site;
 - b. Creates, maintains or improves habitat for wildlife;
 - c. Creates, maintains or improves useful and desirable open space;
 - d. Enhances views into the site as well as the view from buildings to be located on the site; and
 - e. Results in a better development, consistent with the purposes of PUD, as expressed in section 58-72(a), and with the township master plan.
 - (3) *Privacy.* Each development shall provide reasonable visual and acoustical privacy for residents and users of the PUD, as well as for surrounding properties. Fences, walls, barriers, and landscaping shall be used, as appropriate, to screen objectionable views or uses, reduce noise, protect property and enhance privacy.
 - (4) *Off-street parking.* Parking convenient to all uses shall be provided pursuant to the minimum requirement of article IV of this chapter, except as may be modified per subsection (c)(2) above.

Common driveways, parking areas, walks and steps may be required together with appropriate lighting, in order to ensure the safety of the occupants, users and the general public. Screening of parking and service areas may be required through use of trees, shrubs, hedges, berms or screening walls.

- (5) *Roads.*
- a. Private roads may be constructed within a PUD, provided the road or roads shall be paved and constructed in accordance with the requirements of the Muskegon County road commission, including minimum right-of-way or easement width for the class of road that is necessary to serve the development. Final design of all private roads shall be subject to approval by the township fire department to ensure sufficient width and turnaround spacing for fire apparatus in the event of an emergency.
 - b. Roadways, whether public or private, may be required to be extended to exterior lot lines in order to allow connection to existing or future roadways on adjacent parcels, so as to provide secondary access, continuity of the roadway system, and to reduce traffic on collector roads.
 - c. Interior roadways, whether public or private, shall not be constructed in areas with existing slopes greater than 20 percent.
- (6) *Land use pattern.* All of the elements of the PUD plan and/or site plan shall be harmoniously and efficiently organized in relation to topography, the size and type of parcel, the character of adjoining property, and the type and size of buildings. Arrangement of buildings shall be done in such a way to utilize natural topography, existing vegetation and views within and beyond the site.
- (7) *Density.* For a PUD containing dwelling units, the residential density (dwelling units per acre) shall not exceed the permitted density of the zoning district in which the PUD is located, except as a bonus density may be permitted by subsection (g)(5)c.2. When more than one zone is involved, the density of the project will be the average of the zones, weighted in direct proportion to the size of the property within each zone. If the property contains any natural water body, floodplain or wetland, only one-half of the total area covered by such features may be counted in the calculation of densities of a project.
- (8) *Open space.* "Common open space" is defined as an area of land or water, or a combination of land and water, designed and intended for the perpetual use and enjoyment of the users of the PUD or of the general public. Common open space may contain accessory structures and improvements necessary or desirable for religious, educational, noncommercial, recreational or cultural uses. A variety of open space and recreational areas is encouraged, such as: children's informal play areas in close proximity to individual dwelling units; formal parks, picnic areas and playgrounds; pathways and trails; scenic open areas and communal, noncommercial recreation facilities; and natural conservation areas.
- a. The area of common open space within a PUD shall not be less than 25 percent of the total land area of a PUD containing residential units and not less than 15 percent of the total land area in commercial or industrial PUDs.
 - b. The computation of common open space shall not include street rights-of-way or road easements, parking or loading areas, easements for overhead utility lines, required setbacks, or any area within a platted lot or site condominium unit.
 - c. All common open space shown on the final PUD plan must be reserved or dedicated by conveyance of title to a corporation, association or other legal entity, by means of a restrictive covenant, easement or through other legal instrument. The terms of such legal instrument must include provisions guaranteeing the continued use in perpetuity of such open space for the purposes intended and for continuity of proper maintenance of those portions of the open space requiring maintenance.

(9) *Improvements.*

- a. *Circulation facilities.* The arrangements for vehicular and pedestrian circulation shall be coordinated with other existing or planned streets, walkways or pathways in the area.
- b. *Pedestrian circulation.* The pedestrian circulation system and its related walks and pathways shall be separated as completely as reasonably possible from vehicular movement.
- c. *Utilities.* Planned unit development shall, where feasible, provide for underground installation of utilities (including electricity and telephone) in both public ways and private extensions, thereof. Provisions shall be made for construction of storm sewer facilities including grading, gutters, piping, and treatment of turf to handle stormwaters, and to prevent erosion and the formation of dust. This could include the establishment of retention basins in order to minimize stormwater runoff.
- d. *Recreation areas.* Recreational facilities for residents or users of the PUD shall be located in reasonable proximity to the persons served, provided care is taken to minimize adverse impact upon the views and privacy of any dwelling unit.
- e. *Planting.* The appeal and character of the site shall be preserved and enhanced by retaining and protecting existing trees and other site features to the extent possible. New landscaping shall be added, as needed, for privacy, shade, accenting buildings and grounds and to screen out objectionable features.

(10) *Phased projects.* If the PUD is to be developed in phases, the final PUD plan may be submitted for one or more phases of the overall PUD. The applicant must submit a request for final PUD plan review of the initial phase within 12 months of the township board's approval of the preliminary PUD plan. A tentative schedule for the completion of each phase and the commencement of the next phase shall also be submitted as part of the preliminary PUD plan for approval by the township board.

(d) *Application procedures.*

- (1) *Preapplication conference.* Before submitting an application for a PUD, applicants shall meet with the township representatives for the purpose of describing the project concept, exchanging information, obtaining guidance, and assessing the overall eligibility of the desired project concept as a PUD. No formal action will be taken, nor will statements made at the preapplication conference be considered binding commitments. A preapplication conference shall be scheduled through the zoning administrator and a fee paid, in accordance with the schedule of fees established by the township board.
- (2) *Application.* A complete application for a PUD, which shall include both the special use permit and preliminary PUD plan, shall be submitted to the township zoning administrator on a form for that purpose, along with an application fee in accordance with the schedule of fees established by the township board. Application fees shall include an amount to be maintained in escrow, in accordance with township policy, to cover the review costs associated with the project, including consultants and other experts that may be retained by the township to provide technical assistance. In addition to the application form, a preliminary PUD plan and all other required information shall be submitted.
- (3) *Preliminary PUD plan and special use permit.*
 - a. A preliminary PUD plan for the entire PUD site shall be submitted with the required application. The plan shall, at a minimum, contain the following:
 1. Date, north arrow, graphic and written scale, and revision dates.
 2. A location sketch showing the site and the surrounding area within two miles of the site in all directions.

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3. Name and firm address of the professional individual responsible for preparing the site plan.
 4. A boundary survey of the entire property, prepared by a surveyor registered the State of Michigan.
 5. Legal description of the subject property,
 6. Location and dimensions of all existing structures.
 7. Existing zoning classification of the subject property and adjoining properties.
 8. Abutting street right-of-way and pavement width.
 9. Location of all existing driveways and parking areas on both sides of the street within 300 feet of the subject property boundary.
 10. A narrative list of all uses permitted, by right or special use, within the underlying zoning district that will or could be developed within the PUD. In addition, any uses not specifically allowed within the underlying zoning district, but are proposed as part of the PUD, in accordance with subsection (c)(1)b, shall also be identified. Any use proposed at a later time and not listed or determined by the township to not be similar to a listed use, shall be subject to special use approval by the township board, in accordance with the procedures of sections 58-51 through 58-58 of this chapter.
 11. A narrative list of all uses that will not be permitted within the PUD, even if allowed in the underlying zoning district, shall be submitted.
 12. Proposed roadways, traffic circulation, parking layout and pedestrian pathways.
 13. The proposed number, type(s) and location of dwelling units, if applicable.
 14. Proposed location, dimensions and intended use of all nonresidential structures.
 15. Building setbacks and yards, dimensioned.
 16. Layout and typical dimensions of proposed parcels or lots.
 17. For a mixed-use PUD, the general location and acreage intended to be devoted to specific categories of uses (e.g., commercial, single-family residential, multifamily residential, office, or industrial) shall be shown.
 18. Existing natural features such as wood lots, wetlands, lakes, ponds, floodplains and streams.
 19. A general landscaping concept, including the location of all buffer strips and vegetative screening.
 20. The acreage, nature and location of common open space, and a general statement as to the means by which the developer will guarantee its preservation and maintenance.
 21. Proposed location of sanitary sewage and water supply lines and stormwater management facilities.
 22. A list of all proposed modifications of setback, parking, buffer, sign or other requirements of the underlying zoning district.
 23. The planning commission or township board may request additional information such as, but not limited to, traffic studies, wetlands determination, and soil borings.

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- b. If the application is complete, it will be forwarded to the planning commission for review and to schedule a public hearing. Following its initial review of the complete application and preliminary PUD plan, the planning commission shall hold a legally advertised public hearing on the PUD special use and proposed preliminary PUD plan. Following the public hearing, the planning commission shall make a recommendation to approve or deny the special use permit and preliminary PUD plan based on the information submitted and compliance with the PUD review standards of section 58-72(e). The planning commission may also recommend conditions.
- (4) *Recommendation to township board.* The planning commission recommendations for both the special use permit and preliminary PUD plan shall be forwarded to the township board for final action to approve, deny or approve with conditions.
 - (5) *Township board action.* The township board shall consider the recommendation of the planning commission and the review standards of section 58-72(e) in making its decision. If approved, the project may proceed to the final PUD plan stage; provided, if either the special use or preliminary PUD plan are approved with conditions, the applicant shall submit a written statement accepting the conditions and, if applicable, shall modify the preliminary PUD plan to reflect such conditions before submitting a final PUD plan.
 - (6) *Final PUD plan.*
 - a. Upon receiving township board approval of the special use permit and the preliminary PUD plan, and after accepting all conditions placed on the approval, the applicant shall, within one year of the date of approval, submit a final PUD plan to the planning commission for its review.
 - b. The township board may grant up to one extension of up to an additional 12 months to submit the final PUD plan; provided the applicant requests an extension, in writing, prior to the expiration date of the PUD and demonstrates that unforeseeable circumstances have caused the delay. If an extension expires prior to submittal of the final PUD plan, the prior special use and preliminary PUD plan approval shall be null and void.
 - c. If the PUD is to be developed in phases, the final PUD plan may be submitted for the initial phase and then, prior to development of subsequent phases, a separate application for final PUD plan approval may be submitted for each phase or combination of phases.
 - d. The final PUD plan shall conform to the approved preliminary PUD plan. If the final PUD plan is not consistent with the approved preliminary PUD plan, the applicant shall be required to resubmit a revised preliminary PUD plan to be processed in accordance with subsection (d)(3), including a public hearing.
 - e. The following materials shall be submitted for final PUD plan review:
 - 1. An application for final PUD approval.
 - 2. An application fee, including escrow fees, as established by the township board.
 - 3. A site plan containing the following:
 - i. All information required by sections 58-484(b)(4)a. and b.
 - ii. Perimeter lot lines and interior lot lines, if applicable, dimensioned.
 - iii. Locations and dimensions of all easements.
 - iv. Size and location of sanitary sewer, water and storm sewer services.
 - v. Information required by section 58-484(c)10.i.—v.
 - vi. Site grading plan showing contours at a minimum of two-foot intervals.

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- vii. Location of all dedicated open space areas and calculation of acreage and percent of total site area comprised of dedicated open space.
 - viii. Signs, landscape plan, lighting and other elements to be developed in common areas, at entry points, and/or required by covenants for all development within the PUD (such as design guidelines, building materials, landscaping).
 - ix. Total number of residential units proposed by type of unit (single-family, two-family, multifamily, townhouse).
 - x. For residential PUDs or phases of PUDs containing residential development, lot lines shall be shown and dimensioned.
 - xi. A written statement or table identifying those requirements of the underlying zoning district from which the PUD will deviate including, but not limited to, setbacks, height, parking, lot area and width.
4. If applicable, per section 58-487(b), all information required by section 58-487(c) pertaining to groundwater protection shall be provided.
 5. A specific schedule of the intended development, including phases, and timing of improvements such open space, recreational facilities, common-use areas, utilities and screening requirements.
 6. A PUD agreement, as required by section 58-72(e)(4), specifying the ownership, maintenance and control of all common areas and features including open space, landscaping signs, lighting, roads, utilities, and similar elements of the PUD.
- f. The planning commission shall review the final PUD plan and any accompanying studies, reports, recommendations or other materials and shall make a recommendation to the township board to approve, deny, or approve with conditions the final PUD plan.
 - g. The planning commission shall make its recommendation based on the review standards of section 58-72(e).
 - h. Township board action. The township board shall consider the recommendation of the planning commission and the review standards of section 58-72(e) in making its decision. If the final PUD plan is approved with conditions, the applicant shall submit a written statement accepting the conditions and, if applicable, shall modify the final PUD plan, PUD agreement, and/or site plan to reflect such conditions before applying for any permits to commence construction.
- (7) *Site plan review.* Individual projects and uses to be developed within the PUD shall be subject to site plan review by the planning commission in accordance with the requirements of article VIII, site plan review, of this chapter. A site plan may be submitted concurrently with the final PUD plan and may be approved by the planning commission, conditioned upon approval of the final PUD plan by the township board.
- (8) *Conditions.* The township board may impose, and the planning commission may recommend, reasonable conditions upon the PUD special use permit and/or the preliminary or final PUD plan. Conditions may also be imposed by the planning commission upon the site plan approval for individual projects within the PUD. Conditions may include those necessary to:
- a. Ensure public services and facilities will be capable of accommodating increased loads;
 - b. Protect the natural environment and conserve natural resources and energy;
 - c. Ensure compatibility with adjacent uses of land;

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- d. Meet the intent and purpose of this chapter, be related to the standards established for the PUD under consideration, and be necessary to ensure compliance with those standards;
 - e. Relate to the valid exercise of the police power and the purposes which are affected by the proposed project; and
 - f. Otherwise ensure compliance with the final development plan and the provisions of this chapter.
- (e) *Review standards.* In considering the PUD request, the planning commission and township board must find that the proposed development meets all applicable standards and qualifying conditions of this section, as well as the following general standards.
- (1) The final PUD plan shall be in substantial conformance with the approved preliminary PUD plan and all conditions attached thereto.
 - (2) The PUD shall be consistent with the overall intent of planned unit development in Muskegon Charter Township, as stated in section 58-72(a), the qualifying conditions of section 58-72(b), and the general requirements of section 58-72(c).
 - (3) The PUD shall conform to the applicable special use standards of section 58-57.
 - (4) The PUD layout shall conform to the site plan review standards of section 58-486, unless specifically modified by provisions of this section, for example, the use of private roads.
 - (5) If applicable, the PUD development shall comply with the groundwater protection standards of section 58-487(d).
 - (6) Approval of the PUD will result in a recognizable and substantial benefit to the users of the project and to the community, which would not otherwise be feasible or achievable under the conventional zoning districts.
 - (7) The design and layout of the PUD shall not have the effect of impairing or destroying natural features and shall employ best management practices to ensure their conservation.
 - (8) The proposed uses and overall development of the PUD are consistent with the recommended uses and the goals and policies of the township master plan.
- (f) *Other requirements.*
- (1) *Performance guarantees.* The township board or planning commission, as applicable, may require reasonable performance guarantees, in accordance with section 58-491 of this chapter to ensure completion of specified improvements within the PUD.
 - (2) *Amendments to approved PUD.* Amendments to an approved final PUD plan shall be processed as either a major or minor plan amendment, as applicable, in accordance with section 58-492 of this chapter; provided, major amendments shall be subject to resubmittal of a revised final PUD plan to be processed in accordance with subsection (d)(6).
 - (3) *Time limits.* A site plan, as provided for in subsection (e)(7), shall be submitted within 12 months of the date of final PUD plan approval. Each development shall be under physical construction of a substantial nature within one year after the date of approval of the site plan, except as noted below:
 - a. The planning commission may grant a maximum of two extensions of up to an additional 12 months for each extension; provided the applicant requests an extension in writing prior to the expiration date of the PUD and, provided that:
 - 1. The applicant presents reasonable evidence that the PUD has encountered unforeseen difficulties beyond the applicant's control; and

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2. The conditions in the area surrounding the PUD and the requirements and standards of the zoning ordinance and master plan, which are reasonably related to the PUD, have not changed.
 - b. Should the above conditions not be fulfilled, or an extension has expired without construction underway, the PUD special use permit and final PUD plan and site plan approval shall be null and void.
- (4) *PUD agreement.*
- a. As a condition of final PUD plan approval by the township board and prior to issuance of any building permits or commencement of construction on any portion of the PUD site, the applicant shall enter into an agreement with the township, in recordable form, setting forth the applicant's obligations with respect to the PUD.
 - b. The agreement shall describe all improvements to be constructed as part of the PUD and responsibility for ownership and maintenance of those improvements, as well as all common areas and open space within the PUD. The agreement shall incorporate, by reference, the approved final PUD plan with all required revisions, other documents that comprise the approved PUD, and all conditions attached to the approval by the township.
 - c. A phasing plan shall also be submitted, describing the intended schedule for start and completion of each phase and the improvements to be undertaken in each phase.
 - d. The agreement shall also establish the remedies of the township in the event of default by the applicant in carrying out the PUD and shall be binding on all successors in interest to the applicant.
 - e. All documents shall be executed and recorded in the office of the Muskegon County Register of Deeds.
- (5) *Zoning board of appeals authority.* The zoning board of appeals shall have no jurisdiction or authority to accept or consider an appeal from any PUD determination or decision, or any part thereof, nor shall the zoning board of appeals have authority to grant variances for or with respect to a PUD or any part thereof.
- (g) *Open space development regulations.*
- (1) *Description and purpose.*
 - a. The purpose of an open space development (OSD) is to permit greater flexibility in development. The intent of the regulations is to foster the preservation of significant natural features and open spaces that would otherwise be developed but will be preserved as a result of the OSD.
 - b. The OSD provisions are not intended as a device for ignoring the requirements of this chapter nor are they intended simply as a means to increase density. Rather these provisions are intended to result in land development substantially consistent with the underlying zoning, but provide a degree of flexibility in design to allow for customization of design to meet the unique natural conditions of a particular site and innovation in design to create a higher quality development than could otherwise be possible with the underlying zoning.
 - (2) *Qualifying conditions.* Notwithstanding the general requirements of section 58-72(b), the following shall be required of any open space development proposal:
 - a. The tract of land for which an OSD application is received must be either in one ownership or the subject of an application filed jointly by the owners of all affected properties.

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- b. The property within an OSD must have a minimum area of 20 contiguous acres. The planning commission may consider a lesser development size if the OSD site exhibits unusually valuable natural features or other unique conditions or location which warrant consideration as an OSD. The planning commission shall document these conditions in their minutes.
 - c. An OSD may only be applied for in lands located within a Rural Residential or R-1 District.
 - d. The applicant must demonstrate that the property proposed for the OSD contains unique site conditions, significant natural features, large open spaces, or active agricultural land, which would otherwise be developed but will be preserved as a result of the OSD.
 - e. A minimum of 50 percent of the OSD must be in open space.
- (3) *Review procedures.*
- a. An OSD shall be processed as a planned unit development in accordance with the requirements of section 58-72, except as otherwise required by subsection 58-72(d).
 - b. The OSD application shall be required to receive approval of a preliminary and secondary plan review in accordance with the requirements of subsections 58-72(c)(2) and (3).
 - c. In addition to the applicable requirements of subsection 58-72(c)(2) an OSD application and preliminary plan shall include all the following information, unless the building official determines that some of the required information is not reasonably necessary:
 - 1. Current proof of ownership of the land to be utilized or evidence of a contractual ability to acquire such land, such as an option or purchase agreement, or a signed agreement from the property owner(s) indicating permission to file such application.
 - 2. Ten copies of the parallel plan used to determine base density, meeting the requirements of subsection 58-72(c)(2).
 - 3. Written documentation that the proposal meets the standards of section 58-57 and subsection 58-72(d)(6).
 - 4. If a phased development is proposed, identification of the areas included in each phase. The density, lot area and setbacks of proposed housing units within each phase and for the total OSD.
 - 5. Arrangement and area calculations for open space, including upland and wetland open space areas.
- (4) *Permitted uses.* Only the following uses, either singly or in combination, may be permitted within the OSD.
- a. Single-family detached dwellings.
 - b. Accessory buildings and uses customarily associated with single-family detached dwellings.
 - c. Agriculture.
 - d. Open space and recreational facilities for use by the residents of the OSD.
 - e. Public open space or open space and natural areas dedicated to a public or private non-profit organization or agency that shall ensure that the open space remains in place in perpetuity.
- (5) *Site development requirements.*
- a. The minimum lot and yard requirements for residential uses shall be determined by the following chart. Minimum floor area and height regulations for dwelling units shall conform to the underlying residential district requirements.

Services Provided	Lot Requirements			Yard Requirements (Ft.)		
	Area (Sq. Ft.)	Width (Ft.)	% Coverage	Front	Each Side	Rear
Individual septic system/well	RR-20,000 R-1-10,000	80	20	25	10	20
Either community or public sanitary sewer	8,000	70	30	25	10	20

- b. Land not proposed for development, but used for the calculation of overall density shall be considered open space and subject to the requirements of section 58-72(5).
- c. Development density.
 - 1. Parallel plan. The maximum base density and number of dwelling units permitted in the OSD shall be determined through the submission of a parallel plan showing the number of dwelling units that may be developed under the existing zoning classification. The planning commission may require additional detail or information as it may determine necessary to evaluate the feasibility of the parallel plan. The parallel plan shall meet the following minimum requirements:
 - i. The parallel plan shall contain enough detail to permit the township to evaluate the feasibility of development for each lot.
 - ii. All lots or buildings shown on the parallel plans shall be located on buildable lots, which, for the purposes of this section shall mean lots that are of sufficient size and shape to meet existing zoning requirements and accommodate a main building, septic and well systems (where no public sanitary sewer or water system is to be used), and required streets and driveways.
 - iii. Areas of wetlands, water bodies, and other unbuildable areas shall not be included within buildable areas, but may be included in the lot area calculations.
 - iv. In evaluating the feasibility of the parallel plan, the planning commission shall consider whether or not the plan would have been approved under the processes normally used to review site plans or subdivision plans, including such factors as access, lot orientation, street layout, and other considerations the commission deems appropriate.
 - 2. Bonus density.
 - i. In order to preserve the maximum amount of open space, the township board, may permit an OSD an increase in the number of dwelling units above the base density established in the parallel plan, up to a maximum of 60 percent of the base density. The OSD may be eligible for consideration of a cumulative density bonus in accordance with the following:

Facility/Open Space Provided	Density Bonus	
Open space percentage (open space proposed to be included for the purposes of bonus density shall meet the open space requirements of this section, including minimum dimensions)	55%	Up to 10%
	60%	Up to 20%
	65%	Up to 30%
Providing walking trails/pathways through the entire OSD	Up to 10%	

Providing active recreation areas (ball field, tennis court, tot lot, swimming pool, etc.) at a ratio of at least one facility per 25 dwelling units.	Up to 20%
Providing innovative design features, such as traditional neighborhood development, traffic calming measures, and other similar features.	Up to 30%

- ii. The township board may elect to award all or a portion of the available bonus density. In determining the amount of density bonus to be awarded, the township board shall find that the design of the OSD substantially meets the description and purpose of subsection 58-72(g)(1), and the design principles of subsection 58-72(g)(5)f.5. The board shall state its reasons for the amount of bonus awarded.
- d. Open space requirements. Any open space provided in the OSD shall meet the following considerations and requirements:
 - 1. Open space areas shall be large enough and of proper dimensions so as to constitute a useable area, with adequate access, through easements or other similar arrangements, such that all properties within the entire OSD may utilize the available open space.
 - 2. The OSD shall have a minimum of 50 percent open space. Open space within an OSP shall have a minimum dimension of at least 150 feet in both length and width in order to be considered and counted as open space.
 - 3. Evidence shall be given that satisfactory arrangements will be made for the maintenance of such designated land to relieve the township of the future maintenance thereof.
 - 4. Open space may be provided where significant natural features may be preserved and/or be used for passive or active recreation. Open space is encouraged to be located between neighborhood clusters of housing units.
 - 5. All land set aside as open space shall be deed restricted, protected by conservation easement, or other similar permanent restriction, to ensure that the open space remains in a natural and undisturbed condition in perpetuity. Land set aside for agriculture may, at the discretion of the property owner(s) be converted to open space, but shall not be used as land for the construction of additional dwellings, nor used for any other development.
 - 6. All open space shall be in the joint ownership of the property owners within the OSD. A property owner's association shall be formed which shall take responsibility for the maintenance of the open space.
- e. Development setback.
 - 1. Any building area, which for the purposes of this section shall mean any lot on which a main use is located, shall be located at least 200 feet from any public street right-of-way not constructed as part of the OSD.
 - 2. No nature or natural vegetation shall be removed from the 200-foot setback, nor any grading or changes in topography occur, except that necessary for entrance roads, required utilities, or drainage improvements.
 - 3. The township board may modify this requirement provided the applicant demonstrates that the clearing of existing vegetation would contribute significantly to the purpose and objectives of the OSD.
 - 4. The township board may reduce this setback to not less than 100 feet if existing landscaping or topography provides a natural screen that substantially blocks the view to

the proposed development. In such case the board may also require additional landscaping if necessary to further screen the development area. Such landscaping may consist of either existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.

5. OSD sites abutting more than one public street shall be permitted to reduce the setback on the shortest side of the abutting streets to 100 feet without a natural screen. No native or natural vegetation shall be removed from the 100-foot setback, nor any grading or changes in topography occur, except that as may be necessary for entrance roads or utilities.
 6. The planning commission may require a landscape plan for the development setback area showing additional landscaping to enhance the screening of the OSD from the adjacent street. This landscaping may consist of either existing vegetation, land forms, or landscaped areas using native or natural materials, or a combination thereof.
- f. Design principles. The overall intent of the OSD regulations is to foster more creative development design, using open space to the advantage of the development, maintaining the rural character of the township, ensuring access to open spaces, preserving natural features, and other design objectives intended to foster an improved living environment. To this end the following general guidelines will be considered by the planning commission in evaluating proposed open space developments.
1. Open space should be provided where significant natural features may be preserved, active agricultural land maintained, or be used for passive or active recreation.
 2. Open space should generally be used to group areas of residential neighborhoods as clusters of housing units. This is intended to avoid the suburban development type normally found in urbanized areas. Generally, neighborhood clusters should have not more than 10—15 units per cluster for small developments and 15—20 units for larger developments.
 3. The OSD should be designed with due regard for views from roadways as well as lots within the OSD.
 4. Open space within the development should generally be accessible from as many places within the development as possible, rather than limited to individual easements between development lots. To this end, providing open space segments along the internal roadways will be considered a high priority by the township. Such areas should be large enough to appear as open space, rather than a vacant lot for future development, and kept in their natural state. Such areas may, however, incorporate trails or other internal pedestrian circulation paths.
 5. The overall design of the OSD should emphasize the rural character of the township, provide views to open spaces from as many areas of the development as possible, and avoid long, straight street segments and rows of homes.
- (6) *Review standards.* The following review standards will be used by the planning commission and township board, in addition to the general standards of section 58-57, in their consideration of an OSD. Before such developments may be approved the planning commission and township board shall find:
- a. The OSD meets the description and intent, and qualifying conditions of subsections 58-72(d)(1) and (2).
 - b. The OSD does not substantially alter the character of the general neighborhood in which the development is proposed.

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- c. The location of the buildings of the OSD do not unduly impact other single family uses in the vicinity of the proposed development.
 - d. The OSD preserves, in perpetuity, unique site conditions, such as significant natural features; large, well placed and accessible open space areas; or active agricultural land.
 - e. The OSD can accommodate adequate and safe disposal of sewage and can provide an adequate, assured source of water for domestic use.
 - f. The planning commission and township board may require evidence from the applicant that groundwater sources will be protected and other environmental concerns met. Approval of the Muskegon County Health Department or other agencies may not be the sole determining factor in this regard. To this end, the commission and township board may specify additional evidence it deems necessary, including additional soil borings, soil reports, hydrological tests, and other such evidence which will be submitted by the applicant and reviewed by the township prior to approval of the OSD.

(Ord. No. 7, § 4.21, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 10-02, § 15, 3-15-10; Ord. No. 10-04, §§ 1, 2, 4-19-10)

Sec. 58-73. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-73, which pertained to industrial uses in industrial districts and derived from Ord. No. 7, § 4.22, 4-18-83.

Sec. 58-74. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-74, which pertained to indoor recreation facilities and derived from Ord. No. 7, § 4.23, 4-18-83 and Ord. No. 10-02, § 16, 3-15-10.

Sec. 58-75. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-75, which pertained to banks, professional offices and clinics and derived from Ord. No. 7, § 4.24, 4-18-83 and Ord. No. 10-02, § 16, 3-5-10.

Sec. 58-76. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-76, which pertained to retail stores and derived from Ord. No. 7, § 4.25, 4-18-83 and Ord. No. 7, 5-6-91.

Sec. 58-77. Reserved.

Editor's note(s)—Ord. No. 12-03, § 2, adopted Feb. 20, 2012 , repealed § 58-77, which pertained to research, development, testing laboratories and offices without manufacturing and derived from Ord. No. 7, § 4.26, 4-18-83 and Ord. No. 10-02, § 17, 3-15-10.

Sec. 58-78. Sand or soil removal.

- (a) The use of land for the removal of top soil, sand, gravel or other material shall be permitted by special permit issued by the township board after a written opinion of a qualified engineer that such removal of top soil will not be below the normal grade as established from the nearest existing or proposed street and that the removal will not cause stagnant water to collect or leave the surface of the land in an unstable condition

unfit for growing turf or stabilization. Before the issuance of such permit the township authority will present or execute such agreements as are necessary to insure performance of all conditions attached to issuance of permit.

- (b) No top soil, sand, gravel or other material shall be removed from any area in any district for the purpose of resale less than 200 feet from any public highway, nor less than 50 feet from any side and rear lot lines of any lot, premises, or parcel of land, unless removal has first been approved by the board of appeals.

(Ord. No. 10-02, § 18, 3-15-10)

Sec. 58-79. Private roads and private driveways.

- (a) *Purpose.* These regulations have been adopted to assure that:

- (1) Private roads and private driveways are designed, constructed and maintained to assure the safe passage and maneuverability of private passenger service vehicles and emergency services vehicles in all seasons of the year.
- (2) Private roads and private driveways are constructed of suitable materials to ensure safe passage.
- (3) Private roads and private driveways will be constructed so as to protect against or to minimize soil erosion and to prevent damage to the lakes, streams, wetlands, and natural environment of the township.

- (b) *Effect.*

- (1) This section shall apply to all private roads and private driveways constructed from and after the effective date of this section.
- (2) When an existing driveway or access easement is extended, expanded or improved, said roadway shall comply with these regulations.

- (c) *Definitions.* The following definitions shall apply to the interpretation of these regulations:

Access easement means an improved or unimproved path or trail located within a privately owned easement that serves as the primary means of vehicular ingress and egress from a public road right-of-way.

Driveway means an improved or unimproved path or trail that serves as or is intended to provide the primary means of ingress and egress from a public road right-of-way.

Drain commission means the Muskegon County Drain Commission.

Existing private road means a private road which is used to provide access to existing lots and has been constructed prior to adoption of this ordinance.

Private Driveway means any privately owned, improved and maintained roadway, path or trail created by an access easement, which provides means of ingress and egress from a public right-of-way to more than one but less than five lots.

Private road means any privately owned, improved and maintained roadway, path or trail created by an access easement, which provides primary means of ingress and egress from a public right-of-way to more than four lots and has not been accepted as a public road by the Muskegon County Road Commission.

PUD means planned unit development.

Road Commission means the Muskegon County Road Commission.

- (d) *General regulations.*

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- (1) Unless otherwise permitted within a PUD, private roads and private driveways may only be permitted as a special use to serve as access in all zoning districts
 - (2) Frontage requirements. All parcels served by a private road or private driveway shall maintain frontage along the road right-of-way as may be required to provide the minimum lot width required for the zoning district in which the parcel is located.
 - (3) Extensions, additions and improvements. "All extensions" to a private road constructed under the provisions of this section shall be considered part of the primary private road which abuts the public road and shall be constructed in a manner that complies with these regulations.
 - (4) All private roads and private driveways shall meet the minimum standards contained within the International Fire Code and applicable appendices, the most recently adopted by the township board.
 - (5) If developments of more than 29 single family residential lots have access by a single private road, then the private road must have not less than two separate accesses from a public right of way. The accesses shall be at least 300 feet from each other, measured from the nearest right of way.
- (e) *Permits required; special use granted.* No private road or private driveways shall be constructed, extended or relocated, and no driveway or access easement shall be extended or relocated unless a construction permit ("permit") has been applied for and obtained from the Road Commission, a special use has been granted, and the regulations of this ordinance are complied with. An application for a private road or private driveway construction permit shall consist of the following materials and documents, and once completed and approved by the Township Board, shall become the private road or private driveway permit:
- (1) A completed application as described in section 58-52.
 - (2) A survey of the proposed private road or private driveway right-of-way prepared by a Michigan Registered Land Surveyor.
 - (3) A set of six scaled drawings at least 24 inches by 36 inches, prepared by a Michigan Registered Engineer that shows the following:
 - a. The exterior boundaries of the lot or parcel on which the private road or private driveway will be constructed;
 - b. The proposed layout, grade, elevation, dimensions, and design of the private road or private driveway right-of-way and roadway, including the location of proposed ingress and egress from the adjoining public street(s), existing or proposed curb cuts;
 - c. The location of all hydrants and public utilities, including water, sewer, telephone, gas, electricity and television cable to be located in or within 20 feet of the private road or private driveway right-of-way;
 - d. The location of any lakes, streams, wetlands and drains in or within 100 feet of the proposed right-of-way or private sewer/septic systems;
 - e. The proposed layout and location of lots to be served by the proposed private road or private driveway.
 - (4) A proposed maintenance agreement as described in subsection (j).
 - (5) When computing any required setbacks under the provisions of this Chapter, any land which is devoted to a private road or private driveway shall not be considered in the computation of whether the structure is setback the required number of feet. Setbacks shall be computed from the nearest edge of the private road or private driveway right-of-way, not from the center of the road or driveway.
- (f) *Review and approval procedure.*

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- (1) Applications for private road and private driveway construction permits shall be subject to the procedures applicable to special uses outlined in article II, section 58-52, except if approved as part of a PUD. In addition, applications shall also be subject to site plan review and approval as outlined in Article VIII of chapter 58.
 - (2) Application fee shall be paid with submittal of application.
- (g) *Maintenance and repairs.*
- (1) All private roads and private driveways shall be continuously maintained in such a way that they will not constitute a danger to the health, safety and welfare of the inhabitants of the township. All private roads and private driveways shall be continuously maintained in such a way that they are readily accessible to and usable by emergency vehicles in all types of weather.
 - (2) All costs for the maintenance and repair of the private roads and private driveways shall be the responsibility of the property owners served by the private roads or private driveway.
- (h) *Design and construction standards.* Private roads and private driveways shall be designed and constructed in accordance with the requirements of the Muskegon County Road Commission as provided in section 58-72(c)(5) and the International Fire Code and applicable appendices, the most recently adopted by the township board.
- (1) Any private road or private driveway which terminates at a dead-end shall meet the minimum standards contained within the International Fire Code and applicable appendices, the most recently adopted by the township board.
 - (2) The design and layout of a private road or private driveway system and intersections with public roads shall provide adequate clear vision, safe turning and safe travel at the posted speed limit as determined by the township.
 - (3) The minimum distance between intersections measured from the centerlines of a private road system shall be 200 feet unless otherwise authorized by the township board.
 - (4) The minimum distance between the point where a private road right-of-way intersects a public road right-of-way and any public road right-of-way intersection measured from the centerlines shall at least be 200 feet unless otherwise authorized by the township board.
 - (5) Private roads and private driveways shall be constructed with a stormwater run-off management system as deemed necessary by the township to maintain predevelopment rates of runoff from parcels served by the proposed private road or private driveway.
 - (6) The crossing of any watercourse or wetlands shall be accomplished in a manner that satisfies the requirements of the township and any county or state agency having jurisdiction.
 - (7) Private roads and private driveways shall be given a name approved by Muskegon Central Dispatch, and street signs shall be installed in accordance with the standards of the road commission. The addresses of lots serviced by the private road or private driveway shall be permanently displayed in a conspicuous place in front of each lot along the private road or private driveway right-of-way.
 - (8) Any debris resulting from the construction of a private road or private driveway shall be removed for disposal by the owner within 30 days after completion of paving.
- (i) *Indemnity.* As a condition of applying for and obtaining a private road or private driveway construction permit, all applicants and owners of a private road or private driveway shall agree to indemnify and hold the township, and anyone else authorized by the township to assist in the private road review process, harmless from any claims for personal injury or property damage arising out of the proper or improper construction, use, maintenance, inspection, review or repair of a private road or private driveway.

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- (j) *Maintenance agreement.* The applicant(s) and owners shall provide the township with a recordable private road or private driveway maintenance agreement between the owner(s) of the private road or private driveway right-of-way and any other parties having any interest in it. The maintenance agreement shall be in a form satisfactory to the township and shall provide that the private road or private driveway shall be privately maintained and repaired to assure safe travel for all emergency vehicles at all times and during all seasons of the year. This maintenance agreement shall be recorded on each deed and shall be a recordable covenant running with the land, binding on all lots served by the private road or private driveway.
 - (k) *Certificate of compliance.* Upon completion of construction of the private road or private driveway, the permit holder shall provide the building inspector with a set of "as built" drawings bearing a certificate and statement from a Michigan Registered Engineer certifying that the private road or private driveway has been completed in accordance with the requirements of the permit as issued. Authorized township designee shall inspect the private road or private driveway to determine whether it complies with the approved plans and permit as issued. A certificate of compliance shall be issued by authorized township personnel if it is determined that the private road or private driveway has been constructed in compliance with approved plans and the permit as issued.

If the completed private road or private driveway does not satisfy the requirements of the permit or this section, the applicant(s) shall be notified of the noncompliance in writing and shall be given a period of time declared by the township board, within which to correct the deficiencies. Failure to correct the deficiencies within the time provided shall subject the applicant(s) to the penalties provided for in this section.

Authorized township personnel shall have the right to jointly enter upon the property where the private road or private driveway is or will be located to conduct such inspections as may be necessary to administer these regulations and guarantee continued compliance.

- (l) *Fees.* Application fees for permits required by these regulations shall be set by the township board from time to time by resolution.
- (m) *Building permits for parcels on private roads or private driveways.* No building permit shall be issued for any principal building, dwelling or structure provided access and having frontage on a private road or private driveway unless a private road or private driveway construction permit has been issued by the township, unless a certificate of compliance has been issued, or the private road or private driveway construction permit holder has provided the township with a performance guarantee or bond in an amount determined by the township to be sufficient to insure construction of the private road or private driveway in compliance with the approved plans and permit as issued.
- (n) *Approval by the Muskegon County Road Commission.* No permit shall be issued for a private road or private driveway until the applicant(s) has presented the township with either an approved driveway or curb-cut permit issued by the Muskegon County Road Commission, or a letter from the Muskegon County Road Commission indicating that no such permit is required.
- (o) *Performance guarantee.*
 - (1) The township may require the applicant(s) to post a performance guarantee or bond in the form of a cash bond, bank letter of credit or other surety in order to insure compliance with the requirements of these regulations.
 - (2) If required, the amount of the performance guarantee or bond shall be equal to the total estimated cost of construction of the private road or private driveway as approved by the township.
 - (3) The performance guarantee, or unspent portions thereof, will be returned to the applicant(s) by the township upon completion of the private road to the standards required by this section.
- (p) *Conflict with other ordinances.* To the extent that any other ordinance regulates the subject matter regulated by this section, the ordinances shall be construed together, if possible, and the remedies of the ordinances

shall be cumulative. Where the provisions of any other ordinance conflict with the provisions of this section, this section shall prevail and its terms shall control. If any part of this section conflicts with any other part, it shall be administratively appealed to the township zoning board of appeals for a final determination of intent. The remainder of the section shall remain in full force and effect.

(q) *Repeal.*

- (1) These regulations replace in their entirety other regulations applicable to the construction of private roads and private driveways in Muskegon Township.
- (2) If the owner does not comply, or does not complete, the township may, at its discretion, enter upon the site for clean-up and levy the cost against the property.

(Ord. No. 16-08 , § 2, 9-19-16)

Editor's note(s)—Ord. No. 16-08 , § 2, adopted Sep. 19, 2016, amended § 58-79 in its entirety to read as herein set out. Former § 58-79 pertained to private roads and derived from Ord. No. 98-10, adopted May 18, 1998; Ord. No. 10-02, § 19, adopted March 15, 2010; and Ord. No. 10-04, § 5, adopted April 19, 2010.

Sec. 58-80. Site condominium regulations.

- (a) *Purpose and scope.* Site condominium projects are condominium developments in which each condominium unit consists of an area of vacant land and a volume of surface or sub-surface vacant air space within which a building or other improvements may be constructed by the condominium unit own. Each site condominium unit may also have an appurtenant-limited common element reserved for the exclusive use of the owner of the condominium unit. Either the condominium unit by itself, or together with any contiguous, appurtenant-limited common element, shall be considered to constitute a building site which is the functional equivalent of "lot" for purposes of determining compliance with the requirements of the zoning ordinance and other applicable laws, ordinances, and resolutions. Site condominium projects may also include general common elements consisting of common open space, recreational areas, streets, and other areas available for use by all owners of condominium units within the project.

This article requires preliminary review by the zoning administrator and planning commission followed by final review and approval by the zoning administrator and township board of site condominium project plans to ensure that site condominium projects comply with all applicable laws, ordinances, and regulations, including, without limitation, this zoning ordinance, and the Condominium Act, Public Act 59 of 1978, as amended. Site condominium projects may be approved as provided by this article in any zoning district for the uses permitted by the zoning ordinance in the zoning district in which the project is located.

(b) *Definitions.*

- (1) For purposes of determining compliance with the applicable requirements of the zoning ordinance (including, without limitation, height, area, yard, and density requirements) or with other applicable laws, ordinances, or regulations, a "building site" shall be considered to be the equivalent of a "lot".
- (2) Except as otherwise provided by this article, the following words and phrases, as well as any other words or phrases used in this section which are specifically defined in the Condominium Act, shall conform to the meanings given to them in the Condominium Act:

"Common elements," "condominium documents," "condominium unit," "contractible condominium," "convertible area," "expandable condominium," "general common elements," and "master deed".
- (3) Other terms specific to site condominium projects are defined herein;

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- a. *Building envelope.* The area of a condominium unit within which the principal building or structure may be constructed, together with any accessory structures, as described in the master deed for the site condominium project. In a single-family residential site condominium project, the building envelope refers to the area of each condominium unit within the dwelling and any accessory structures may be built.
 - b. *Building site.* A building site as related to a site condominium may be considered as either:
 - 1. The area within that site condominium unit itself (i.e. exclusive of an appurtenant-limited common element), including the area under the building envelope and the area around and contiguous to the building envelope; or,
 - 2. The area within the condominium unit (as described above), taken together with any contiguous and appurtenant-limited common element.
 - c. *Condominium Act.* Public Act 59 of 1978, of the state, as amended.
 - d. *Front yard setback.* The distance between the front line of the building site, and the building envelope.
 - e. *Limited common element.* An area which is appurtenant to a site condominium unit and which is reserved in the master deed for the site condominium project for the exclusive use of the owner of the site unit.
 - f. *Rear yard setback.* The distance between the rear line of the building site, and the building envelope.
 - g. *Side yard setback.* The distance between the side line of the building site, and the building envelope.
 - h. *Site condominium project.* A plan or project consisting of not less than two site condominium units established in compliance with the Condominium Act.
 - i. *Site condominium project plan.* The plans, drawings, and information prepared for a site condominium project as required by section 66, of the Condominium Act and as required by this section for review of the project by the zoning administrator, planning commission, and the township board.
 - j. *Site condominium unit.* A condominium unit established in compliance with the Condominium Act which consists of an area of vacant land and a volume of surface or subsurface vacant air space, designed and intended for separate ownership and use as described in the site condominium project master deed, and within which a building or other improvements may be constructed by the condominium unit owner.
- (c) *Review of preliminary plans by the planning commission.*
- (1) Preliminary review—Prior to final review and approval of a site condominium project plan by the township board, a preliminary site condominium project plan shall be reviewed by the zoning administrator and the planning commission in accordance with the procedures, standards, and requirements provided by this section.
 - (2) Application for review and approval of a site condominium project plan shall be initiated by submission to the township clerk of a minimum of ten copies of a preliminary site condominium project plan which complies with the requirements of subsection (f), of this section, and an application fee in accordance with the schedule established by resolution of the township board.
 - (3) Review by zoning administrator—The township clerk shall forward the copies of the preliminary plan to the zoning administrator who shall review the preliminary plan to determine its completeness, and to

provide any comments to the planning commission regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A corrected application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the zoning administrator shall forward it to the planning commission on completion of his review together with any comments.

- (4) Planning commission review—The planning commission shall review the preliminary site condominium project plan in accordance with the standards and requirements of this article for site plan review, and in accordance with the following additional standards and requirements:
- a. In its review of a site condominium project plan, the planning commission may consult with the zoning administrator, township planner, township attorney, township engineer, or other appropriate persons regarding the adequacy of the proposed common elements and maintenance provisions, use and occupancy restrictions, utility systems and streets, project layout and design, or other aspects of the proposed project, and compliance of the proposed project with all requirements of the Condominium Act or other applicable laws, ordinances, or regulations.
 - b. The building site for each site condominium unit shall comply with all applicable provisions of this article, including minimum lot area, minimum lot width, required front, side, and rear yards, and maximum building height. For example, the area and width of the building site shall be used to determine compliance with the minimum lot area and lot width requirements. Compliance with required front, side, and rear yards shall be determined by measuring the distance from the equivalent, front, side, or rear yard boundaries of the building site to the closest respective front, side, or rear boundary of the building envelope. With regard to building height, the condominium documents shall expressly provide that no building shall exceed the maximum building height permitted by the applicable zoning district regulation.
 - c. Streets shall be paved and developed to the minimum design, construction, inspection, approval, and maintenance requirements for platted public streets as required by the Muskegon County Road Commission.
 - d. The site condominium project shall be connected to the township's water and sanitary sewer facilities, if available. The township's water and sanitary sewer facilities shall be determined to be available if there is municipal water supply main or sanitary sewer line to which connection can be made within 1,320 feet of the site condominium's nearest common element and the connection can be engineered. If public water and sanitary sewer facilities are not available, the site condominium project shall either be served by a private central system designed for connection to a public system when, and if a public system is made available, or shall have a well, septic tank and drain field located within the condominium unit's building site. Water and sanitary sewer facilities shall be approved by the township county department of health, and the township in accordance with applicable standards.
 - e. The proprietor shall install street lighting fixtures in accordance with the specifications of the electrical utility which supplies electricity to the site condominium project. For any development, not including public roadways, a light district shall be established under the provisions of Public Act 264 of 1917, as amended. The developer shall petition for the establishment of a street lighting special assessment district under the provisions of said Public Act 264 of 1917, as amended. Any cash deposit or bond made under this subsection shall be returned to the developer on application to the township clerk after the light fixtures been installed. The developer shall either:
 1. Install the light fixtures prior to the issuance of any building permits for structures on any site in the site condominium project; or

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2. At the time of application for final approval of the site condominium, deposit with the township clerk an amount of money or a bond in a form which is acceptable to the township board, equal to the cost of installing the light fixtures and a copy of the petition demonstrating that application for a special assessment district has been made.
- (d) *Planning commission recommendations.* After reviewing the preliminary site condominium project plan, the planning commission shall prepare a written statement of recommendations regarding the proposed site condominium project, including any suggested or required changes in the plan. The planning commission shall provide a copy of its written recommendations to the applicant and to the township board.
- (e) *Review and approval of final plans by township board.*
- (1) After receiving the planning commission's recommendations on the preliminary plan, the applicant shall submit to the township clerk a minimum of ten copies of a final site condominium development plan which complies with the requirements of this subsection, and of subsection (f) of this section. The township clerk shall forward the copies of the final plan to the zoning administrator who shall review the final plan to determine its completeness, and to provide any comments to the township board regarding the plan. If the plan is not complete, it shall be returned to the applicant with a written explanation of any deficiencies. A correct application may be submitted without payment of a new application fee within six months of the return of any plan to an applicant. If the plan is complete, the zoning administrator shall forward it to the township board on completion of his review together with any comments.
 - (2) The final site condominium project plan submitted by the applicant shall incorporate all of the recommendations, if any, made by the planning commission based on its prior review of the preliminary plan. If any of the planning commission's recommendations are not incorporated in the final plan, the applicant shall clearly specify in writing which recommendations have not been incorporated, and the reasons why they have not been incorporated. Except for changes made to the plan as necessary to incorporate the recommendations of the planning commission, the final plan shall otherwise be identical to the preliminary plan which was reviewed by the planning commission. Changes made to the plan other than those necessary to incorporate the recommendations of the planning commission shall be reviewed by the planning commission as provided by the section prior to approval of the plan by the township board.
 - (3) After receiving the planning commission's recommendations on the preliminary plan, and a final site condominium development plan from the applicant, the township board shall proceed to review and may approve, deny, or approve with conditions, the plan in accordance with the standards provided by subsection (c), and other applicable procedures, standards, and requirements provide by this section.
 - (4) As a condition of approval of a final site condominium project plan:
 - a. The township board shall require that the plan be submitted to the Muskegon County Health Department, Muskegon County Road Commission, Muskegon County Drain Commission, Michigan Department of Natural Resources, Michigan Department of Environmental Quality, Michigan Department of Public Health, and other appropriate state and county review and enforcement agencies ("the agencies") having direct authority over any aspect of the proposed site condominium project. Unless a different time limit for completion of review by the agencies has been established by law or regulation, the review by the agencies must be completed within 120 days after submission of an administratively complete project plan. If no response is received within the applicable time period for review, the approval of the agency or agencies shall be presumed.
 - b. The township board may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the board covering the estimated cost of improvements

associated with the site condominium project for which approval is sought be deposited with the township as provided by the Township Rural Zoning Act.

- c. The township may impose additional reasonable conditions of approval as provided by the site plan review, and any other provisions of this article, any other township article, state law or regulations, or any other applicable law or regulations.
- (f) *Contents of site condominium project plans.* A condominium project plan shall include the documents and information required by section 66 of the Condominium Act and by this section of this article as determined necessary by the planning commission for review of a preliminary plan or by the township board for review of a final plan, and shall also include the following:
 - (1) The use and occupancy restrictions and maintenance provisions for all general and limited common elements that will be included in the master deed.
 - (2) A storm drainage and a storm water management plan, including all lines, swales, drains, basins, and other facilities and easements granted to the appropriate municipality for installation, repair, and maintenance of all drainage facilities.
 - (3) A utility plan showing all water and sewer lines and easements granted to the appropriate municipality for installation, repair, and maintenance of all utilities.
 - (4) A narrative describing the overall objectives of the proposed site condominium project.
 - (5) A narrative describing the proposed method of providing potable water supply, waste disposal facilities, and public and private utilities.
 - (6) A street construction, paving, and maintenance plan for all private streets within the proposed condominium project.
- (g) *Construction compliance with approved final site condominium project plan.* No buildings or structures shall be constructed nor shall any other site improvements or changes be made on the property in connection with a proposed site condominium project except in compliance with a final site condominium project plan as approved by the township board, including any conditions of approval.
- (h) *Commencement of construction; issuance of permits.* No construction, grading, tree removal, soil stripping, or other site improvements or changes shall be commenced by any person and no building, construction, or grading permits shall be issued by the building inspector for a site condominium project until:
 - (1) A final site condominium project plan has been approved by the township board;
 - (2) All conditions to commencement of construction imposed by the township board have been met; and
 - (3) All applicable approvals or permits from appropriate county and state review and enforcement agencies have been obtained for the project.
- (i) *Expandable or convertible condominium projects.* Approval of a final site condominium project plan shall not constitute approval of expandable or convertible portions of a site condominium project unless the expandable or convertible areas are specifically reviewed and approved by the township board in compliance with the procedures, standards, and requirements of this section.
- (j) *Revisions of approved final site condominium project plan.* Any proposed changes to an approved final site condominium project plan shall be reviewed by the planning commission and reviewed and approved by the township board as provided by this section for the original review and approval of preliminary and final plans.
- (k) *Incorporation of approved provisions in master deed.* All provisions of a final site condominium project plan which are approved by the township board as provided by this section shall be incorporated, as approved, in the master deed for the site condominium project. A copy of the master deed as filed with the Muskegon

County Register of Deeds for recording shall be provided to the township within ten days after filing the plan with the county.

- (l) *Approval effective for one year.* Approval of a final site condominium project plan by the township board shall be effective for a period of one year. This one year period may be extended by the board in its discretion for additional periods of time as determined appropriate by the board if the extension is applied for by the applicant within the effective period of the approval.
- (m) *Exemption of existing projects.* This section shall not apply to a site condominium project which is determined by the township board to have met the following conditions as of the effective date of this section (an "existing project"):
 - (1) A condominium master deed was recorded for the project with the Muskegon County Register of Deeds in accordance with the requirements of the Condominium Act and other applicable laws and ordinances; and,
 - (2) The project fully complies with all other applicable requirements under township ordinances in effect on the date when the condominium master deed was recorded.

The exemption provided by this section shall apply only to an existing project precisely as described in the condominium master deed recorded for the project on the effective date of this section, and not to any subsequent expansion, conversion, or replatting of the project or subsequent modification or amendment to the master deed which shall be fully subject to the review and approval requirements as provided by this section.

(Ord. of 6-6-00)

Secs. 58-81—58-100. Reserved.

ARTICLE III. ZONING DISTRICTS

DIVISION 1. GENERALLY

Sec. 58-101. Designation.

The township is hereby divided into the following zoning districts:

- (1) F flood hazard district.
- (2) RR rural residential.
- (3) R-1 single-family residential district.
- (4) R-1S single-family residential district (sewered).
- (5) R-2 duplex residential district.
- (6) R-2S duplex residential district (sewered).
- (7) R-3 fourplex residential and townhouse residential district.
- (8) R-4 high-rise residential district.
- (9) RMH mobile home park district.
- (10) M commercial/industrial district.

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- (11) I light industrial district.
 - (12) IP industrial park district.
 - (13) C-1 neighborhood commercial district.
 - (14) C-2 shopping center district.
 - (15) M/S municipal/school district.
 - (16) P park or conservancy district.

(Ord. No. 7, § 5.0, 4-18-83)

Sec. 58-102. Zoning map.

The location and boundaries of the zoning districts are hereby established as shown on a map, entitled "Zoning Map of Muskegon Township dated December 6, 1982," as amended from time to time, which map and all amendments thereto hereafter adopted are hereby made a part of this chapter. The zoning map shall be kept on public display at the township hall.

(Ord. No. 7, § 5.1, 4-18-83)

Sec. 58-103. Map interpretation.

Where uncertainty exists as to the boundaries of zoning districts, as shown on the zoning map, the following rules of construction and interpretation shall apply:

- (1) Boundaries indicated as approximately following the centerlines of streets or alleys shall be construed to follow such centerlines.
- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following township boundaries shall be construed as following township boundaries.
- (4) Boundaries indicated as following the shorelines of lakes, rivers, creeks or lake, river or creek beds shall be construed as following such shore line, and in the event of natural change in the location of a shoreline shall be construed as moving with such shoreline.
- (5) Lines parallel to streets without indication of depth from the street line shall be construed as having a depth of 200 feet from the center of the street right-of-way.
- (6) Boundaries indicated as approximately following property lines, section lines or other lines of the government survey shall be construed as following such property lines as of the effective date of this ordinance or applicable amendment thereto.
- (7) Where the street or property layout, existing on the ground, is at variance with that shown on the zoning map, or in other circumstances not covered by subsections (1) through (6) above, the board of appeals shall interpret the district boundaries.

(Ord. No. 7, § 5.2, 4-18-83)

Sec. 58-104. Areas not included within zoning district.

In every case where land has not been specifically included within a zoning district, such land shall be included in the RR zone. In the case of land annexed to the township, such land shall be included in the zoning district which most closely approximates the zoning applicable to such land prior to this annexation; provided, however, that if no zoning was in force with respect to such land prior to its annexation, such land shall be included in the RR zone.

(Ord. No. 7, § 5.3, 4-18-83)

Secs. 58-105—58-115. Reserved.

DIVISION 2. FLOOD HAZARD DISTRICT

Sec. 58-116. Findings of fact.

The flood hazard 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.

(Ord. No. 7, § 6.1, 4-18-83)

Sec. 58-117. Statement of purpose.

It is the purpose of this article to promote the public health, safety, and general welfare and to minimize those losses described in section 58-116 by provisions designed to:

- (1) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause excessive increases in flood heights or velocities.
- (2) Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction.
- (3) Minimize expenditures in flood-control projects and emergency relief.
- (4) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
- (5) Maintain full status in the National Flood Insurance Program.
- (6) Implement land-use and water-quality plans.

(Ord. No. 7, § 6.2, 4-18-83)

Sec. 58-118. Compliance.

No structure or land shall hereafter be used, and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this division and other applicable regulations which apply to uses within the jurisdiction of this division.

(Ord. No. 7, § 6.3(a), 4-18-83)

Sec. 58-119. Abrogation and greater restrictions.

It is not intended by this division to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this division imposes greater restrictions, however, the provisions of this division shall prevail. All other ordinances inconsistent with this division are hereby repealed to the extent of the inconsistency only. Principles, standards, and procedures of Act No. 231 of the Public Acts of Michigan of 1970 (MCL 281.761 et seq., MSA 11.501 et seq.), Act No. 346 of the Public Acts of Michigan of 1972 (MCL 281.951 et seq., MSA 11.475 et seq.), Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended are reflected in, and may be extended by, this division.

(Ord. No. 7, § 6.3(b), 4-18-83)

Sec. 58-120. Interpretation.

In their interpretation and application, the provisions of this division shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. No. 7, § 6.3(c), 4-18-83)

Sec. 58-121. Warning and disclaimer of liability.

The degree of flood protection required by this division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This division does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This division shall not create liability on the part of Muskegon Township or any official or employee thereof for any flood damages that result from reliance on this division or any administrative decision lawfully made thereunder.

(Ord. No. 7, § 6.3(d), 4-18-83)

Sec. 58-122. Permitted uses.

The following uses which have a low flood damage potential, and do not obstruct flood flows, shall be permitted within the flood hazard district to the extent that they are not prohibited by any other ordinance, and provided they do not require structures, fill, or storage of materials or equipment. However, no use shall adversely affect the capacity of the channels or floodways of any tributary to the main stream, drainage ditch, or any other drainage facility.

- (1) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial uses such as loading areas, parking areas, airport landing strips.
- (3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback-riding trails.
- (4) Residential uses such as lawns, gardens, parking areas and play areas.

(Ord. No. 7, § 6.4, 4-18-83)

Sec. 58-123. Special uses.

The following uses which involve structures (temporary or permanent), fill or storage of materials or equipment may be permitted only upon application to the building official and the issuance of a special use permit by the township board, as provided in article II of this chapter. These uses are also subject to the provisions of section 58-125 which apply to all flood hazard special uses.

- (1) Uses or structures accessory to open space of special uses.
- (2) Circuses, carnivals and similar transient amusement enterprises.
- (3) Drive-in theaters, new and used-car lots, roadside stands, signs and billboards.
- (4) Extraction of sand, gravel and other materials, provided that standards set pursuant to Act No. 346 of the Public Acts of Michigan of 1972 (MCL 281.951 et seq.), as amended are met, and that the land is restored to an acceptable condition after the period of exploitation.
- (5) Marinas, boat rentals, docks, piers, wharves, provided that performance standards set by Act No. 346 of the Public Acts of Michigan of 1972 (MCL 281.951 et seq.), as amended are met.
- (6) Railroads, streets, bridges, utility transmission lines and pipelines.
- (7) Storage yards for equipment, machinery or materials.
- (8) Kennels and stables.
- (9) Other uses similar in nature to uses described in section 58-52 or 58-53 which are consistent with the provisions set out in sections 58-5 and 58-101 of this chapter.

(Ord. No. 7, § 6.5, 4-18-83; Ord. No. 10-02, § 20, 3-15-10)

Sec. 58-124. Standards for flood hazard special uses.

- (a) *All uses.* No structures, temporary or permanent, fill (including fill for roads and levees), deposit, obstruction, storage of materials or equipment, or other use may be allowed as a special use which, acting alone or in combination with existing or future uses, unduly affect the capacity of the floodway or unduly increases flood heights. Consideration of the effects of a proposed use shall be based on a reasonable assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. In addition, all flood hazard special-permit uses shall be subject to the standards contained in this chapter.
- (b) *Fill.*
 - (1) Any fill proposed to be deposited in the flood hazard district must be shown to have some beneficial purpose, and the amount thereof not greater than is necessary to achieve that purpose, as demonstrated by a plan submitted by the owner showing the uses to which the fill land will be put and the final dimensions of the proposed fill or other materials.
 - (2) Such fill or other materials shall be protected against erosion by rip-rap, vegetation cover or bulkheading.
- (c) *Structures, temporary or permanent.*
 - (1) Structures shall have a low flood-damage potential.

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- (2) The structure or structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.
 - a. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - b. So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - c. Structures shall be raised on a stilt-supported platform such that materials placed in the floodway shall constitute no more than ten percent of the total coverage of the structure.
 - (3) Structures shall be firmly anchored to prevent flotation which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.
 - (4) Service facilities such as electrical and heating equipment shall be constructed at or above the regulatory flood-protection elevation for the particular area floodproofed.
- (d) *Storage of material and equipment.*
- (1) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive or could be injurious to human, animal or plantlife, is prohibited.
 - (2) Storage of other material or equipment may be allowed, if not subject to major damage by floods, and firmly anchored to prevent flotation or readily removable from the area within the time available after flood warning.
- (e) *Slope.* No structure may be constructed on a slope of more than five degrees or eight percent.
- (Ord. No. 7, § 6.6, 4-18-83)

Sec. 58-125. Nonconforming uses.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this division, but which is not in conformity with the provisions of this division, may be continued subject to the following conditions:

- (1) No such use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity or flood damage potential.
- (2) No structural alterations, addition or repair to any nonconforming structure over the life of the structure shall exceed its state-equalized value at the time of its becoming a nonconforming use, unless the structure is permanently changed to a conforming use.
- (3) If such use is discontinued for 19 consecutive months, any future use of the building premises shall conform to this division. The assessor shall notify the planning commission, in writing, of instances of nonconforming uses which have been so discontinued.
- (4) If any nonconforming use or structure is destroyed by any means, including floods, to a value equal to, or in excess of, its state-equalized value, it shall not be reconstructed, except in conformity with the provisions of this division.
- (5) Adjuncts thereof, which are or become nuisances, shall not be entitled to continue as nonconforming uses.
- (6) Except as provided in subsection (5), any use which has been permitted as a special exception use shall be considered a conforming use.

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- (7) The planning commission shall maintain a list of nonconforming uses showing their nature, extent, date and assessed value at the time of nonconformity. This list shall be updated annually.
 - (8) The planning commission shall prepare a list of those nonconforming uses which have been floodproofed or otherwise adequately protected in conformity with this chapter. It shall issue a certificate to the owner stating that such uses, as a result of these corrective measures, are in conformity with the provisions of this division.

(Ord. No. 7, § 6.7, 4-18-83)

Sec. 58-126. Definitions.

Unless specifically defined below, words or phrases used in this division shall have meaning as commonly applied, giving this division its most reasonable application:

Channel or watercourse means an elongated depression, either natural or manmade, having a bed and well-defined banks, varying in depth, width and length, which gives direction to a current of water and is normally described as a creek, stream or riverbed.

Cross section means a graph showing the shape of the streams, banks and adjacent land on either side made by plotting elevations at measured distances along a line perpendicular to the centerline of the stream.

Encroachment lines means limits of obstruction to flood flows. They are established by assuming that the development of the landward area will permit passage of flood flows. The floodway must be free of encroachment and adequate to convey the regulatory flood without raising the water surface more than one foot.

Flood means a temporary overflow by a river, stream, ocean, lake or other body of lands not normally covered by water. It does not include the ponding of surface water due to inadequate drainage such as within a development. It is characterized by damaging inundation, backwater effects of surcharging sewers and local drainage channel, and by unsanitary conditions within adjoining flooded habitated area attributed to pollutants, debris and water table.

Flood hazard district (district F) means the portion of the floodplain flanking the stream channel required to convey and/or store the waters of the intermediate regional flood.

Flood profile means a graph showing the relationship of water-surface elevation to location along the stream. The latter is generally expressed as distance above the mouth of the stream in miles. While it is drawn to show surface elevations for the crest of a specific flood, it may be prepared for conditions at any other given time or stage.

Flood stage means the elevation at which overflow of the natural stream banks or body of water occurs.

Floodplain means the relatively flat area or lowlands covered by floodwaters originating with either the adjoining channel of a water course such as a river or stream, or a body of standing water such as an ocean or lake.

Floodproofing means alteration of properties and structures subject to flooding for the reduction or elimination of flood damages to facilities, structures and contents.

Frequency means the expected recurrence interval for a given size flood based upon long-term statistical probability. Large floods occur less frequently and smaller floods occur more frequently.

Intermediate regional flood means a flood having a one-percent probability of occurring in any one year at a designated location. It is based on statistical analysis of streamflow records available for the watershed and analysis of rainfall and runoff characteristics in the general region of the watershed.

Obstruction means any 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.

Reach means a longitudinal segment of a stream or river, including the portion of the flood-hazard area of which flood heights are influenced by a natural or manmade obstruction.

Regulatory flood means a flood representative of large floods known to have occurred in the area and reasonably characteristic of a particular stream. The regulatory flood generally has a frequency of occurrence of once in 100 years determined from an analysis of floods on the particular stream and other streams in the region.

Regulatory flood protection elevation means the elevation to which uses regulated by this division are required to be elevated or floodproofed.

Standard project flood means the flood that may be expected from the most severe combination of meteorological and hydrological conditions that are considered reasonably characteristic of the geographical area in which the drainage basin is located.

(Ord. No. 7, § 6.8, 4-18-83)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Secs. 58-127—58-135. Reserved.

DIVISION 3. RURAL RESIDENTIAL DISTRICT

Sec. 58-136. Purpose.

The purpose of the RR district is to provide large residential sites in rural areas which may not be served by public sewer and water services. This district is further intended to provide for the continuation of general farming and foster certain recreational oriented activities and services where soil conditions and other physical features will support such development without depleting or destroying natural resources.

(Ord. No. 7, § 7.1, 4-18-83)

Sec. 58-137. Permitted uses.

Permitted uses in the RR district are:

- (1) Single-family dwellings.
- (2) General farming.

(Ord. No. 7, § 7.2, 4-18-83)

Sec. 58-138. Special uses.

Special uses permitted in the RR district are:

- (1) Religious institutions.
- (2) Educational and social institutions.
- (3) Recreational facilities.

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- (4) Public buildings and public service installations.
 - (5) Roadside stands for the sale of agricultural products produced on the premises.
 - (6) Reserved.
 - (7) Site condominiums.

(Ord. No. 7, § 7.3, 4-18-83; Ord. No. 10-06, § 5, 6-21-10)

Sec. 58-139. Permitted use requirements.

Permitted use requirements in the RR district are:

- (1) Minimum lot area: 9.5 acres.
- (2) Minimum lot frontage: 300 feet.
- (3) Maximum percentage of building coverage: 10 percent.
- (4) Yard setbacks: rear, 75 feet; side, 35 feet each side.
- (5) Setback requirements: There shall be a building setback line of not less than 35 feet on streets of 80-foot width, and not less than 25 feet on the street less than 80 feet wide; provided, however, that when the majority of buildings capable of being built on one side of a street between two intersecting streets have already been built at the time of the adoption of this chapter, then, no building hereafter erected or altered on that side of the street shall project beyond the minimum setback line thus established by the buildings already in existence; provided that no building shall be required by this chapter to set back more than 40 feet in any case; and provided, further, that the corner lots have a side setback restriction of not less than 15 feet on that side adjacent to the street.
- (6) Maximum building heights: 2½ stories above grade or 35 feet.
- (7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 7.4, 4-18-83)

Secs. 58-140—58-150. Reserved.

DIVISION 4. SINGLE-FAMILY RESIDENTIAL DISTRICT³²

Sec. 58-151. Purpose.

It is the purpose of the R-1 and R-1S districts to encourage the establishment and preservation of residential neighborhoods characterized by single-family dwellings of a low density on public sewer (R-1S) and where soil conditions and other physical features will support such developments (R-1).

(Ord. No. 12-03, § 3, 2-20-12)

³²Editor's note(s)—Ord. No. 12-03, § 3, adopted Feb. 20, 2012 , amended Division 4 in its entirety to read as herein set out. Former Division 4, §§ 58-151—58-154, pertained to similar subject matter, and derived from Ord. No. 7, §§ 8.1—8.4, 4-18-83; Ord. of 9-19-88 and Ord. No. 10-06, § 5, 6-21-10.

Sec. 58-152. Permitted uses.

The following are permitted uses in R-1 and R-1S districts:

- (1) Single-family detached dwelling.
- (2) State licensed family day care residence.
- (3) Home occupations.

(Ord. No. 12-03, § 3, 2-20-12)

Sec. 58-153. Special uses.

The following are permitted as a special use in R-1 and R-1S districts:

- (1) Religious institutions: churches, convents, parsonages and other housing for religious personnel.
- (2) Educational and social institutions: public or private elementary and secondary schools, institutions for higher education, auditoriums and other places for assembly and centers for social activities; public libraries, museums and art galleries; nursery schools and day care centers.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 2. The location of the garden is a minimum of 50 feet back from the front property line.
- (3) Recreational facilities: public and private parks, playgrounds, community centers, parkways, golf courses and similar recreational facilities.
- (4) Public buildings and public service installations: municipal, administrative or public service buildings; utility and public service facilities and uses, but excluding storage yards; telephone exchange buildings, transformer stations and substations.
- (5) Bed and breakfast.
- (6) Site condominiums.
- (7) State licensed family day care residence for more than six children or residents.
- (8) Institutions for human care: hospitals, clinics, sanitariums, nursing or convalescent homes, homes for the aged, and philanthropic and charitable institutions.
 - a. General standards. Inasmuch as the nonresidential uses permitted in residential districts may have an adverse affect on residential properties if not properly located and designed, the following general standards must be met prior to development of such uses:
 1. Hazardous areas must be adequately fenced to avoid accidents, such areas to include public utility substations.
 2. Any permitted nonresidential structure should preferably be located at the edge of a residential district, abutting a commercial/industrial district, or a public open space.
 3. All permitted nonresidential uses shall front on a major street (minor arterial or collector).

4. Motor vehicle entrance and exit should be made on a major street to avoid the impact of traffic generated by the nonresidential use upon the residential location.
 5. Site locations should be chosen which offer natural or manmade barriers that would lessen the effect of the intrusion of a nonresidential use into a residential area.
 6. Nonresidential uses should not be located so as to cause costly public improvements.
- b. Specific standards.
1. Public utility structures and substations. No building shall be erected to a height greater than that permitted in the district in which the proposed use would be located. Adequate planting materials to screen exposed facilities from view shall be required. Evergreens are recommended; however, selected deciduous trees may be used when appropriate.
 2. Golf courses. Development features, including the principal and accessory buildings and structures shall be so located as to minimize the possibility of any adverse affects upon adjacent property. This shall mean that all principal or accessory buildings shall not be less than 200 feet from any abutting property line of residentially zoned lands; provided that where topographic conditions are such that buildings would be screened from view, the planning commission may modify this requirement.
 3. Nursery schools and day care centers. There shall be provided a fenced outdoor play area of a size meeting the requirements of the current state regulations pertaining to such areas.

(Ord. No. 12-03, § 3, 2-20-12 ; Ord. No. 14-01, § 3, 3-3-14)

Sec. 58-154. Permitted use requirements.

Permitted use requirements in R-1 and R-1S districts are:

- (1) Minimum lot area: R-1—12,000 square feet; R-1S—9,000 square feet.
- (2) Minimum lot frontage: R-1—100 feet; R-1S—80 feet.
- (3) Maximum percentage of building coverage: R-1—30 percent; R-1S—30 percent.
- (4) Yard setbacks:

Dwellings	Rear	Side
R-1	50 feet	12 feet each side
R-1S	40 feet	10 feet each side
<i>Accessory buildings</i>		
R-1	12 feet	12 feet each side
R-1S	10 feet	10 feet each side

- (5) Setback from highway and roads subject to section 58-139.
- (6) Maximum building height: R-1 and R-1S, 2½ stories above grade or 35 feet.
- (7) Signs: subject to article V of this chapter.

(Ord. No. 12-03, § 3, 2-20-12 ; Ord. No. 14-08, § 2, 10-20-14)

Secs. 58-155—58-165. Reserved.

DIVISION 5. DUPLEX RESIDENTIAL DISTRICT

Sec. 58-166. Purpose.

It is the purpose of the R-2 and R-2S (sewered) districts to encourage the establishment and preservation of residential neighborhoods characterized by two-family dwellings of medium density in areas served by public sewer (R-2S) and where soil conditions and other physical features will support such development (R-2).

(Ord. No. 7, § 9.1, 4-18-83)

Sec. 58-167. Permitted uses.

The following are permitted uses in R-2 and R-2S districts:

- (1) One- and two-family dwellings.
- (2) State licensed family care residence.

(Ord. No. 7, § 9.2, 4-18-83)

Sec. 58-168. Special uses.

The following special uses are permitted in R-2 and R-2S districts:

- (1) Religious institutions.
- (2) Educational and social institutions.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 2. The location of the garden is a minimum of 50 feet back from the front property line.
- (3) Recreational facilities.
- (4) Public buildings and public service installations.
- (5) Reserved.
- (6) Bed and breakfast.
- (7) Site condominiums.

(Ord. No. 7, § 9.3, 4-18-83; Ord. No. 10-06, § 5, 6-21-10; Ord. No. 14-01, § 4, 3-3-14)

Sec. 58-169. Permitted use requirements.

Permitted use requirements in R-2 and R-2S districts are:

- (1) Minimum lot area:

	One-family	Two-family
R-2	12,000 square feet	15,000 square feet
R-2S (sewered)	9,000 square feet	12,000 square feet

(2) Minimum lot frontage:

	One-family	Two-family
R-2	100 feet	100 feet
R-2S (sewered)	80 feet	100 feet

(3) Maximum percentage of building coverage: R-2—30 percent; R-2S—30 percent.

(4) Yard setbacks:

Dwellings	Rear	Side
R-2	60 feet	12 feet each side
R-2S	50 feet	12 feet each side
<i>Accessory buildings</i>		
R-2	12 feet	12 feet each side
R-2S	10 feet	10 feet each side

(5) Setback from highway and roads subject to section 58-139.

(6) Maximum building height: two and one-half stories above grade or 35 feet.

(7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 9.4, 4-18-83; Ord. No. 14-08, § 3, 10-20-14)

Secs. 58-170—58-180. Reserved.

DIVISION 6. FOURPLEX AND TOWNHOUSE RESIDENTIAL DISTRICT

Sec. 58-181. Purpose.

The R-3 district is designed to accommodate the township's need for medium-density dwellings with public sewer and water service in a safe and attractive living environment.

(Ord. No. 7, § 10.1, 4-18-83)

Sec. 58-182. Permitted uses.

The following are permitted uses in the R-3 district:

Fourplex dwelling and townhouse apartments served by public water and sewer.

(Ord. No. 7, § 10.2, 4-18-83)

Sec. 58-183. Special uses.

The following special uses are permitted in the R-3 district:

- (1) Religious institutions.
- (2) Educational and social institutions.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 2. The location of the garden is a minimum of 50 feet back from the front property line.
- (3) Recreational facilities.
- (4) Planned unit development.
- (5) Institutions for human care.
- (6) Site condominiums.

(Ord. No. 7, § 10.3, 4-18-83; Ord. No. 14-01, § 5, 3-3-14)

Sec. 58-184. Permitted use requirements.

Permitted use requirements in the R-3 district are:

- (1) Minimum lot area: fourplex—20,000 square feet; townhouse—three acres.
- (2) Minimum lot frontage: fourplex—100 feet; townhouse—300 feet.
- (3) Maximum percentage of building coverage: 35 percent.
- (4) Yard setbacks:

	Rear	Side
Fourplex	100 feet	12 feet each side
Townhouse	150 feet	25 feet each side

- (5) Setbacks from highway and roads subject to section 58-139.
- (6) Maximum building height: 2½ stories above grade or 35 feet.
- (7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 10.4, 4-18-83)

Secs. 58-185—58-195. Reserved.

DIVISION 7. HIGH-RISE RESIDENTIAL DISTRICT

Sec. 58-196. Purpose.

The R-4 district is designed to accommodate the township's need for high-density dwellings in structures of four stories or greater in a safe and attractive environment.

(Ord. No. 7, § 11.1, 4-18-83)

Sec. 58-197. Permitted uses.

The following are permitted uses in the R-4 district:

High-rise apartments (4 or more stories) served by public sewer and water and an approved fire/smoke sprinkler system.

(Ord. No. 7, § 11.2, 4-18-83)

Sec. 58-198. Special uses.

The following special uses are permitted in the R-4 district:

- (1) Planned unit development.
- (2) Site condominiums.

(Ord. No. 7, § 11.3, 4-18-83)

Sec. 58-199. Permitted use requirements.

Permitted use requirements in the R-4 district are:

- (1) Minimum lot area: four acres.
- (2) Minimum lot frontage: 300 feet.

Permissible density is no less than 16 nor more than 30 dwellings per buildable lot area.

- (3) Maximum percentage of building coverage: 35 percent.
- (4) Yard setbacks:

Rear	Side
100 feet plus 10 feet for each story over 4	50 feet each side

- (5) Setback from highway and roads subject to section 58-139.
- (6) Maximum building height: nine stories above grade or 90 feet.
- (7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 11.4, 4-18-83)

Secs. 58-200—58-210. Reserved.

DIVISION 8. MOBILE HOME PARK DISTRICT

Sec. 58-211. Purpose.

The RMH district allows the development of medium-to-high-density residential mobile home park environments which are consistent with and promote the general health, safety, convenience and welfare of the citizens residing in mobile home parks.

(Ord. No. 7, § 12.1, 4-18-83)

Sec. 58-212. Permitted uses.

The following are permitted uses in the RMH district:

Mobile home parks.

(Ord. No. 7, § 12.2, 4-18-83)

Sec. 58-213. Special uses.

No special uses are permitted in the RMH district.

(Ord. No. 7, § 12.3, 4-18-83)

Sec. 58-214. Requirements.

Requirements for the RMH district are:

- (1) Minimum lot area: 20 acres with sewer and water; 30 acres without water and sewer.
- (2) All mobile home parks shall comply with the Mobile Home Commission Act, Act No. 419 of the Public Acts of Michigan of 1976 (MCL 125.1101 et seq., MSA 19.855(1) et seq.), as amended, and any amendatory acts and regulations that become applicable.

(Ord. No. 7, § 12.4, 4-18-83)

Secs. 58-215—58-225. Reserved.

DIVISION 9. LIGHT INDUSTRIAL DISTRICT³³

³³Editor's note(s)—Ord. No. 12-03, § 4, adopted Feb. 20, 2012, amended Division 9 in its entirety to read as herein set out. Former Division 9, §§ 58-226—58-229, pertained to similar subject matter, and derived from Ord. No. 7, §§ 13.1—13.4, 4-18-83.

Sec. 58-226. Purpose.

It is the purpose of the I district to foster and create areas that will be readily acceptable within the township and will complement rather than adversely affect adjacent business establishments or residential neighborhoods by permitting industrial establishments which are:

- (1) Ones whose operations are relatively free from objectionable impact; or
- (2) Ones whose objectionable features will be obviated by design, operation or other appropriate means.

(Ord. No. 12-03, § 4, 2-20-12)

Sec. 58-227. Permitted uses.

The following are permitted uses in the I district:

- (1) Carpenter shop, electrical, plumbing and heating or sheetmetal shop, printing, publishing or lithographing shop and electroplating.
- (2) Wholesale, warehousing and storage establishments.
- (3) Machine shops.
- (4) Crematories.
- (5) Laboratories.
- (6) Trade or industrial schools.
- (7) Veterinary clinics and outdoor kennels.
- (8) Auto equipment repair shops doing major repair.
- (9) Municipal or public service buildings
- (10) Micro breweries, breweries, small wineries, wineries, small distilleries and distilleries.
- (11) Research, development, design, testing and production facilities.
- (12) Commercial marihuana grower subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (13) Commercial marihuana processor subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (14) Commercial marihuana secure transporter subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (15) Commercial marihuana safety compliance facility subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".

(Ord. No. 12-03, § 4, 2-20-12 ; Ord. No. 15-03 , § 3, 4-6-15; Ord. No. 19-9 , § 2, 10-7-19)

Sec. 58-228. Special uses.

The following special uses are permitted in the I district:

- (1) Outdoor warehousing and storage completely enclosed by a fence or wall with no goods, materials or objects stacked higher than the fence or wall.

- (2) Contractors' equipment storage yard, storage and sale of livestock feed and/or fuel, storage yard for vehicles of a delivery or hauling service, public utility service yard, lumber company, planing mill, stone or monument works.
- (3) Manufacturing. Any manufacturing use or process including assembling, fabricating, altering, converting, finishing, processing, treating and packaging except any use or process hereinafter specifically excluded or first listed as a permitted use in the industrial park district, and providing that such uses will not be hazardous, offensive or objectionable by reason of odor, dust, cinders, gas, fumes, noise, vibrations, radiation, refuse matter or water-carried waste.
- (4) Site condominiums.
- (5) Transportation, motor freight terminals and buildings, including garaging and maintenance of equipment.
- (6) Petroleum storage.
- (7) Prisons and other similar correctional facilities.
- (8) Motor freight terminal including garaging and maintenance of equipment; freight forwarding, packing and crating services and truck repairs or truck sales.
- (9) Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repairs.
- (10) Parking and storage of inoperative vehicles, provided that such screened by an opaque fence not less than six feet in height.
- (11) Commercial garages and automotive repair shops.

(Ord. No. 12-03, § 4, 2-20-12 ; Ord. No. 15-03 , § 3, 4-6-15; Ord. No. 16-03 , § 3, 3-21-16)

Sec. 58-229. Permitted use requirements.

Permitted use requirements in the I district are:

- (1) Minimum lot area: one acre.
- (2) Minimum lot frontage: 150 feet.
- (3) Maximum percentage of building coverage: 50 percent.
- (4) Yard setbacks:

Rear	Side
30 feet	20 feet each side

Buffer of trees and 50-foot side yards if adjacent to residential.

- (5) Front yard setback requirements: There will be a building setback line of not less than 75 feet on streets of 80-foot width and lot less than 50 feet on streets less than 80 feet wide.
- (6) Maximum building height: three stories or 45 feet.
- (7) Signs: subject to article V of this chapter.
- (8) The planning commission, after site plan review, may allow such other setback requirements as they deem practical.

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- (9) General standards.
- a. Unless specifically mentioned, all activities in this district shall be carried on in completely enclosed buildings.
 - b. Where properties adjoin residential and commercially zoned areas, storage of raw materials, finished or unfinished or any equipment or machinery necessary to the operation is permitted, but all storage areas shall be effectively screened by a solid, uniformly finished wall or fence with solid entrance and exit gates. The wall or fence shall in no case be lower than the enclosed storage.
 - c. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the planning commission as a part of site plan review.
 - d. Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
 - e. Trash containers shall be enclosed by a structure covered on at least three sides. The property shall be maintained free from litter and in a sanitary condition.
 - f. Air-conditioning units, heating oil storage tanks, or similar appurtenances shall be properly screened as approved by the planning commission.
- (10) Performance standards. It shall be unlawful to carry on or permit to be carried on any activity or operation or use of any land, building, or equipment that does not comply with all environmental limitations imposed by this section, other ordinances, statutes, and governmental regulations.

(Ord. No. 12-03, § 4, 2-20-12)

Secs. 58-230—58-240. Reserved.

DIVISION 10. INDUSTRIAL PARK DISTRICT

Sec. 58-241. Purpose.

It is the purpose of the IP district to create industrial areas to accommodate a wide variety of industrial establishments who may operate to their maximum advantage without adversely affecting other nearby similar uses and activities.

(Ord. No. 7, § 14.1, 4-18-83)

Sec. 58-242. Permitted uses.

- (a) Commercial marihuana grower subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (b) Commercial marihuana processor subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (c) Commercial marihuana secure transporter subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".
- (d) Commercial marihuana safety compliance facility subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".

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(Supp. No. 16)

(e) There are no other permitted uses in the IP district.

(Ord. No. 7, § 14.2, 4-18-83; Ord. No. 19-9, § 3, 10-7-19)

Sec. 58-243. Special uses.

The following special uses are permitted in the IP district:

- (1) Manufacturing. Any manufacturing use or process including assembling, fabricating, altering, converting, finishing, processing, treating and packaging.
- (2) Warehousing, storage and wholesaling.
- (3) Transportation terminals.
- (4) Site condominiums.
- (5) Chemical manufacturing.
- (6) Research and development facilities and laboratories, including production facilities.
- (7) Corporate offices.
- (8) Trade and industrial schools.
- (9) Planned unit development.
- (10) Accessory uses.

(Ord. No. 7, § 14.3, 4-18-83; Ord. No. 10-04, § 6, 4-19-10)

Sec. 58-244. Internal lot requirements.

Internal lot requirements in the IP district are:

- (1) Minimum lot size: one acre.
- (2) Minimum lot frontage: 150 feet.
- (3) Maximum percentage of building coverage: 75 percent.
- (4) Yard setbacks:

Rear	Side
50 feet	40 feet each side

Buffer of trees and 200-foot side yards if adjacent to residential.

- (5) Front yard setback from highway and roads subject to section 58-229.
- (6) Maximum height: three stories or 45 feet.
- (7) Signs: subject to article V of this chapter.
- (8) The planning commission, after site plan review, may allow such other setback requirements as they deem practical.

(Ord. No. 7, § 14.4, 4-18-83)

Secs. 58-245—58-255. Reserved.

DIVISION 11. NEIGHBORHOOD COMMERCIAL DISTRICT³⁴

Sec. 58-256. Purpose.

The C-1 district is intended to provide for the orderly and attractive clustering, at appropriate locations, of retail business and service establishments which serve the day-to-day requirements of nearby residential areas, and to provide for mixed uses in designated areas.

(Ord. No. 12-03, § 5, 2-20-12 ; Ord. No. 13-11, § 2, 10-21-13)

Sec. 58-257. Permitted uses.

(a) The following are permitted uses in the C-1 district:

- (1) Grocery stores.
- (2) Shops, stores, or clinics for personal service, such as barbershops, beauty shops, real estate offices, doctor or dentist office, law office and insurance office.
- (3) Restaurants.
- (4) Bed and breakfast.
- (5) Banks, hardwares, sporting goods, pharmaceutical and allied products, florist shops, clothing and dry goods of all kinds, retail furniture and appliances.
- (6) Research, development, testing laboratories and offices without manufacturing.
- (7) Brewpubs.
- (8) Micro breweries, small wineries and small distilleries as long as the brewing area is less than 2,500 square feet.
- (9) Veterinary clinics and pet grooming services.
- (10) Marihuana provisioning center subject to chapter 5 "Marihuana Licensing Ordinance" and chapter 58, article XI "Marihuana Zoning Ordinance".

(Ord. No. 12-03, § 5, 2-20-12 ; Ord. No. 15-03 , § 4, 4-6-15; Ord. No. 19-9 , § 1, 10-7-19)

Sec. 58-258. Special uses.

The following are permitted as a special use in the C-1 district:

- (1) Automotive, trailer, mobile and recreational vehicle sales and services, including commercial garages, automobile service/gas stations, and automotive repair shops.

³⁴Editor's note(s)—Ord. No. 12-03, § 5, adopted Feb. 20, 2012 , amended Division 11 in its entirety to read as herein set out. Former Division 11, §§ 58-256—58-260, pertained to similar subject matter, and derived from Ord. No. 7, §§ 15.1—15.5, 4-18-83 and Ord. No. 7, 5-6-91.

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- a. The following uses may be permitted in conjunction with automobile service/gas stations:
 - 1. Retail sales of gasoline, oil and similar products.
 - 2. Automobile washing.
 - 3. Automobile maintenance, including minor mechanical repairs such as tires, brakes, mufflers, oil changes.
 - (2) Site condominiums.
 - (3) Indoor recreation facilities.
 - (4) Mixed uses.
 - a. Mixed use standards.
 - 1. Mixed use means a building designed and constructed for a mixture of residential and commercial uses, either in a vertical or horizontal arrangement.
 - 2. Designated areas shall be defined as Apple Ave. corridor and Holton Rd. corridor.
 - 3. Minimum lot area requirements of the C-1 district must be met.
 - 4. Density of mixed use buildings shall comply with land coverage requirement for C-1 district.
 - 5. The maximum percent of residential floor area of a mixed use building shall be no more than 50 percent.
 - 6. Residential uses as part of a building in the referenced designated areas shall be allowed upon the issuance of a certificate of occupancy and/or certificate of compliance from the inspections department.
 - (5) Preschools and daycare centers.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 - 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 - 2. The location of the garden is a minimum of 50 feet back from the front property line.
 - (6) *Storage units*. Existing storage unit facilities located in a C-1 zone may be allowed to expand based on the following criteria:
 - a. The proposed expansion will be operated so as to be harmonious and appropriate in appearance with the retail characteristic of the neighboring area, or intended land uses.
 - b. The proposed expansion is not located within the first 100 feet of frontage of the parcel.
 - c. Storage units shall not be used to manufacture, fabricate or process goods; conduct servicing or repair; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity.
 - d. All property stored on the premises shall be entirely within an enclosed building.
 - e. The proposed expansion would not disturb existing or future neighborhoods, and it would not be a detriment to the economic welfare of the township.

(Ord. No. 12-03, § 5, 2-20-12 ; Ord. No. 13-11, § 2, 10-21-13 ; Ord. No. 14-01, § 6, 3-3-14 ; Ord. No. 16-03 , § 2, 3-21-16; Ord. No. 17-09 , § 1, 8-7-17)

Sec. 58-259. Permitted use requirements.

Permitted use requirements in the C-1 district are:

- (1) Minimum lot size: 12,000 square feet.
- (2) Minimum lot frontage: 80 feet.
- (3) Maximum percentage of building coverage: 75 percent.
- (4) Yard setbacks: rear—10 feet; side—10 feet each side, or such other yard setback as the planning commission shall approve.
- (5) Front yard setback from highway and roads subject to section 58-139.
- (6) Maximum height: two and one-half stories or 35 feet.
- (7) Signs: subject to article V of this chapter.
- (8) Site development standards:
 - a. All points of entrance or exit for motor vehicles shall be subject to the rules and regulations of the county road commission, as amended.
 - b. The outdoor space used for parking and vehicle stacking shall be paved and adequately drained.
 - c. All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view obstructing door.
 - d. The management of the establishment shall provide adequate trash and litter containers, and the policing of the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
 - e. Exterior lighting shall be so installed in a downward shining manner such that no illumination shall adversely affect the welfare of the adjacent property.
 - f. Unless specifically mentioned, all activities shall be carried on in completely enclosed buildings.
 - g. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the planning commission as part of the site plan review.
 - h. Plans and specifications should provide for the proper development of roads, easements for drainage and utilities in such a way as to adequately and reasonably assure the protection of the public health, safety and welfare.
 - i. Any building constructed shall have a minimum square footage of 1,350 feet, unless the planning commission shall authorize otherwise.
- (9) Site development standards for automobile service stations and commercial garages:
 - a. Gasoline service station shall have 500 square feet of site area for each additional pump over four and 1,000 square feet of site area for each additional inoperable vehicle.
 - b. Commercial garages and automotive repair shops shall have 1,000 square feet of site area for each additional service bay over two. There shall also be 300 square feet of additional site area for each space intended for storage of inoperable vehicles.
 - c. All points of entrance or exit for motor vehicles shall be subject to the rules and regulations of the county road commission, as amended.

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- d. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing areas shall consist of a solid masonry wall or equivalent, approved by the building official, with no openings other than those required for access. There shall be no outside storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.
 - e. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
 - f. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
 - g. The automobile service station or commercial garage shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles, other than those used by employees while on duty, will be roadways. These areas shall be completely cleared of accumulated debris as often as necessary.

(Ord. No. 12-03, § 5, 2-20-12)

Sec. 58-260. Power to make additional requirements.

- (a) Nothing contained herein shall restrict the power of the planning commission and township board under state law or other pertinent provisions of this chapter from making requirements set forth in section 58-259 more stringent.

(Ord. No. 12-03, § 5, 2-20-12)

Secs. 58-261—58-270. Reserved.

DIVISION 12. SHOPPING CENTER DISTRICT³⁵

Sec. 58-271. Purpose.

The C-2 district is intended to provide for the orderly grouping of structures for a retail shopping center which includes the sale of commodities or performance of services for the entire community.

(Ord. No. 12-03, § 6, 2-20-12)

Sec. 58-272. Permitted uses.

There are no permitted uses in the C-2 district.

³⁵Editor's note(s)—Ord. No. 12-03, § 6, adopted Feb. 20, 2012 , amended Division 12 in its entirety to read as herein set out. Former Division 12, §§ 58-271—58-274, pertained to similar subject matter, and derived from Ord. No. 7, §§ 16.1—16.4, 4-18-83; Ord. No. 7, 5-6-91.

(Ord. No. 12-03, § 6, 2-20-12)

Sec. 58-273. Special uses.

The following are permitted as a special use in the C-2 district:

- (1) Retail stores.
- (2) Shops, stores or clinics.
- (3) Recreational facilities for the township such as theaters and bowling alleys.
- (4) Restaurants, taverns and cafes.
- (5) Public buildings.
- (6) Automotive, trailer, mobile home and recreational vehicle sales and service.
- (7) Banks.
- (8) Site condominiums.
- (9) Automotive, trailer, mobile and recreational vehicle sales and services, including commercial garages, automobile service/gas stations, and automotive repair shops.
 - a. The following uses may be permitted in conjunction with automobile service/gas stations:
 1. Retail sales of gasoline, oil and similar products.
 2. Automobile washing.
 3. Automobile maintenance, including minor mechanical repairs.
 - b. The following uses may be permitted in conjunction with commercial garages and automotive repair shops:
 1. Automobile towing, including parking of a wrecker and inoperative vehicles waiting for immediate repairs.
 2. Parking and storage of inoperative vehicles, provided that such screened by an opaque fence not less than six feet in height.
 3. Automobile body repairs.
- (10) Preschools and daycare centers.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 2. The location of the garden is a minimum of 50 feet back from the front property line.

(Ord. No. 12-03, § 6, 2-20-12 ; Ord. No. 14-01, § 7, 3-3-14)

Sec. 58-274. Requirements.

Requirements in the C-2 district are:

- (1) Minimum lot size: five acres.

- (2) Minimum lot frontage: 400 feet.
- (3) Maximum percentage of building coverage: 50 percent.
- (4) Yard setbacks:

Rear	Side
50 feet	25 feet each side or such other yard setbacks as the planning commission shall approve.

- (5) Front yard setback requirements from highway and roads. There shall be a building setback line of not less than 200 feet, or such other setback as the planning commission shall approve.
- (6) Maximum building height: two and one-half stories or 35 feet.
- (7) Signs: subject to article V of this chapter.
- (8) Site development standards:
 - a. All points of entrance or exit for motor vehicles shall be subject to the rules and regulations of the county road commission, as amended.
 - b. The outdoor space used for parking and vehicle stacking shall be paved and adequately drained.
 - c. All areas used for the storage of trash and rubbish shall be screened by a vertical screen consisting of structural or plant materials no less than six feet in height, with a view obstructing door.
 - d. The management of the establishment shall provide adequate trash and litter containers, and the policing of the parking lot and the shoulders of adjacent roadways. These areas shall be completely cleared of accumulated debris as often as necessary.
 - e. Exterior lighting shall be so installed in a downward shining manner such that no illumination shall adversely affect the welfare of the adjacent property.
 - f. Unless specifically mentioned, all activities shall be carried on in completely enclosed buildings.
 - g. Landscaping shall be maintained in all required front, side and rear yards, in accordance with plans approved by the planning commission as part of the site plan review.
 - h. Plans and specifications should provide for the proper development of roads, easements for drainage and utilities in such a way as to adequately and reasonably assure the protection of the public health, safety and welfare.
 - i. Any building constructed shall have a minimum square footage of 1,350 feet, unless the planning commission shall authorize otherwise.
- (9) Site development standards for automobile service stations and commercial garages:
 - a. Gasoline service station shall have 500 square feet of site area for each.
 - b. Additional pump over four and 1,000 square feet of site area for each additional.
 - c. Inoperable vehicle.
 - d. Commercial garages and automotive repair shops shall have 1,000 square feet of site area for each additional service bay over two. There shall also be 300 square feet of additional site area for each space intended for storage of inoperable vehicles.

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- e. All points of entrance or exit for motor vehicles shall be subject to the rules and regulations of the county road commission, as amended.
 - f. All equipment including hydraulic hoist, pits, and oil lubrication, greasing and automobile washing, repairing equipment and body repair shall be entirely enclosed within a building. Any such portion of a building containing auto body shop or washing areas shall consist of a solid masonry wall or equivalent, approved by the building official, with no openings other than those required for access. There shall be no outside storage of merchandise such as tires, lubricants and other accessory equipment except that outdoor trash storage may be provided in a properly screened container.
 - g. All activities, except those required to be performed at the fuel pump, shall be carried on inside a building. All vehicles upon which work is performed shall be located entirely within a building.
 - h. There shall be no above ground tanks for the storage of gasoline, liquefied petroleum gas, oil or other inflammable liquids or gas.
 - i. The automobile service station or commercial garage shall provide one parking space for each person employed at the station during any given period of the day. Each required parking space shall be no less than 200 square feet in area. No outdoor storage or parking of vehicles, other than those used by employees while on duty, will be roadways. These areas shall be completely cleared of accumulated debris as often as necessary.

(Ord. No. 12-03, § 6, 2-20-12)

Secs. 58-275—58-285. Reserved.

DIVISION 13. COMMERCIAL/INDUSTRIAL DISTRICT

Sec. 58-286. Purpose.

- (a) The public interest is sometimes served by encouraging the proximity of uses which would normally be kept separate because they are classified in different zoning districts. It may be the case that certain commercial and industrial uses enhance each other and further the progress of community development. Conversely, the enforced separation of certain categories of use may not always be justified by evaluation of their performances and impacts. Thus, the intent of the M district is to enable these uses to be zoned together.
- (b) The M zoning district is intended to permit and control the development of areas for various compatible uses permitted by this chapter in other zoning districts and for other special uses not so permitted. In so doing, a degree of flexibility is allowed in the use, area, height, bulk and placement regulations for M developments. However, it is also the intent of the M district to afford each type of use reasonable protection from encroachment or interference by other incompatible land uses, and that reasonable protection be afforded to uses adjacent to the M zoning district.
- (c) All zoning pursuant to this division shall give due consideration to maintenance of reasonable conditions regarding emission and transmission of injurious or obnoxious noise, vibration, gas, smoke, dust, dirt, litter, odor, glare, traffic congestion, ease of police and fire protection, drainage, lateral land support, blighting influence, effect on surrounding property values, light and air, overcrowding of persons, sanitation, surface water and groundwater quality, water supply and sewage disposal, general appearance and character of the area, and other similar considerations having an effect on the achievement of the purposes of this chapter.

(Ord. No. 7, § 17.1, 4-18-83; Ord. No. 13-01, § 2, 1-22-13)

Sec. 58-287. Permitted uses.

There are no permitted uses in the M district.

(Ord. No. 7, § 17.2, 4-18-83)

Sec. 58-288. Special uses.

The following special uses are permitted in the M district:

- (1) Any use permitted in the I, C-1 or C-2 district.
- (2) Colleges.
- (3) Medical facilities.
- (4) Offices and office parks.
- (5) Philanthropic institutions.
- (6) Any other use deemed by the township board to be physically, environmentally and socially compatible with the surrounding area and consistent with the purpose of this district.
- (7) Site condominiums.

(Ord. No. 7, § 17.3, 4-18-83; Ord. No. 10-02, § 21, 3-15-10)

Sec. 58-289. Requirements.

Requirements in the M district are:

- (1) Minimum lot area: 12,000 square feet.
- (2) Minimum lot frontage: 80 feet.
- (3) Maximum percentage of building coverage: 50 percent.
- (4) Yard setbacks:

Rear	Side
10 feet	10 feet each side

If adjacent to residential:

Rear	Side
50 feet	30 feet each side

- (5) Setback from highway and roads subject to section 58-139.
- (6) Maximum building height: two and one-half stories or 35 feet.
- (7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 17.4, 4-18-83; Ord. No. 13-01, § 2, 1-22-13)

Secs. 58-290—58-300. Reserved.

DIVISION 14. MUNICIPAL/SCHOOL DISTRICT

Sec. 58-301. Purpose.

The M/S district is intended to provide locations for noncommercial/industrial office parks, office services, institutional facilities, research laboratories and similar facilities.

(Ord. No. 7, § 18.1, 4-18-83)

Sec. 58-302. Permitted uses.

The following are permitted uses in the M/S district:

- (1) Governmental offices and garages.
- (2) Schools, both public and private.
 - a. Educational institution gardens may be permitted in conjunction with educational institutions, provided that:
 1. The maximum size of the garden is 500 square feet per two and one-half acres of property, to be pro-rated accordingly.
 2. The location of the garden is a minimum of 50 feet back from the front property line.
- (3) Professional offices and clinics.

(Ord. No. 7, § 18.2, 4-18-83; Ord. No. 14-01, § 8, 3-3-14)

Sec. 58-303. Special uses.

The following special uses are permitted in the M/S district:

- (1) Nursing homes and hospitals.
- (2) Vocational and trade schools.
- (3) Research, development and testing laboratories, and offices without manufacturing.
- (4) Child day care centers and nursery schools.

(Ord. No. 7, § 18.3, 4-18-83)

Sec. 58-304. Permitted use requirements.

Permitted use requirements in the M/S district are:

- (1) Minimum lot area: one acre.
- (2) Minimum lot frontage: 150 feet.
- (3) Maximum percentage of building coverage: 50 percent.

(4) Yard setbacks:

Rear	Side
25 feet	15 feet each side

(5) Setback from highway and roads subject to section 58-139.

(6) Maximum building height: 2½ stories or 35 feet.

(7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 18.4, 4-18-83)

Secs. 58-305—58-315. Reserved.

DIVISION 15. PARK AND CONSERVANCY DISTRICT

Sec. 58-316. Purpose.

The P district is intended to provide a means to reserve certain lands within the township for use of the public, or to conserve areas within the township community for wildlife refuge and/or similar uses for the benefit of future generations.

(Ord. No. 7, § 19.1, 4-18-83)

Sec. 58-317. Permitted uses.

There are no permitted uses in the P district.

(Ord. No. 7, § 19.2, 4-18-83)

Sec. 58-318. Reserved.

Editor's note(s)—Ord. No. 17-12, §§ 1, 2, adopted Oct. 2, 2017, repealed § 58-318, which pertained to special uses and derived from Ord. No. 7, § 19.3, adopted April 18, 1983; and Ord. No. 7, adopted May 6, 1991.

Sec. 58-319. Requirements.

Requirements in the P district are:

- (1) Minimum lot area: ten acres.
- (2) Minimum lot frontage: 66 feet right-of-way to parcel.
- (3) Maximum percent of building coverage: 1.0 percent.
- (4) Yard setbacks:

Rear	Front
100 feet	100 feet each side

-
- (5) Setback from highway and roads subject to section 58-139.
 - (6) Maximum building height: 3½ stories or 35 feet.
 - (7) Signs: subject to article V of this chapter.

(Ord. No. 7, § 19.4, 4-18-83)

Secs. 58-320—58-340. Reserved.

ARTICLE IV. PARKING AND LOADING SPACES

Sec. 58-341. Offstreet parking requirements.

In all zoning districts, all offstreet parking facilities required by this article and/or utilized for the storage of self-propelled motor vehicles for the use of occupants, employees and patrons of the buildings hereafter erected, altered, or extended after the effective date of this article, shall be provided and maintained as herein prescribed:

- (1) Loading spaces shall not be construed as supplying offstreet parking space.
- (2) When units of measurements determining the number of required parking spaces result in requirement of fractional space, any fraction up to and including one-half shall be disregarded; and fractions over one-half shall require one parking space.
- (3) Whenever a use requiring offstreet parking is increased in floor area, and such use is located in a building existing on or before the effective date of this chapter, additional parking space for the additional floor space shall be provided and maintained in amount hereafter specified for that use.
- (4) For the purpose of this section, "floor area," in the case of offices, merchandising, or service types of uses, shall mean the gross floor area, used or intended to be used for services to the public as customers, patrons, clients, or patients, or as tenants, including areas occupied for fixtures and equipment used for display or sale of merchandise.
- (5) Offstreet parking facilities for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve.

The location of required offstreet parking facilities for other than one- and two-family dwellings shall be within 300 feet of the building they are intended to serve, measured from the nearest point of the offstreet parking facilities and the nearest point of the offstreet parking facilities and the nearest point of the building. This shall not prohibit any industry which employs 500 or more employees from supplying offstreet parking at a reasonable distance, greater than 300 feet from the building, in which the employees are employed, upon approval of the township planning commission.

- (6) In the case of a use not specifically mentioned, the requirements for offstreet parking facilities is for a use which is so mentioned and which said use if similar shall apply.
- (7) Nothing in this section shall be construed to prevent collective provisions of offstreet parking facilities for two or more buildings of uses, provided collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the table.
- (8) The amount of required offstreet parking space for new uses or buildings, additions thereto, and additions to existing buildings, as specified above, shall be determined in accordance with the following table; and the space, so required, shall be stated in the application for a building permit and shall be irrevocably reserved for such use.

(9) In industrial, commercial and R-3 residential zoning districts, offstreet parking facilities shall be either a concrete or asphalt blacktop hard-surface area as required in this section.

(10) The required number of offstreet parking places for various uses are as follows:

<i>Use</i>	<i>Required parking space</i>
One and two family dwellings	2 spaces for each dwelling unit
Multiple dwellings or apartment houses	2 spaces for each dwelling unit
Bed and breakfast operations	1 space for each sleeping room, plus 2 spaces for the dwelling unit
Boarding house, fraternities, sororities	1 space for each guest room plus 2 spaces for the dwelling unit
Community residential care facilities < 6 persons	.25 per bed plus 1 per employee on any given shift
Convalescent homes, convents or similar uses	1 space for each 4 beds, plus 1 space for every 3 employees
Mobile home parks	2 spaces for each mobile home site, plus 1 space for each mobile home park employee allowed within the maximum occupancy load as established by any applicable codes or ordinances whichever is greater
Auditoriums, lodge halls, fraternal organizations, private clubs, public meeting halls, community centers, or buildings of similar use without fixed seats	1 space per each 2.5 seats, or each 6 ft. of pew or bench or 1 space for each 3 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances, whichever is greater
Auditoriums (non-school), stadiums and sports arenas	1 space for each 3 seats or 1 space for each 3 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances, whichever is greater
Civic or social clubs	1 space for each 4 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances
Elementary and junior high schools	2 per classroom, plus separate parking where the school contains an auditorium and/or stadium or gym
High schools and colleges	10 per classroom, plus separate parking where the school contains an auditorium and/or stadium or gym
Hospitals, sanitariums	1 space for each 3 patient beds, plus 1 space for each 3 employees
Nursery school, home day care or child care centers	1 space for each 400 sq. ft. of usable floor area
Private golf clubs, swimming pool clubs, tennis clubs, lodges or other similar uses	1 space for every 2 member families or individuals, plus spaces required for each accessory use, such as a restaurant or bar
Religious institutions: Churches or temples	1 space for each 6 seats or 12 feet of pews in the main unit of worship
Automobile service repair garages, gasoline filling and service stations (see convenience retail establishments)	2 spaces for each repair and service stall, plus 1 space for every employee, plus the required amount for each accessory use
Barber shops and beauty parlors	2 spaces for each of the first 2 beauty or barber chairs, and ½ space for each additional chair
Business service establishments: •Advertising and mailing •Banks/credit unions (excluding drive-thrus) •Employment services	6 spaces per 1,000 sq. ft. of gross floor area, plus 4 on-site waiting spaces for each drive up window or drive-thru automatic teller

<ul style="list-style-type: none"> •Investment companies •Real estate companies 	
Clinics and professional offices of doctors, dentists, or similar professions	1 space for each 50 sq. ft. of usable floor area in waiting rooms, and 1 space for each examining room, dental chair or similar use
General Retail	1 space for every 400 sq. ft. of usable floor area
Storage/Storage Units	
Convenience retail establishments	3 spaces per each 1,000 sq. ft. of gross floor area
Drive-through restaurants or fast-food establishments	1 space for each 100 sq. ft. of UFA or 1 for each 3 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances, whichever is greater
Carry-out food or walk-up establishment including bakeries, ice cream shops and delicatessens if carry-out only, or if all seating is exterior only.	1 space for each employee, plus 10 spaces
Restaurant or establishment for sale and consumption of beverages, food or refreshments on the premises including drive-in, but not including drive-through, restaurants	1 space for each 2 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances
Funeral homes and mortuaries	1 space for every 50 sq. ft. of usable floor area of parlor and chapel areas
General offices	1 space for every 400 sq. ft. of usable floor area
Health or fitness club	1 space for each 400 sq. ft. of usable floor area
Hotels, motels	1 space for each guest room, plus 1 additional space for each 2 employees, plus required spaces for each accessory use
Laundromats and coin operated dry cleaners	1 space for each 5 washing and/or dry-cleaning machines
Open air business (i.e. Motor vehicle dealerships)	1 space per 4,000 sq. ft. of exterior sales area, plus 1 space per sales office, plus 3 spaces per service bay, except open air flea markets which require 1 space for each 300 sq. ft. of exterior sales area
Personal service establishment (other than beauty or barber shop)	1 space per 400 sq. ft. of retail sales area, and 1 space for each 400 sq. ft. of service area
Repair services	1 space for each 500 sq. ft. of usable floor are, plus 1 space for each employee
Taverns, bars	1 space for every 75 sq. ft. of usable floor area, allowed within the maximum occupancy load as established by any applicable codes or ordinances, whichever is greater
Vehicle wash (automatic)	1 space per each employee, plus 3 on-site waiting spaces at each washing stall entrance
Vehicle wash (self-service or coin operated)	2 stacking spaces for each washing stall, in addition to, the stall itself
Video or pinball arcade or similar uses	1 space per game, provided that where such games are an accessory use, 1 space is required for each game above 4 games
Batting cage facilities	3 spaces per cage
Bowling alleys	5 spaces for each alley, plus 1 space for each employee, plus spaces for each accessory use

Dance halls, pool and billiard rooms, exhibition halls, roller and ice skating rinks	1 space for each 2 persons allowed within the maximum occupancy load as established by any applicable codes or ordinances
Indoor racquet and courts	1 space per 1,000 sq. ft. of gross floor area or 6 spaces per court, whichever is greater
Theaters and commercial auditoriums	1 space for each 3 seats, plus 1 for each 2 employees
Golf courses open to the public, except Miniature or "Par 3" courses	5 spaces for each hole, plus 1 space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Golf driving range	1 space for each tee, plus 1 space for each employee on the largest work shift.
Miniature or "Par 3" golf courses	3 spaces for each hole, plus 1 space for each employee, plus required spaces for each accessory use, such as a restaurant or bar.
Racquet sports	3 spaces, plus 3 spaces per court or 1 per 3 spectator seats, whichever is greater
Theme park, scenic area, amusement ride, water slide, go cart track and similar uses	2 spaces per 3 seats on amusement rides or 20 spaces per ride or attraction with no specific or defined seating
Industrial or manufacturing establishments, testing laboratories, creameries, bottling works, printing and engraving shops	1 space for every 2 employees per shift or 1 space for every 1,000 sq. ft. of gross floor area, whichever is greater.
Wholesale trade establishments and warehouses	1 space for every 2,000 sq. ft. of gross floor area, plus the required amount for other accessory uses
Mini-storage units	Drive aisle in front of each unit must be at least 24' wide. Units and drive aisles must be sited so a vehicle parked at the unit cannot trap another vehicle and prevent it from leaving the facility

(Ord. No. 7, § 20.1, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 10-06, § 6, 6-21-10; Ord. No. 13-03, § 2, 4-15-13)

Sec. 58-342. Parking requirement exceptions.

- (a) The township board may, at its discretion, provide for special parking surface requirements based on the use intended. Sale/rental of certain merchandise may be displayed or stored in the open on commercial properties as follows:

Merchandise	Parking surface required
Bicycles, motorcycles, yard and farm implements, two four-wheel trailers, recreation vehicles less than 16 feet long.	Grassy lawn areas, cut and maintained weekly or crushed stone, slag, or cinders.
Auto, trucks, motor homes, recreation vehicles, trailers, and motor homes over 16 feet in length.	Crushed stone, slag, or cinders or bituminous concrete, or cement.

- (b) No exceptions in paving surface requirements shall be allowed for ingress and egress openings, drives, and parking spaces for customers and employees.

(c) Parking area deferment.

- (1) Where the property owner can demonstrate that the required amount of parking is excessive the planning commission may approve a smaller parking area, provided that area of sufficient size to meet the parking space requirements of this article is retained as open space.
- (2) The site plan shall note the area where parking is being deferred, including dimensions and dotted parking lot layout.
- (3) The property owner shall agree, in writing, to construct the additional parking at the direction of the planning commission based on observed use within six months of being informed of such request in writing by the building official.
- (4) Stormwater calculations shall be provided to verify adequate stormwater storage capacity if an expansion is necessary.

(d) Maximum parking requirement.

- (1) To minimize excessive areas of pavement which detract from the aesthetics of an area and contribute to high rates of stormwater runoff, no parking lot shall have parking spaces totaling more than an amount equal to ten percent greater than the minimum parking space requirements, as determined by the off-street parking requirements of section 58-341(10) or section 58-342(a), except as may be approved by the planning commission.
- (2) The planning commission, upon application may grant additional spaces beyond those permitted in (1), above. In granting such additional spaces the planning commission shall determine that the parking area otherwise permitted will be inadequate to accommodate the minimum parking needs of the particular use and that the additional parking will be required to avoid overcrowding of the parking area. The actual number of permitted spaces shall be based on documented evidence of use and demand provided by the applicant.

(Ord. No. 7, § 20.2, 4-18-83; Ord. No. 02-5, § 3, 7-1-02; Ord. No. 10-02, § 22, 3-15-10)

Sec. 58-343. Additional parking requirements.

If the actual use of a facility results in a number of vehicles parking in excess of the spaces provided for more than one day per week, then the planning commission may order the property owner to construct the number of additional parking spaces deemed necessary to assure no excess overflow of the parking lot for any one facility.

(Ord. No. 7, § 20.3, 4-18-83)

Sec. 58-344. Minimum standards for size or parking isles and driveways.

Parking Angle	Maneuvering Aisle Width		Parking Stall Width	Parking Stall Length	Total Width of 2 Stalls of Parking Plus Maneuvering Aisle	
	One-Way	Two-Way			One-Way	Two-Way
0° parallel	12 feet	24 feet	8.5 feet	22 feet	29 feet	41 feet
30° to 53°	14 feet	24 feet	9.0 feet	18 feet	50 feet	60 feet
54° to 74°	16 feet	24 feet	9.0 feet	18 feet	52 feet	60 feet
75° to 90°	24 feet	24 feet	9.0 feet	18 feet	60 feet	60 feet

(Ord. No. 18-4 , § 1, 12-17-18)

Secs. 58-345—58-365. Reserved.

ARTICLE V. SIGNS

Sec. 58-366. 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:

Alteration. As used in this chapter, the term "alteration" means any change in a sign, including, but not limited to, any change in a sign's dimensions, shape, area, height, number or orientation of sign faces, structural support, location on the property, materials or lighting. A change solely in the wording of the copy of a sign shall not constitute an "alteration" for purposes of this chapter, unless the result of the change would cause the sign to be reclassified to a type of sign subject to different or more restrictive regulation (e.g., a change from an on-premises to an off-premises sign).

Billboard means any sign, including a sign on the wall of a building used for advertising a business, service, entertainment or other matter which is not conducted on the land where the sign is located or products not principally sold, manufactured, processed or fabricated on such land.

Business sign means any sign, including a sign on the wall of a business, on which lettered, figured or pictorial material is displayed for advertising a business, service, entertainment or other enterprise conducted on the land where the sign is located, or products primarily sold, manufactured, processed or fabricated on such land.

Community special event sign means any sign, either portable or non-portable, displayed only for a limited time, to call attention to special events of interest to the general public which are sponsored by governmental agencies, schools or other groups which are nonprofit and whose purpose is charitable, philanthropic, religious or benevolent.

Construction sign means any sign that identifies the owners, lenders, contractors, architects, and engineers of a project under construction, as well as the project itself.

Directional sign means any sign which gives directions, instructions, or facility information for the movement of vehicles or pedestrians on the lot on which the sign is located, such as parking or exit and entrance signs, but not including a commercial message.

Electronic reader board or changeable message sign means a permanent sign on which copy is changed manually, mechanically or electronically, including any electronically displayed sign.

Freestanding sign means a sign supported on poles not attached to a building or wall.

Ground sign means a sign resting directly on the ground or on a foundation, or supported by short poles not attached to a building or wall, the bottom of which is no more than 24 inches above the finished grade.

Identifying sign means any sign on the same premises it identifies which serves only to tell the name or use of any public or semipublic building or recreation area, club, lodge, church or institution; to tell the name or address of an apartment building, garden apartment, hotel, motel or similar business enterprise; or to inform the public as to the use of a parking lot.

Non-permanent sign means a non-lit sign which is not permanently installed and which is intended to be displayed for a limited period of time; including freestanding, sandwich boards, and flags, but not including certain on-premises signs as described in this ordinance.

Off-premises sign means any sign which relates to or advertises an establishment, product, merchandise, good, service or entertainment which is not located, sold, offered, produced, manufactured or furnished at the property on which the sign is located (including, but not limited to, billboards).

On-premises sign means any sign which solely identifies the name of the subdivision, mobile home community, or a multiple-family development of five or more dwelling units; or identifying the owner or occupant; or directing traffic on the premises.

Park sponsorship sign means an accessory sign that is isolated at a park owned and operated by Muskegon Charter Township (MCT), used by the public for athletic activities, and that identifies a sponsor in recognition of the sponsor's financial support for the parks, activities and facilities therein.

Political sign means any temporary sign used for advertising a political candidate and/or issue.

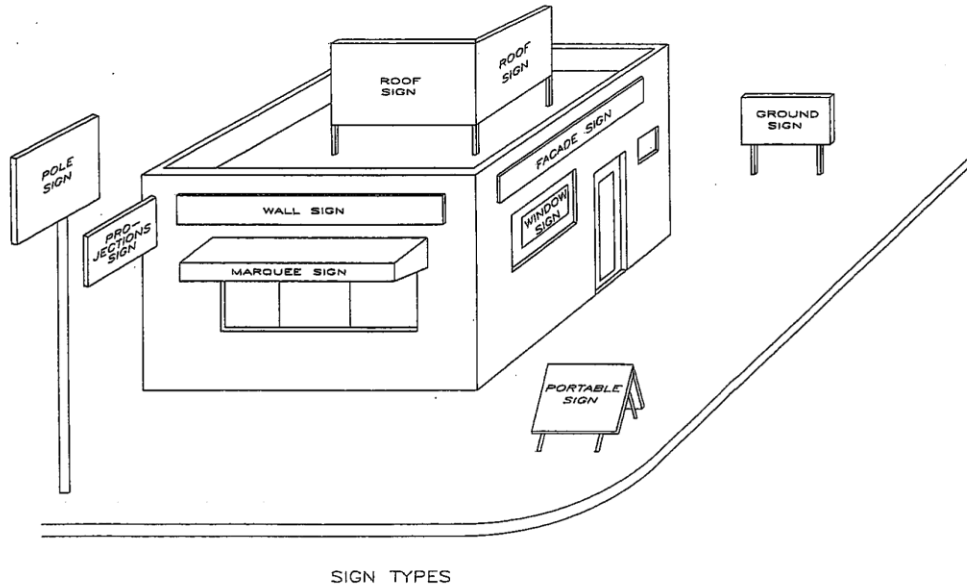
Portable sign means any sign that is not permanent or affixed to a building or structure and by its nature may be or is intended to be moved from one location to another, whether rented or owned, including "A" frame signs or signs attached to or painted on vehicles parked and visible from the public right-of-way, unless the vehicle is used for vehicular purposes in the normal day-to-day operations of the business.

Real estate sign means a temporary sign used to advertise the pertinent information of sale, rental or leasing of the premises upon which it is located.

Sign means any device, structure, fixture, billboard or placard and its supporting structure, which is designed, intended or used to direct attention to any service, place, institution, organization, or business.

Sunset provision means a measure within an ordinance that provides that the ordinance shall cease to have effect after a specific date, unless further legislative action is taken to extend the ordinance.

Temporary sign means any sign not permanently attached to the ground, a structure or a building. Temporary signs include banners, portable signs and any other sign displayed for a limited period of time.



(Ord. No. 7, § 21.1, 4-18-83; Ord. No. 11-05, § 2, 6-6-11; Ord. No. 17-01, § 2, 1-17-17)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 58-367. Permit required.

- (a) Except as specifically excused hereinafter, no sign shall be constructed, erected, attached to a building, installed, structurally altered, or relocated prior to the issuance of a permit therefor by the building official. The application for the sign permit shall include the name of the applicant, the size of the sign, plans and specifications for the sign, the proposed method of construction, erection, structural alteration, or relocation, and description and the equipment to be used for such work.
- (b) No permit shall be required for any of the following:
- (1) Normal maintenance and repair.
 - (2) Change of lettering or display panels.
 - (3) Real estate signs.
 - (4) Highway signs erected by the United States of America, the state, the county or the township.
 - (5) Governmental-use signs erected by governmental agencies to designate hours of activity or conditions for use for parks, parking lots, recreational areas, other public areas, or for governmental buildings.
 - (6) The following on-premises signs: signs having a message which is limited to a warning of danger, directional signs in conjunction with the prohibition or regulation of the use of property, traffic or parking thereon, signs advertising the premises for sale or rent or for help wanted. These on- premises signs shall not exceed six square feet each in area.
 - (7) Signs identifying a building's address and/or the name(s) of the building's occupant(s), not exceeding four square feet in area.
 - (8) Historic signs designating sites recognized by the state historical commission as Centennial Farms and Historic Landmarks.
 - (9) Signs posted to control or prohibit hunting or trespassing within the township not to exceed three square feet.
 - (10) Essential public service signs denoting utility lines, railroad lines, hazards and precautions.
 - (11) Memorial signs or tablets which are either cut into the face of a masonry surface or constructed of bronze or other incombustible material when located flat on the face of a building.
 - (12) One construction sign per project, of no more than 32 square feet in area, denoting architects, engineers, or contractors connected with the work under construction.
 - (13) Signs for political advertising.
 - (14) Menu and order boards for drive-through facilities provided such signs shall be located on the interior of the lot and not legible from adjacent properties. The placement, size, content, manner of illumination and sound level of such signs shall not constitute a traffic or pedestrian hazard. Such signs shall be limited to four per establishment. Any proposal for signage not meeting these requirements shall be submitted to the planning commission for a decision.
 - (15) Permanent signs on vending machines, gas pumps or ice containers.
 - (16) Residential yard and garage sale signs.
 - (17) Flags. The flag of any civic organization, municipality, state or nation respectfully displayed, including one flag bearing the official design insignia, name or logo of the on-premises business subject to the following conditions: Flags shall be attached to freestanding flagpoles located within the property. Placement of flagpoles shall not impede vehicular or pedestrian traffic. Flags may not project beyond

the property lines, and flags shall not project into the existing or proposed right-of-way. All flags shall be maintained in good repair, free of tearing, fraying or other deterioration.

- (c) Signs for political advertising are permitted in all zoning districts provided they are temporary, not illuminated, and do not exceed 32 square feet in area per sign face. Such signs shall be removed within ten days after the election with which the political sign is concerned.

(Ord. No. 7, § 21.2, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 11-05, § 3, 6-6-11; Ord. No. 17-01, § 3, 1-17-17)

Sec. 58-368. Legal nonconforming signs.

- (a) *Continuance.* Notwithstanding any other provision of this chapter to the contrary, a permanent sign which was erected legally and which lawfully exists at the time of the enactment of this chapter, but which does not conform to the height, size, area or location requirements of this chapter, is deemed to be nonconforming and may continue to be used subsequent to that time, as provided by this section.
- (b) *Loss of legal nonconforming status.* A legal nonconforming sign shall immediately lose its legal nonconforming designation if:
- (1) The sign is altered in any way in structure or copy (see definition of "alteration", section 58-366), which tends to or makes the sign less in compliance with the requirements of this article than it was before the alteration;
 - (2) The sign is relocated to a position making it less in compliance with the requirements of this article;
 - (3) The sign is replaced; or
 - (4) On the happening of any one of subsections (1), (2) or (3), the sign shall be immediately brought into compliance with this article with a new permit secured therefore, or shall be removed.
- (c) *Legal nonconforming sign maintenance and repair.* Routine repair to maintain a nonconforming sign in a safe and aesthetic condition exactly as it existed at the time of the enactment of this chapter and so as to continue the useful life of the sign shall not constitute an alteration for purposes of this chapter. If damaged, a legal nonconforming sign may be restored to the condition exactly as it existed immediately prior to the damage or destruction if the estimated cost of restoration does not exceed 50 percent of the estimated replacement cost as determined by the township; based on a written estimate from a licensed sign contractor. If the estimated cost of restoration exceeds 50 percent of the estimated replacement cost, the right to continue using the nonconforming sign shall thereupon terminate and the sign shall be brought into full compliance with all applicable provisions and requirements of this chapter prior to further use.

(Ord. No. 7, § 21.3, 4-18-83; Ord. No. 11-05, § 4, 6-6-11)

Sec. 58-369. Maintenance.

All signs shall be maintained in good condition and repair, including, without limiting the foregoing, maintenance of supports and fastenings to prevent the sign from falling.

(Ord. No. 7, § 21.4, 4-18-83)

Sec. 58-370. Traffic hazard.

No signs shall be constructed, erected or reconstructed or located in such a manner as to cause a hazard to vehicle or pedestrian traffic, including, without limiting the foregoing, visual hazard caused by flashing lights or glare where the visual hazard impairs vision or is unreasonably distracting.

(Ord. No. 7, § 21.5, 4-18-83)

Sec. 58-371. Right-of-way.

No sign, temporary or permanent, shall be constructed, erected or reconstructed upon or over any sidewalk, street, alley or other public right-of-way, except in the instance where the sign has first been authorized by the planning commission as a special use. In considering such authorization, the planning commission shall consider the following standards:

- (1) The type and nature of sign to be constructed out over the public right-of-way; and
- (2) Whether or not the construction of the sign out over the public right-of-way is necessary for the sign to be viewed by potential viewers.

(Ord. No. 7, § 21.6, 4-18-83)

Sec. 58-372. Illumination.

All signs which are to be illuminated shall be illuminated by electrical power. All electrical wiring and electrical installation shall be in conformance with the National Electrical Code, as amended from time to time. Illumination of signs shall not be flashing, blinking, intermittent, or of an on-and-off type, and shall not be directional. Open neon lights are prohibited. All sign illumination shall be employed in such a manner so as to prevent shining onto any street or adjacent or nearby properties.

(Ord. No. 7, § 21.7, 4-18-83; Ord. No. 11-05, § 5, 6-6-11)

Sec. 58-373. General conditions.

The following regulations are applicable to signs in all zoning districts.

- (a) No sign shall be erected, constructed or reconstructed in any location where it may interfere with, obscure the view of, or be confused with an authorized traffic sign.
- (b) All signs shall be secured in a manner that the unit remains stationary on the property. Any moving parts on the sign must be able to execute their full range of motion within the setback requirements defined in this ordinance.
- (c) Signs shall be constructed of metal, wood, plastic, foam, paint and/or comparable weather-resistant material, and shall be kept in good repair and maintained in safe, neat, clean condition. Banners shall not be allowed as permanent signs.
- (d) No freestanding sign shall exceed 30 feet in height, measured from the highest point of the sign to the grade of the nearest street, and shall not be less than four feet measured from the grade of the nearest street to the bottom of the sign. The sign may be placed at the property line, but no part of it may be in or project over the road right-of-way or any easement.
- (e) Freestanding sign materials. All freestanding sign structures or poles shall be self-supporting structures erected on, and permanently attached to, concrete foundations. Such structures or poles shall be fabricated only from painted steel or such other materials as may be approved by the building official in accordance with the building code of the township which may be amended from time to time.
 - (1) *Glass.* When glass is used for sign letters or transparent panels, it shall be plexiglass for sign areas up to and including 300 square inches. When glass is used for sign letters or transparent panels

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for sign areas in excess of 300 square inches, at least one-quarter-inch wire glass shall be used and the maximum span between supports shall be four feet.

- (2) *Strength of parapet wall.* A parapet wall must be designed for, and have sufficient strength to, support any sign which is attached thereto.
 - (3) *Supports and braces.* Metal supports or braces shall be adequate for wind loading and wire or cable supports shall have a safety factor of four. All metal, wire cable supports and braces and all bolts used to attach sign to bracket or brackets and sign to the support building or structure shall be of galvanized metal or equivalent material. There shall be no visible angle irons or unsightly supports. All such sign supports shall be an integral part of the sign design. There shall be a pole cover on all freestanding signs unless the pole is an integral part of the sign.
 - (4) *Wind loads.* All signs, except those attached flat against the wall of a building, shall be constructed to meet the standards of the currently adopted state of Michigan Building Code.
 - (5) *Sign anchoring.* No sign shall be suspended by chains or other devices that will allow the sign to swing due to wind action. Signs shall be anchored to prevent any lateral movement that would cause wear on supporting members or connections.
- (f) No sign, temporary or permanent, shall be erected, constructed, installed or located on private property without the written consent of the owner of such property.
 - (g) No sign, including, political signs, shall be located in the public right-of-way or attached to any tree, utility pole, street sign, traffic control device or any other similar objects. Political signs are prohibited on any township owned property.
 - (h) Signs which are not an integral part of a building may not extend more than four feet above the roof line.
 - (i) No ground sign shall exceed eight feet in height and shall be no larger than 60 square feet and must be permanently attached to the ground or concrete foundation.
 - (j) Community special event signs must be approved by the township before being displayed. A Community Special Event sign application must be submitted before installation of the sign. The following regulations apply:

Community special event sign regulations:

- (1) The display of signs for special events shall be limited to 30 days.
- (2) A maximum size of 32 square feet in area, and a maximum height above ground level of six feet and shall be set back from any side or rear property line a minimum of 15 feet. The front setback shall be as required for signs in the zoning district in which the sign is to be located.
- (3) The signs shall be removed within 48 hours of the conclusion of the event which is being advertised.
- (4) No sign may be affixed, attached or otherwise placed on any utility pole or traffic control sign, signal or device.
- (5) The sign must be placed outside of the road right-of-way.
- (6) If the sign is illuminated, it must comply with section 58-372 of this chapter.
- (7) Nonprofit/charitable events. A 501 C3 registered nonprofit organization hosting an event within the township may utilize signage to advertise the event and provide direction to the event provided the following conditions are met:

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- a. If the event is reoccurring, application must specify exact dates of planned event and the sign must be removed within 48 hours of the planned event.
 - b. The sign must not violate subsection 58-373(i)(2)—(6).
 - (8) Grand opening events are subject to approval by fire inspector, building inspector and zoning administrator after review of site plan.
 - (k) Residential yard and garage sale signage. Signs used to advertise a residential yard or garage sale are permitted subject to the following restrictions:
 - (1) One sign per lot or parcel is permitted, located on the lot or parcel on which such sale is being conducted.
 - (2) Such sign shall not exceed six square feet in area.
 - (3) Such sign shall be erected no more than seven days prior to the day of the sale and shall be removed within one day after completion of the sale.
 - (l) Changeable message signs. Changeable message signs may be manual or electronic, and shall comply with the maximum area and site location requirements of the applicable zone district.
 - (1) The changeable copy portion of a ground, pylon or wall sign shall not exceed 50 percent of the total sign area and shall be integral to the sign cabinet. The remainder of the sign shall be of a permanent character as otherwise required under this chapter.
 - (2) Electronic signs include electronic message boards and changeable message centers, multimedia or computer-controlled variable message signs, and similar devices. Electronic signs shall be permitted under the conditions described in this subsection.
 - a. *Display regulations.*
 - 1. Scrolling or traveling of a message onto and/or off of the display shall be allowed; provided the message is coming from one direction only and that no message shall take more than five seconds to be displayed in its entirety. Once scrolled, the screen may not change for ten seconds.
 - 2. If nonscrolling, the screen of the sign shall not change more than once every ten seconds.
 - 3. The display shall not, or shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light or blinking or chasing lights; the display shall not appear to move toward or away from the viewer, expand or contract, bounce, rotate, spin, twist or other similar movements.
 - 4. All electronic signs in any residential zone district, or within 150 feet of a residential zone district, shall discontinue the display between the hours of 11:00 p.m. and 6:00 a.m.
 - b. *Light levels requirements.*
 - 1. In order to prevent glare, electronic signs shall not operate at a brightness level greater than the manufacturer's recommended levels, except as provided in this or other township codes.
 - 2. All signs shall have installed ambient light monitors and shall at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions.

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3. Maximum brightness levels for electronic signs shall not exceed 5,000 nits when measured from the sign's face at its maximum brightness during daylight hours and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn.
- c. *Additional requirements.*
1. Electronic sign permit applications shall include a copy of the manufacturer's specifications for luminosity.
 2. Electronic sign permit applications shall also include certification from the sign manufacturer that the individual sign's maximum light intensity has been preset not to exceed the maximum illumination levels established by the code, and that the maximum intensity level is protected from end user manipulation by password protected software or other method approved by the township.
 3. If the sign is programmed from the site or from a remote location, the computer interface that programs the sign shall be available to township staff for inspection upon request. If the computer interface is not immediately available, the sign shall cease operation until such information can be provided.
 4. No parcel or abutting parcels under common ownership shall be permitted more than one electronic sign.
- (m) A Non-permanent Sign Application must be submitted before installation/display of the sign(s). The following regulations apply:
- a. *Non-permanent sign regulations.*
1. Annual application and payment of fee is required along with the business license renewal before installation. Applications may be submitted at a later date, but the expiration date will remain April 30th of the following year.
 2. Must be secured in a manner that the unit remains stationary on the property. Any moving parts on the sign must be able to execute their full range of motion within the setback requirements defined in this ordinance.
 3. Must be maintained so as not to be torn, tattered, frayed or faded.
 4. Two non-permanent sign allowed per business. Parcels with more than one business are allowed one per 80 feet of frontage, not to exceed five.
 5. Maximum aggregate size allowed is 32 sf in area, with no single sign exceeding 20 sf and a maximum height above ground level of 14 feet. Non-permanent signs shall be set back from the front property line a minimum ten feet and must be kept out of the "line of vision area". Setback area must include fall zone footage for sign(s).
 6. Violation of these regulations for a non-permanent sign will result in a fine as determined by the township board. Each day the violation exists constitutes a new violation. There will be no violation warning notice issued prior to citation being issued.
- (n) Sunset provision. The township board is enacting these non-permanent sign regulations in order to address the needs requested of business owners in the township. In order to gauge the impact on the township code enforcement officer, the township board hereby institutes a sunset provision on section 58-373(m) non-permanent sign regulations, of April 30, 2018. In the first quarter of 2018, the township board shall review the impact of this amendment to determine whether to delete the sunset provision entirely, modify, or extend the same.

(Ord. No. 7, § 21.8, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 11-05, § 6, 6-6-11; Ord. No. 17-01, § 4, 1-17-17)

Sec. 58-374. Billboards.

- (a) All billboards shall be located:
 - (1) No closer than 1,000 feet from any other billboard on the same side of the street.
 - (2) No closer than 500 feet from a billboard on the other side of a street.
 - (3) More than 500 feet from any major arterial or primary collector street intersections or from expressway access or exit ramps.
 - (4) No closer than 35 feet to the street right-of-way.
 - (5) No closer than 300 feet to the property line of a lot or parcel of land on which a residence is located.
- (b) No billboard shall be stacked or placed on or above another, and not more than one billboard shall be permitted on a single location other than a double-faced billboard. A V billboard shall be considered as one billboard.
- (c) No billboard shall have an area in excess of 300 square feet per sign face, including border and trim, but excluding uprights and supports.
- (d) No permit for the erection or construction of a billboard shall be issued unless and until a signed written consent from the owner of the property on which the billboard is to be located has been filed with the building official.
- (e) All permits for the erection, construction, location and maintenance of a billboard shall expire on January 1 in the fifth year following the grant of such permit. The sign owner shall make application for renewal of such permit no less than 90 days before such January 1. The building official may renew the permit for the billboard one or more times for an additional term of five years, if he shall determine that the billboard has been maintained in good condition and repair and has been maintained, utilized and located at all times in full conformance with all the terms and provisions of this article, and that the billboard is, on the date of such renewal, in compliance with all the terms and provisions of this article.
- (f) Electronic billboards are allowed under the following conditions:
 - (1) A billboard may be illuminated, provided that such illumination is concentrated on the surface of the sign and is so located as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles, or any adjacent premises. No billboard shall have one or more flashing, strobing, intermittent, moving, rotating, or oscillating lights or images.
 - (2) Billboards shall not be erected or maintained which shall be so illuminated that they interfere with the effectiveness of or obscure any official traffic sign, device or signal.
 - (3) The rate of change between two static messages or images cannot exceed more than one change per ten seconds and each change must be completed in one second or less.
- (g) To the extent they are not specifically inconsistent with the terms and provisions of this section dealing specifically with billboards, all of the other terms and provisions of this chapter pertaining to signs shall be applicable to billboards.

(Ord. No. 7, § 21.9, 4-18-83; Ord. No. 11-05, § 7, 6-6-11)

Sec. 58-375. Permitted sign locations.

Signs may be located, as hereinafter specified, subject to the regulations hereinafter contained, in the following zoning districts:

- (1) *RR zoning district.* Signs shall be permitted in this zoning district only as follows:
 - a. On farms, signs advertising the sale of agricultural products sold at a roadside stand on the farm where the sign is located. Sign shall not exceed 32 square feet.
 - b. Billboards, subject to the regulations contained in section 58-374.
- (2) *R-1, R-1S, R-2 and R-2S zoning districts.* Signs shall be permitted in these zoning districts only as follows:
 - a. One real estate sign not in excess of six square feet in area, if the real estate sign is not illuminated, and is placed entirely within the boundaries of the parcel of land or lot to which the sign refers.
 - b. One unilluminated business sign not in excess of three square feet in area.
 - c. Plat advertising signs, provided there shall be only two such signs per plat, and that no such sign shall exceed 32 square feet in area. Plat advertising signs shall be removed when 75 percent of the lots within the plat have buildings located thereon.
 - d. Identifying signs when authorized by the planning commission. In considering the granting of such authorization, the planning commission shall consider the following standards:
 1. The type, kind, size and nature of the identifying sign.
 2. The type and kind of buildings and structures adjoining and in the neighborhood surrounding the lot or parcel of land upon which the sign is to be located.
 3. The effect of the sign upon adjoining property.
 4. The reasons and necessity for the sign.
- (3) *R-3 and R-4 zoning district.* Signs shall be permitted in this zoning district only as follows:
 - a. All signs authorized in the R-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the R-1 zoning district.
 - b. A building identifying sign, provided it is not greater than 32 square feet in area and is attached flat against the building it identifies.
 - c. Freestanding identifying signs, when authorized by the planning commission. In considering such authorization, the planning commission shall consider the following standards:
 1. The nature, kind, size and character of the identifying sign.
 2. The proposed location of the identifying sign.
 3. The reasons why the identifying sign must be freestanding as opposed to being attached to the side of the building it identifies.
 4. The effect of the freestanding sign on adjoining properties and the surrounding neighborhood.
- (4) *C-1 zoning district.* Signs shall be permitted in this zoning district only as follows:

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- a. All signs permitted in the R-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the R-1 zoning district, except that real estate signs may be larger than permitted in the R-1 zoning district but shall not be greater than 32 square feet in area.
 - b. Business signs, if the signs are:
 - 1. Placed flat against the building on which they are located.
 - 2. Are limited to the side or sides of the building which front on the principal street or streets providing access to the building.
 - a. One for building face areas 6,000 square feet or less.
 - b. Two for building face areas 6,001 to 12,000 square feet.
 - c. Three for building face areas greater than 12,000 square feet.
 - 3. Are not in excess of 100 square feet in area. If multiple signs are permitted in accordance with 58-375 b(2) the square foot in area allowed is accumulative.
 - 4. Have no dimension greater than 20 feet.
 - c. One freestanding sign, if it is located in the front yard and does not exceed two square feet in area for each five feet of lot frontage measured at the building setback line for the business premises on which the sign is located, subject to a maximum of 300 square feet. A ground sign may be allowed in place of a freestanding sign, provided it meets the requirements of section 58-373(h). One ground sign allowed for each street side providing access to the building.
 - d. Temporary signs for a new business are permitted for a period of not to exceed 30 days. Application for a permit must be acquired from the building department. After 30 days the temporary sign must be removed from the premises.
 - e. Buildings with multiple tenants. Each tenant in a strip mall or building with multiple tenants may have one business sign (wall sign) if the sign is:
 - 1. Placed flat against the building on which it is located.
 - 2. Limited to one sign only on the side of the building which fronts on the street providing access to the building. Parcels which have frontage on more than one street are allowed one sign on each side which fronts a street.
 - 3. No greater in size than 15 percent of the face area of the portion of the building occupied, and in no case may the sign exceed 100 square feet in area. In the case of a corner parcel, total signage cannot be greater than 15 percent of each wall face on the sides of the suite which front the street providing access to the building.
 - 4. Have no dimension greater than 20 feet.
- (5) *C-2 zoning district.* Signs shall be permitted in this district only as follows:
- a. All signs permitted in the C-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the C-1 zoning district.
 - b. Billboards, when authorized by the planning commission. In considering such authorization, the planning commission shall consider the following standards:
 - 1. The nature, kind, size and character of the billboard.
 - 2. The proposed location of the billboard.

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3. The effect of the billboard on adjoining properties and the surrounding neighborhood. All billboards permitted in this zoning district pursuant to board of appeals authorization shall comply in all respects with the provisions of section 58-374.

(6) *I and IP zoning districts.* Signs shall be permitted in these zoning districts only as follows:

- a. All signs permitted in the R-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the R-1 zoning district, except that real estate signs may be larger than permitted in the R-1 zoning district but shall not be greater than 32 square feet in area.
- b. Business signs attached to a wall of a building, provided the area of the sign does not exceed 15 percent of the total area of the wall to which it is attached, or 100 square feet, whichever is lesser. Parcels which have frontage on more than one street are allowed one sign on each side which fronts a street.
- c. A freestanding or ground business sign, in the front yard setback provided the sign does not exceed 48 square feet in area or two percent of the area of the front wall of the building, whichever is greater, and is not greater than four feet in height. Such freestanding sign shall complement the architecture of the building and be appropriately landscaped. d. One identifying sign can be erected at each entrance to an industrial park to identify the name of the park and the industries located therein. Such sign may be freestanding or attached to a wall or fence and shall be appropriately landscaped.
- e. Billboards, when authorized by the planning commission. In considering such authorization, the planning commission shall consider the following standards:
 1. The nature, kind, size and character of the billboard.
 2. The proposed location of the billboard.
 3. The effect of the billboard on adjoining properties and the surrounding neighborhood. All billboards permitted in this zoning district pursuant to board of appeals authorization shall comply in all respects with the provisions of section 58-374.
- f. Buildings with multiple tenants. Each tenant in a building with multiple tenants may have one business sign (wall sign) if the sign is:
 1. Placed flat against the building on which it is located.
 2. Limited to one sign only on the side of the building which fronts on the street providing access to the building. Parcels which have frontage on more than one street are allowed one sign on each side which fronts a street.
 3. No greater in size than 15 percent of the face area of the portion of the building occupied. No building may have wall signage totaling greater than 15 percent of the face of the building and in no case may the sign exceed 100 square feet in area. In the case of a corner parcel, total signage cannot be greater than 15 percent of each wall face on the sides of the building which front the street providing access to the building.
 4. Have no dimension greater than 20 feet.

(7) *M/S zoning district.* Signs shall be permitted in this zoning district only as follows:

All signs as permitted in the C-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the C-1 zoning district.

(8) *M zoning district.* Signs shall be permitted in this zoning district as follows:

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- a. All signs as permitted in the C-1 zoning district, subject to the same conditions, restrictions and requirements, as provided in the C-1 zoning district.
- (9) *RMH zoning district.* Signs shall be permitted in this zoning district as follows:
- a. Signs advertising the mobile home park shall be restricted to 32 square feet of sign area to be limited to the street(s) frontage serving as access to the mobile home park.
 - b. One sign permitted on each access street.
 - c. Signs shall be reviewed by the planning commission.

(Ord. No. 7, § 21.10, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 11-05, § 8, 6-6-11; Ord. No. 12-01, § 2, 2-20-12 ; Ord. No. 12-11, § 2, 9-4-12 ; Ord. No. 13-04, §§ 2—4, 4-15-13 ; Ord. No. 16-09 , § 2, 11-7-16; Ord. No. 20-1 , § 1, Adoption date not provided)

Sec. 58-376. Prohibited signs.

All signs not expressly allowed under this chapter (unless exempted from regulation under this chapter) are prohibited in the township. Further, the following types of signs are expressly prohibited:

- (1) Portable signs, except as allowed by section 58-373 (j) and (m) of this chapter.
- (2) Roof signs.
- (3) Off-premises signs except for noncommercial.
- (4) Signs using high intensity, flashing or oscillating with the exception of changeable message signs otherwise permitted by this chapter.

(Ord. No. 11-05, § 9, 6-6-11; Ord. No. 17-01 , § 5, 1-17-17)

Sec. 58-377. Park sponsorship sign (PSS).

The sponsors and participants of scheduled events operating under a permit issued by Muskegon Charter Township (MCT) may erect signs or banners for the duration of the permit period. Signs for seasonal activities such as sports leagues may keep the sign up for the duration of the sport season.

Signs are required to follow township policies regarding donor recognition and site sponsorship. Signs at baseball and softball fields shall be on the outfield fences and/or scoreboards and orientated toward the field of play and within the borders of the park. All signs shall be nonilluminating and be installed under the supervision of authorized township personnel.

- (a) Limits.

Sponsors are responsible for all costs incurred in the development, manufacturing and repair of a PSS. Sign design, size, content and location must meet all requirements and are subject to individual approval and disapproval by the Muskegon Township board through recommendation from the parks and recreation committee.

PSS size will be 32 square feet (four feet by eight feet) for all seasonal activities. Smaller sign sizes for events operating under a permit may be used with approval from the Muskegon Township board through recommendation from the parks and recreation committee.

The Muskegon Township board may stop the sponsorships if it is determined the signs are excessive. Sponsorships will be granted on a first come, first accept basis.

PSS rates will be established by the MCT board and will be reviewed annually.

(b) Rates.

A PSS may only be displayed during the use period. The current cost per sign will be paid in full to the township before installation of the sign. Costs for smaller signs under special permit will be determined at the time of the request through parks and recreation recommendation to the township board.

(Ord. No. 11-05, § 10, 6-6-11)

Secs. 58-378—58-395. Reserved.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 58-396. Designation.

The township board shall appoint a building official, whose duty it shall be to administer and enforce the provisions of this chapter.

(Ord. No. 7, § 22.0, 4-18-83)

Sec. 58-397. Building official's duties.

In administering and enforcing this chapter, the building official shall perform the following duties:

- (1) Provide necessary forms and application.
- (2) Issue certificates of zoning compliance upon the demonstration that the applicant's plans are found to conform with the provisions of this chapter.
- (3) The building official shall not vary, change, or grant exceptions to any terms of this chapter, or to any person making application under the requirements of this chapter.
- (4) Issue any authorized permits.
- (5) Identify and record information relative to nonconformities.
- (6) Provide assistance in zoning changes and amendments to the ordinance text or zoning map.
- (7) Maintain files of applications, permits and other relevant documents; such records are open for public inspection.
- (8) Make periodic reports of activities to the township planning commission.

(Ord. No. 7, § 22.1, 4-18-83)

Sec. 58-398. Building official's powers.

The building official shall have all the powers and authority conferred by laws, statutes and ordinances to enforce the provisions of this chapter, including but not limited to, the following:

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- (1) Access to any structure or premises for the purpose of performing his duties between 8:00 a.m. and 6:00 p.m., by permission of the owner or upon issuance of a special inspection warrant.
 - (2) Upon reasonable cause or question as to proper compliance, he shall notify, in writing, the persons responsible for such violations, indicating the nature of the violation and ordering action to correct it. He shall order discontinuation of illegal uses of land, buildings or structures, removal of illegal work being done, issue cease desist orders requiring cessation, or taking any other action authorized by this chapter to ensure compliance with or prevent violation of its provisions.

(Ord. No. 7, § 22.2, 4-18-83)

Sec. 58-399. Certificate of zoning compliance.

- (a) It shall not be necessary for a nonconforming use existing on the effective date of this chapter to obtain a certificate of zoning compliance in order to maintain its legal nonconforming status. However, no nonconforming building or structure shall be renewed, changed or extended until a certificate of zoning compliance shall have been issued by the building official. This certificate shall state specifically wherein the nonconforming building, structure or use differs from the provisions of this chapter.
- (b) A permit for erection, alteration, moving or repair of any building shall not be issued until a certificate of zoning compliance has been issued therefor. Issuance of such a certificate shall indicate that the uses and plans for which the permit is requested comply with this chapter.
- (c) It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both, or part thereof thereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the building official. The certificate shall state that the building, structure and lot and use thereof conform to the requirements of this chapter.
- (d) Applications for the certificate of zoning compliance shall be accompanied by scale maps or drawings showing accurately the location, size and shape of the lots involved and of any proposed structures, including the relation to abutting streets, lakes or streams, and the existing and proposed use of each structure and lot, and the number of families to be accommodated. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter and punishable under division 4 of this article.

(Ord. No. 7, § 22.3, 4-18-83)

Sec. 58-400. Building permits required.

- (a) No building permit for the erection, alteration, moving or repair of any building shall be issued until a certificate of zoning compliance has been issued.
- (b) No building or other structure shall be erected, moved, added to, or structurally altered without a building permit, pursuant to the township building codes and issued by the building official.
- (c) No building permit shall be issued by the building official except in conformity with this chapter, unless he received a written order from the board of appeals in the form of an administrative review or a variance, as provided by this chapter.
- (d) Plans submitted in application for a building permit shall contain information necessary for determining conformity with this chapter, including a copy of the certificate of zoning compliance.

(Ord. No. 7, § 22.4, 4-18-83)

Sec. 58-401. Certificate of occupancy.

- (a) No building, structure or lot for which a zoning compliance permit has been issued shall be used or occupied until the building official has, after final inspection, issued a certificate of occupancy indicating compliance has been made with all provisions of this chapter. However, the issuance of a certificate of occupancy shall in no case be construed as waiving any provision of this chapter.
- (b) Buildings accessory to dwellings shall not require separate certificates of occupancy but may be included in the certificate of occupancy for the dwelling when shown on the plot plan and when completed at the same time as such dwellings.
- (c) Certificates of occupancy, as required by the building code for new buildings or structures, or parts thereof, or for alterations to or changes of use of existing buildings or structures, shall also constitute certificates of compliance as required by this chapter.
- (d) A record of all certificates issued shall be kept on file in the office of the building official and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the property involved.

(Ord. No. 7, § 22.5, 4-18-83)

Secs. 58-402—58-410. Reserved.

DIVISION 2. BOARD OF APPEALS

Sec. 58-411. Created.

There is created a board of appeals consisting of not less than three nor more than five members. Members shall be appointed by the township board; provided, that no elected officer of the township shall serve as chairman of the board of appeals, and that one member of such board of appeals may also be a member of the planning commission.

(Ord. No. 7, § 23.0, 4-18-83)

Sec. 58-412. Members.

- (a) Of the members appointed to the first board of appeals, one shall serve a term of one year, two shall serve a term of two years, and two shall serve a term of three years. Thereafter, all members shall be appointed for a term of three years. Each member shall serve until his successor is duly appointed. Members of the board of appeals may be paid compensation in an amount determined by the township board and may be paid their expenses in the performance of official duties.
- (b) A chairman and vice-chairman shall be elected from among the members, and a secretary shall be appointed who need not be a member of the board of appeals.

(Ord. No. 7, § 23.1, 4-18-83)

Sec. 58-413. Removal.

Members of the board of appeals shall be removable for cause by majority vote of the township board, upon the filing of written charges with the township board. No member shall be removed prior to a public hearing, which shall be held within 30 days of filing of the written charges.

(Ord. No. 7, § 23.4, 4-18-83)

Sec. 58-414. Vacancies.

Vacancies occurring on the board of appeals shall be promptly filled by the township board and any member so appointed shall serve the balance of the preceding member's term and shall thereafter be subject to appointment in the manner hereinabove set forth.

(Ord. No. 7, § 23.5, 4-18-83)

Sec. 58-415. Powers.

The board of appeals shall have and exercise the following powers:

- (1) To adopt rules of procedures governing the transaction of its business.
- (2) To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with enforcing the provisions of this chapter.
- (3) To order the issuance of permits for building and uses.
- (4) Non-use variance: A non-use or dimensional variance may be allowed by the board of appeals only in cases where there is reasonable evidence of practical difficulty in the official record of the hearing and ALL of the following conditions are satisfied:
 - a. The granting of the variance will not impair the intent and purpose of the zoning ordinance.
 - b. The granting of the variance will do substantial justice to the applicant and to the neighborhood.
 - c. Application of the ordinance provisions would deprive the applicant of rights commonly enjoyed by other properties in the same district.
 - d. There are unique conditions or circumstances peculiar to the applicant's land, structure or building involved which are not generally applicable to other lands, structures or buildings in the same district. Unique conditions or circumstances related to the property may include:
 1. Exceptional narrowness, shallowness or shape;
 2. Exceptional topographic conditions;
 3. Use or development of the property immediately adjoining the property in question.
 - e. The granting of the variance is the minimum necessary to accommodate the unique conditions or circumstances of the applicant's land, structure or building.
 - f. The unique conditions or circumstances do not result from the actions of the applicant or a prior owner.
 - g. The granting of the variance will not impair public safety.

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- h. There are no alternative solutions to accommodate the unique conditions or circumstances of the applicant's land, structure or building.

(Ord. No. 7, § 23.1, 4-18-83; Ord. No. 98-12, 6-15-98; Ord. No. 16-06 , § 1, 6-20-16)

Sec. 58-416. Variances resulting in adverse effects.

The applicant for a variance which in the opinion of the board of appeals may result in a material adverse effect on the environment may be requested by the board to demonstrate the nature and extent of the effects.

(Ord. No. 7, § 23.2, 4-18-83)

Sec. 58-417. Hearings and appeals.

- (a) Appeals may be taken by any person aggrieved, or by any officer, department, board or bureau of a town, municipality, county or state. Such appeal shall be taken within 15 days by filing with the board of appeals a notice of appeal specifying the grounds thereof.
- (b) The board of appeals shall set a reasonable time for the hearing of the appeal and give due notice thereof to the appellant, to the officer from whom the appeal is taken, and to the public, and shall decide the same within 30 days of the hearing.
- (c) An appeal stays all proceedings in furtherance of the action appealed from, unless the board of appeals certifies that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life and property.
- (d) The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from; and to that end shall have all the powers of the officer from whom the appeal was taken and may direct the issuance of a permit.
- (e) The board shall keep complete and detailed records of all its proceedings, which shall include the minutes of its meetings, its findings and actions taken on each matter heard by it, including the final order. The order shall include the legal description of the property involved. Reasons for the decision shall be stated, in writing. The board shall record the vote of each member on each question, or if absent or failing to vote, indicating such fact. All records shall be open for public inspection. Meetings shall be held at the call of the chairman and at such other times as the board of appeals may determine.
- (f) A majority vote of the members of the board of appeals shall be sufficient on any action under consideration.
- (g) All decisions by the board of appeals in granting variances or in hearing appeals shall be final, except that the aggrieved person or persons, or any department, board or commission, or the state shall have the right to appeal within 30 days after the receipt of notice of the decision, to the circuit court in the county in which the land is located on questions of law and fact.

(Ord. No. 7, § 23.3, 4-18-83; Ord. No. 17-17 , § 2, 1-16-18)

Secs. 58-418—58-430. Reserved.

DIVISION 3. DISTRICT CHANGES; AMENDMENTS

Sec. 58-431. Generally.

The township board may, after recommendation from the planning commission, amend, supplement, or change the provisions of this ordinance or to the official zoning map. Such actions shall be consistent with the Michigan Zoning Enabling Act (P.A. 2006, as amended), and provisions of this Code.

(Ord. No. 7, § 24.0, 4-18-83; Ord. No. 15-06, § 3, 7-20-15)

Sec. 58-432 Initiation and procedure.

- (a) Amendments may be initiated by the township board, planning commission or by the titleholder for the property subject to the proposed amendment. No fee shall be charged for amendments initiated by the township board or planning commission.
- (b) An amendment to the official zoning map (except those initiated by the township board or planning commission) shall be initiated by submission of a complete and accurate application to the township on a form provided by the township, along with the required fee established by the township. The following information shall accompany the application and fee:
 - (1) A legal description and street address of the subject property.
 - (2) The name and address of the owner of the subject property, and a statement of the applicant's interest in the subject property, if the applicant is not the owner in fee simple title.
 - (3) The existing and proposed zoning district designation of the subject property.
 - (4) A written description of how the requested amendment meets the criteria stated in this Section.
 - (5) The activity to be conducted if proposed change is approved.
 - (6) The dollar amount of investment, if any.
 - (7) The number of people to be employed/types of jobs if approved.
- (c) Amendment review procedure. Proposed amendments to the official zoning map shall be reviewed in accordance with the following:
 - (1) Technical review. Prior to planning commission consideration, the proposed amendment and application materials shall be distributed to the planning/zoning administrator for review and comment.
 - (2) Public hearing. A public hearing shall be provided as follows:
 - a. Notice shall be published in a newspaper of general circulation in Muskegon Charter Township not less than fifteen (15) days prior to the public hearing scheduled.
 - b. Notice shall also be sent by mail to the owners of all property for which approval is being considered, to the owners of all real property within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet of the boundary of the property in question, regardless whether the property or occupant is located within the township. If the name of the occupant is not known, the term "occupant" may be used in making notification. Notification need not be given to more than one occupant of a structure, except that if a structure contains more than one dwelling unit or spatial area owned or leased by different individuals, partnerships, businesses, or organizations, one occupant of each unit or spatial area shall receive notice. In the case of a single structure containing more than four such units or spatial areas, notice may be given to the manager or owner of the structure, who shall be

requested to post the notice at the primary entrance to the structure. This notice shall be sent not less than 15 days prior to the date of the public hearing scheduled.

- c. The notice shall contain:
 - i. A description of the nature of the request to be heard.
 - ii. A description of the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. If there are no street addresses, other means of identification may be used.
 - iii. A statement of when and where the request will be considered.
 - iv. An indication of when and where written comments will be received concerning the request.
- (3) Planning commission consideration and recommendation. The planning commission shall review the proposed amendment, together with any reports and recommendations from staff, consultants, other reviewing agencies and any public comments. The planning commission shall identify and evaluate all relevant factors, and shall report its findings and recommendation to the township board. In considering an amendment to the official zoning map (rezoning), the planning commission shall consider the following factors in making its findings and recommendations:
 - a. Consistency with the master plan. Consistency with the master plan's goals, policies, and future land use map. If conditions have changed since the master plan was adopted, the consistency with recent development trends in the area shall be considered.
 - b. Environmental features. Compatibility of all the potential uses allowed in the proposed zoning district(s) with the site's physical, geological, hydrological, and other environmental features.
 - c. Suitability with the law. Compatibility of all the potential uses allowed in the proposed district(s) with surrounding uses and zoning in terms of suitability, intensity, traffic impacts, aesthetics, infrastructure and potential influence on property values.
 - d. Capacity of public services and utilities. Capacity of available utilities and public services to accommodate all the potential uses permitted in the proposed zoning district(s) without compromising the health, safety, and welfare of township residents or burdening the township with unplanned capital improvement costs or other unplanned public expenses.
 - e. Capability of road system. Capability of the road system to safely and efficiently accommodate the expected traffic generated by all the potential uses permitted in the proposed zoning district.
 - f. Demand for uses. The apparent demand for the types of uses permitted in the proposed zoning district(s) in relation to the amount of land currently zoned and available in the Township and surrounding communities to accommodate the demand.
 - g. Scale of future development. The boundaries of the proposed district(s) in relationship to the surrounding area and the scale of future development on the site.
 - h. Other factors. Whether all of the potential uses in the proposed zoning district(s) are equally or better suited to the area than the current uses allowed.
- (4) Township board action. The planning/zoning administrator shall forward a copy of the proposed amendment and report and recommendation from the planning commission to the township board for consideration and final action.
 - a. The township board may adopt or reject the proposed amendment, or may refer the amendment back to the planning commission for revision or further consideration.

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- b. If the township board requests revisions to the proposed amendment, the amendment and requested revisions may be referred back to the planning commission for further consideration.
- (d) Re-application. Whenever an application for an amendment to this ordinance has been rejected by the township board, a new application for the same amendment shall not be accepted by the township for a period of 365 calendar days from the date of application unless the planning/zoning administrator determines that one or more of the following conditions has been met:
- (1) There is a substantial change in circumstances relevant to the issues or facts considered during review of the application.
 - (2) New or additional information is available that was not available at the time of the review.
 - (3) The new application is materially different from the prior application.

(Ord. No. 7, § 24.1, 4-18-83; Ord. No. 15-06 , § 4, 7-20-15)

Sec. 58-433. Final adoption.

Amendments hereunder shall become effective after passage and publication by the township board.

(Ord. No. 7, § 24.2, 4-18-83; Ord. No. 15-06 , § 5, 7-20-15)

Sec. 58-434. Conditional zoning.

The township recognizes that in certain instances, it may be advantageous to the township and to property owners to review amendments to the zoning map subject to certain conditions. Accordingly, it is the intent of this section to implement the provisions of Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), authorizing an owner to voluntarily offer and a township to approve, certain use and development of land as a condition to the rezoning of such land ("conditional rezoning"). it is the intent of the township that a petition for conditional rezoning be considered only in the event that the conditions offered by the petitioner are voluntary, and are adequate, in the opinion of the township, to address any potentially negative effects of the rezoning on the health, safety, general welfare, and comfort of the residents of the surrounding property, neighborhood and township.

Definitions. For purposes of this section, these terms shall be defined as follows:

- (a) *Conditional rezoning petition (offer).* A written offer with specific terms and conditions, voluntarily submitted by the property owner, for certain use and development, as a condition to a rezoning of land or an amendment to the official zoning map.
- (b) *Conditional rezoning plan.* A plan for re-zoning of a property, subject to certain conditions proposed by the property owner, including legal descriptions, drawings and narrative descriptions of the proposed development, and a timetable, as set forth below.

Eligibility. The following conditions of eligibility shall apply to a petition for conditional rezoning:

- (a) A petition (offer) may be submitted only by the titleholder of the land proposed for rezoning or a potential owner contingent on approval of the rezoning. A potential owner must provide documentation such as a purchase agreement signed by both parties. The applicant shall attest to his authority to subject the land to the conditions offered, by execution and recordation of such conditions, covenants, and restrictions as may be required to legally and permanently bind the owner, its heirs, assigns, and successors in interest.

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- (b) A petition (offer) may be considered for land in any zoning district, for rezoning to any other zoning district, provided such rezoning shall meet or exceed the minimum standards set forth below.
 - (c) A petition (offer) shall propose a rezoning of the land to a new zoning classification, and shall, as part of such proposal, include certain voluntary site-specific development and/or use conditions materially restricting the development and/or uses otherwise allowable under the proposed new zoning classification. The petition shall not propose any development and/or use not otherwise allowable under the proposed new zoning classification.
 - (d) A conditional rezoning plan shall be considered by the township board only in conjunction with approval, on recommendation of the planning commission, of a corresponding conditional rezoning petition and subject to such site plan, special land use, plat, and/or condominium approvals as may be required.

Minimum standards. A petition shall be considered for approval only when it is determined by the township, in its sole discretion, that the conditional rezoning meets or exceeds the following minimum standards:

- (a) The proposed rezoning will benefit the public interest, such that the expected benefits of the rezoning, subject to the conditions offered, clearly outweigh any reasonably foreseeable detriment.
- (b) The proposed rezoning shall include conditions sufficient to assure the integration of the proposed development and use with the surrounding land uses and to protect the public health, safety, and welfare.
- (c) The specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic systems, drainage or the environment.

Permitted conditions and limitations. The following conditions of use and/or development of the land proposed for rezoning may be included in the petition for conditional rezoning, provided such conditions are voluntarily proposed by the petitioner; are in response to, and roughly proportionate to, the impacts of the proposed development and use of the property; and otherwise satisfy the conditions and standards set forth above:

- (a) Conditions detailing the permitted uses of the development.
- (b) Conditions on the location, size, height, or other physical characteristics of any structures or improvements proposed for development on the land.
- (c) Conditions limiting the density of development or the intensity of the use, including but not limited to the specific types of uses and hours of operation, of the land proposed for rezoning.
- (d) Conditions related to drainage, water and sewer capacity and quality, and adequacy and effect on other public utilities in the area.
- (e) Conditions related to traffic volume, flow, and management affected by the proposed development and use.
- (f) Conditions related to the preservation of natural features, resources, open space, and buffers located on, or impacted by development of the land proposed for rezoning, including provisions to assure permanent maintenance of the same.
- (g) Such other conditions as may be deemed important to the development and to the protection of public interests.

Conditional rezoning petition and review process. Subject to the criteria for eligibility and standards set forth above, a Petition may, at the sole election of the petitioner, voluntarily offer any conditions and/or limitations on the development and/or use of the land proposed for rezoning, as set forth above. Such petition shall be entitled a

petition for conditional rezoning, and shall be subject to the review procedures, requirements, and approvals set forth herein.

- (a) *Petition requirements.* The petition for conditional rezoning shall contain or be accompanied by:
- (1) If changes to the property site are part of the conditional rezoning petition, a site plan for development and use drafted by an architect or engineer, which plan shall include drawings and descriptions in sufficient detail for the planning commission to identify areas of potential concern in the proposed development and use of the land and to preliminarily evaluate the adequacy of the proposed conditions to address those concerns. The conditional rezoning petition shall not replace the requirement for site plan, special land use, subdivision, or condominium approval as applicable, but shall, generally, contain those provisions required by article VIII of this chapter.
 - (2) A narrative description of the proposed development and use, and all proposed conditions and limitations thereon.
 - (3) A narrative analysis of the anticipated impact of the proposed development and use on the community, as well as the relationship of proposed conditions and limitations to these anticipated impacts. Such analysis shall include a review of surrounding zoning classifications, adequacy of existing and proposed infrastructure, utilities, and services, traffic volume and flow, access management, air quality, noise levels, and other related factors affecting the health, safety and welfare of the community.
 - (4) A proposed timetable for completion of the development.
 - (5) A legal description of the land to which it pertains.
- (b) *Fees.* The petition shall also be accompanied by the fees set forth in the Muskegon Township Fee Schedule, which fees shall be sufficient to defray the costs of the review of the petition by the planning commission, and the expenses incurred by the township for consultant review, drafting, publication, hearings, recordation, and other related expenses.
- (c) *Preliminary conference.* On receipt of a petition that meets the requirements of this ordinance, the planning/zoning administrator shall schedule a preliminary conference with the petitioner and the township supervisor to determine the eligibility of the petition and the validity of the conditions for rezoning.
- (d) *Optional preliminary review.* Following a determination of eligibility, the petition may be forwarded for preliminary review by the planning commission. If requested by the petitioner, the planning commission shall review the petition and informally address any concerns relative to the development or use proposed in the petition. No opinion expressed by the planning commission shall be construed as an approval, or guarantee of approval, of the rezoning.
- (e) *Formal planning commission review.* Upon completion of the preliminary conference and optional preliminary review, if elected, a petition meeting the petition and eligibility requirements shall be submitted to the planning commission for formal consideration pursuant to this ordinance. Following notice and a hearing in accordance with M.C.L. § 125.3103 et. seq., the planning commission shall complete its review of the petition, and shall report its findings of fact along with its recommendations to the township board.
- (f) *Township board review.* Upon receipt of the planning commission's recommendations to the township board, the petition for rezoning shall be scheduled for consideration by the township board. Based on the findings of fact reported by the planning commission, the township board may, in its sole discretion, and based upon the standards set forth in herein, approve or deny the petition. The township board shall state its decision along with the basis for the decision on the record.

(g) *Implementation and enforcement.* Following approval of a conditional rezoning by the township board, the township shall implement and enforce the rezoning pursuant to the terms of the zoning ordinance, and shall also provide notice and monitor compliance as follows:

- (1) *Zoning map.* The zoning map shall be amended to indicate the new zoning, along with a notation that the zoning is "conditional." The new zoning classification shall govern development and use of the land, subject to all terms and conditions contained in the approved petition.
- (2) *Enforcement.* The planning/zoning administrator shall review all development and use of the property for compliance with the new zoning classification, subject to the terms and conditions of the approved petition. Any development or use of the land in violation of the terms and conditions of the approved petition, or of the new zoning classification, shall, in the sole discretion of the township board, result in reversion to the zoning classification applicable just prior to the conditional rezoning. Reversion shall be accomplished in accordance with section 58-431, except that the findings of fact necessary to support reversion shall be limited to those evidencing a breach of the approved petition. Upon rezoning following a breach of the approved petition, the property shall be returned to a state of compliance with the zoning classification and ordinance provisions then applicable.

(Ord. No. 7, § 24.3, 4-18-83; Ord. No. 15-06, § 6, 7-20-15)

Sec. 58-435. Reserved.

Editor's note(s)—Ord. No. 15-06, § 7, adopted July 20, 2015, repealed § 58-435, which pertained to hearing and derived from Ord. No. 7, § 24.4, adopted April 18, 1983.

Secs. 58-436—58-445. Reserved.

DIVISION 4. VIOLATIONS AND PENALTIES

Sec. 58-446. Violations declared nuisances.

Uses of land, and dwellings, buildings or structures including tents and mobile homes used, erected, altered, razed or converted in violation of this chapter are a nuisance per se.

(Ord. No. 7, § 25.1, 4-18-83)

Sec. 58-447. Complaints regarding violations.

Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint with the building official stating fully the causes and basis thereof. The building official shall maintain a record of such complaints and shall take appropriate action pursuant to the provisions of this chapter.

(Ord. No. 7, § 25.2, 4-18-83)

Sec. 58-448. Unauthorized changes in zoning map.

Any unauthorized change in the official zoning map shall be considered a violation of the provisions of this chapter.

(Ord. No. 7, § 25.3, 4-18-83)

Sec. 58-449. Compliance mandatory.

No building, structure or land shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the provisions of this chapter.

(Ord. No. 7, § 25.4, 4-18-83)

Sec. 58-450. Remedial action.

In addition to all other remedies, the township board may institute appropriate action or proceedings to prevent, restrain, correct or abate violations or threatened violations and it is the duty of the township attorney to institute such action.

(Ord. No. 7, § 25.5, 4-18-83)

Sec. 58-451. Penalty.

Any person who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any other provision of this chapter shall be guilty of a civil infraction punishable by a fine as described in the civil infraction ordinance. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 7, § 25.6, 4-18-83; Ord. No. 7, 5-6-91; Ord. No. 12-04, § 2, 3-19-12)

Secs. 58-452—58-470. Reserved.

ARTICLE VII. FEES

Sec. 58-471. Schedule of fees.

The township board shall establish a schedule of fees, charges and expenses for permits, certificates, appeals, hearings, special meetings, site plan reviews and other documents and actions required by the provisions of this chapter. This schedule shall be available in the office of the building official.

(Ord. No. 7, § 26.1, 4-18-83; Ord. No. 7, § 30.15, 10-5-92)

Sec. 58-472. Payment prerequisite to issuance of permits, other action.

No permit, certificate or variance shall be issued unless such fees, charges or expenses have been paid in full, nor shall any action be taken on proceedings before the board of appeals unless or until fees, charges and expenses have been paid in full.

(Ord. No. 7, § 26.2, 4-18-83)

Sec. 58-473. Fee adjustment for site plan review.

If the actual site plan review/inspection costs exceed the sum deposited to cover such costs, the proprietor shall, upon demand, pay to the township as directed by its duly authorized representative, such additional sums as shall be necessary to cover the remaining unpaid amount. The additional fees shall be paid to the township within ten days of written notification.

(Ord. No. 7, § 30.16, 10-5-92)

Secs. 58-474—58-480. Reserved.

ARTICLE VIII. SITE PLAN REVIEW

Sec. 58-481. Intent.

The intent of this article shall be to:

- (1) Provide for consultation and cooperation between the developer and the planning commission so that both parties might realize maximum utilization of land and minimum adverse effects upon the surrounding land uses consistent with the requirements and purposes of this article.
- (2) Provide for township review of proposed uses of a site in relation to surrounding land uses; accessibility; pedestrian and vehicular circulation; spatial relationships; off-street parking; public and private utilities; drainage; groundwater and surface water resources; environmental characteristics; site vegetation, screening, buffering and landscaping; development characteristics and other site elements which may have an effect upon the public health, safety, and general welfare; and its relationship and conformance with adopted township ordinances and plans.
- (3) Require site plan review and approval for certain land development projects as listed in section 58-482, including additions to, modifications of, and changes in use of existing developments.
- (4) Provide for establishment of fees for site plan review.
- (5) Establish guidelines to ensure compliance with the regulations and procedures outlined in this article.

(Ord. No. 7, § 30.1, 10-5-92)

Sec. 58-482. Uses subject to site plan review.

- (a) The following are uses subject to site plan review by the planning commission:
 - (1) All permitted uses within the R-3, R-4, RMH, M, I, IP, C-1, C-2, M/S, and P districts except for single-family detached and two-family dwellings.
 - (2) Special land uses within any zone district.
 - (3) Any use or development for which the submission of a site plan is required by any provision of this article except those listed in subsection (b) of this section.
 - (4) Ground mounted solar energy systems within any zoning district.

(b) The following uses are subject to site plan review by the zoning administrator, building official, and fire inspector. Such review shall ensure that the setbacks, yards, parking and other specific requirements of this chapter are met.

- (1) All permitted uses within the RR, R-1, and R-2 districts.
- (2) Single-family detached and two-family dwellings in the R-3 district.
- (3) Minor changes to a previously approved site plan. Minor for purposes of this section is defined as changes that don't materially alter the site layout, intensity, use, or functionality of the site.
- (4) A non-residential building, structure or expansion which does not exceed 600 square feet.

(Ord. No. 7, § 30.2, 10-5-92; Ord. No. 15-16, § 2, 10-19-15; Ord. No. 17-08, § 2, 6-5-17)

Sec. 58-483. Authorization for review and approval.

- (a) The zoning administrator, building official, or planning commission, as specified in this article, shall review and approve, review and approve with conditions, or review and deny all site plans submitted under this article. Each site plan shall comply with the "Standards for Granting Site Plan Approval" as described in section 58-586 of this article. Each action taken with reference to site plan review shall be duly recorded in the official record of action by the zoning administrator or in the minutes of the planning commission. The zoning administrator shall forward those site plans requiring planning commission review to the planning commission along with his recommendations as to conformity or nonconformity with the requirements of this article, and what revisions or conditions, if any, would be necessary in order to be in conformance. Prior to any final decision, the zoning administrator and planning commission shall seek the recommendations of the township building inspector, sewer and water department, planning consultant, engineer, fire chief, the county road commission, county health department, county drain commission, county department of public works and planning, the state department of transportation, and the state department of natural resources where applicable.
- (b) All site plans shall be acted upon within 60 days of receipt of the following by the township zoning administrator:
- (1) A completed application.
 - (2) A site plan meeting the requirements of section 58-486.
 - (3) All applicable fees.
- (c) Following approval of a site plan, the petitioner shall apply for the appropriate township, county and/or state permits as may be required by such agencies and present appropriate plans and specifications as may be required by such agencies.

(Ord. No. 7, § 30.3, 10-5-92)

Sec. 58-484. Application for review.

- (a) An application for site plan review shall be submitted to the zoning administrator no less than 14 days prior to the date of the meeting at which their application will be reviewed. The detailed site plan presented for consideration shall contain all information required in this section, unless the zoning administrator determines that some of the required information is not reasonably necessary for the consideration of the site plan.

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- (1) Failure to obtain approval of application before work commences shall cause penalty of double the application fee to be charged to applicant.
- (b) The application materials shall, at a minimum, include the following:
- (1) Current proof of ownership or evidence of a contractual ability to acquire such land, such as an option or purchase agreement or a written statement from the property owner indicating permission for the filing of the application.
 - (2) Sheet size of submitted drawings shall be at least 24 inches by 36 inches, with graphics at an engineer's scale of one inch equals 20 feet for sites of 20 acres or less; and one inch equals 100 feet or less (i.e., one inch equals 20 to 100 feet) for sites over 20 acres.
 - (3) Written documentation that the proposal meets the standards of section 58-486.
 - (4) Six copies of plan sheets including the information required below, which may be provided on a single sheet if clarity can be maintained. Individual site plan requirements may be waived if deemed unnecessary by the zoning administrator and/or building official.
 - a. *Identification of project.*
 1. The applicant's name.
 2. Name of the development.
 3. The preparer's name and professional seal of architect, engineer, surveyor or landscape architect indicating licensure in the state.
 4. Date of preparation and any revisions.
 5. North arrow.
 6. Scale of drawing.
 7. Complete and current legal description and size of property in acres.
 8. Small scale location sketch of sufficient size and scale.
 - b. *Existing features.*
 1. Property lines and dimensions.
 2. Zoning and current land use of applicant's property and all abutting properties and of properties across any public or private street from the site.
 3. Lot lines, all structures on the property, and all structures within 100 feet of the site's property lines.
 4. Locations of significant natural features.
 5. Location of any access points on both sides of the street within 100 feet of the site along streets where any access to the site is proposed.
 6. Existing topography at a minimum of five-foot contours.
 7. Existing drainage courses and existing lake or stream elevations.
 - c. *Proposed construction.*
 1. Building blueprints, setbacks, and elevations showing height and materials for all proposed structures, including any residential units, with acreage allotted to each user.
 2. Size, height, type, and location of proposed identification signs.

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3. Proposed locations of utility services, with sizes, including storm drainage, retention or detention ponds, fire hydrants, sewer and water tap locations and any public or private easements.
 4. Runoff calculations used for determination of stormwater managements.
 5. Proposed topography with a site grading plan with topography at a minimum of two-foot contour intervals.
 6. Location and method of screening for all waste dumpsters.
 7. Location and dimensions of parking spaces, and calculations.
 8. Landscape plan indicating proposed plant locations with common plant name, number, and size at installation. Berms, retaining walls or fences shall be shown with elevations from the surrounding average grade.
 9. Details of exterior lighting including locations, height, and method of shielding.
 10. Details of site circulation and access design, including:
 - i. Indication of street right-of-way and pavement widths and pavement type.
 - ii. Street horizontal and vertical dimensions, including curve radii.
 - iii. Dimensions of access points including deceleration or passing lanes; distance from adjacent driveways or intersecting streets, including those across a street; boulevard dimensions; etc.
 - iv. Identification of width and material to be used for pedestrian paths.
 - v. Names of abutting public streets, proposed access driveways and parking areas, and existing and proposed pedestrian/bicycle paths.
 - vi. Projected traffic volumes to be generated.
 - vii. Written verification of access easements or agreements, if applicable.
- d. All information as required under section 58-487, site plan review standards for groundwater protection.
- (5) A completed environmental permits checklist, available at the office of the township zoning administrator or building official.
 - (6) A completed hazardous substance reporting form for site plan review, available at the office of the township zoning administrator or building official.
 - (7) If a phased development is proposed, identification of the areas included in each phase. For residential uses, identify the number, type, and density of proposed housing units within each phase.
 - (8) A completed application form, supplied by the zoning administrator or building official, and an application fee.

The planning commission, prior to granting approval of a site plan, may request from the applicant any additional graphics or written materials, prepared by a qualified person, to assist in determining the appropriateness of the site plan. Such material may include, but need not be limited to, aerial photography, photographs, estimated impact on public schools and utilities, traffic impacts, impact on significant natural features and drainage, soil tests, and estimated construction costs.

(Ord. No. 7, § 30.4, 10-5-92; Ord. No. 14-13, § 3, 12-1-14 ; Ord. No. 15-16 , § 3, 10-19-15)

Sec. 58-485. Review procedures.

- (a) All site plans subject to review by the planning commission shall be reviewed in accord with the following procedural requirements and activity flow:
- (1) The applicant may request a preliminary meeting with the zoning administrator to discuss the proposal and the requirements of this article when the application is obtained (optional).
 - (2) The applicant shall submit required application materials to the zoning administrator, including the application fee. Note: No review activity will occur until all fees are paid in full.
 - (3) Copies of the application and site plan are forwarded as necessary to the departments/agencies listed in section 58-483. The agencies review the plans and information for conformance with applicable ordinances and standards. Review comments are submitted to the zoning administrator or building official.
 - (4) The planning commission conducts a preliminary review of the site plan and the comments from above-mentioned departments or agencies and indicates to the applicant in writing the changes, if any, necessary for final site plan approval.
 - (5) When all the preliminary review comments are addressed the applicant submits six copies of the site plan to the zoning administrator or building official.
 - (6) Final site plan review is conducted by the planning commission. The planning commission shall approve, approve with conditions, or deny the site plan, based upon compliance of the plan with standards of section 58-486. If approved, the planning commission shall indicate in writing that all the requirements of this article, including those of other reviewing agencies within the township, have been met, including any conditions that may be necessary. If denied, the planning commission shall cite reasons for denial.
 - (7) Where the applicant is dependent upon the granting of any variances by the zoning board of appeals, such favorable action by the zoning board of appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.
 - (8) The planning commission secretary shall affix a stamp and signature to two copies of the approved site plan, one of which is kept by the zoning administrator, the other by the applicant.
- (b) All site plans subject to review by the zoning administrator or building official shall be reviewed in accord with the following procedural requirements and activity flow:
- (1) Applicant may request a preliminary meeting with the zoning administrator and/or building official to discuss the proposal and the requirements of this article when the application is obtained (optional).
 - (2) The applicant shall submit required application materials to the zoning administrator and/or building official, including application fee. Note: No review activity will occur until all fees are paid in full.
 - (3) Copies of the application and site plan are forwarded as necessary to the departments/agencies listed in section 58-483. The agencies review the plans and information for conformance with applicable ordinances and standards. The review comments are submitted to the zoning administrator and/or building official.
 - (4) The zoning administrator and/or building official shall approve, approve with conditions, or deny the site plan, based on compliance of the plan with the standards of section 58-486. If denied, the zoning administrator and or building administrator shall cite reasons for denial.

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- (5) Where the applicant is dependent upon the granting of any variances by the zoning board of appeals, such favorable action by the zoning board of appeals is necessary before final site plan approval can be granted. An approved site plan shall include a note referencing the case number and date of all variances granted.
 - (6) The zoning administrator and/or building official shall affix a stamp and signature to two copies of the approved site plan, one of which is kept by the zoning administrator, the other by the applicant.
- (c) All site plans must be approved prior to issuance of any building permits and prior to any land balancing, grading, tree removal, or development activity occurring.
- (Ord. No. 7, § 30.5, 10-5-92)

Sec. 58-486. Standards for approval.

- (a) The intent of the planning commission is to minimize any adverse impacts that a proposed site plan may have on the neighboring properties, the neighborhood in general and its character, and the community as a whole.
- (b) Each site plan shall conform to all applicable provisions of this chapter and the following standards:
 - (1) All elements of the site plan shall be designed to take into account the site's topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.
 - (2) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.
 - (3) Stormwater and erosion protection.
 - a. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the public stormwater drainage system, or nearby bodies of water.
 - b. Provisions shall be made to accommodate stormwater, prevent erosion and the formation of dust.
 - c. The use of detention/retention ponds may be required.
 - d. Surface water on all paved areas shall be collected at locations so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water that may interfere with this traffic.
 - e. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.
 - f. Catch basins or other protective measures may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. Other provisions may be required to contain runoff or spillage from areas where hazardous materials are stored, or proposed to be stored.
 - g. Compliance with the requirements of section 58-487 shall also be demonstrated.

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- (4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.
 - (5) Every structure or dwelling unit shall have access to a public street, unless otherwise provided in an approved PUD.
 - (6) A pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system shall be provided.
 - (7) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.
 - (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.
 - (9) All streets shall be developed in accordance with chapter 42, subdivisions and the county road commission specifications.
 - (10) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the fire and police departments.
 - (11) The site shall be adequately served by water supply and sewage collection and/or treatment.
 - (12) All loading or unloading areas and outside storage areas, including refuse storage stations, shall be screened from view of the street and/or adjacent properties by a vertical screen consisting of structural or plant materials.
 - (13) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.
 - (14) Site plans shall conform to all applicable requirements of state and federal statutes and approval must be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

(Ord. No. 7, § 30.6, 10-5-92; Ord. No. 10-04, § 7, 4-19-10)

Sec. 58-487. Review standards for groundwater protection.

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

Hazardous substances and polluting materials means a chemical or other material which is or may be injurious to the public health, safety, or welfare or to the environment. The term "hazardous substances and polluting materials" includes, but is not limited to, hazardous chemicals as defined by the state department of public health and the state department of labor; flammable and combustible liquids as defined by the state police fire marshal division; critical materials, polluting materials and hazardous waste as defined by the state department of natural resources; hazardous substances as defined by the U.S. Environmental Protection Agency; and hazardous materials as defined by the U.S. Department of Transportation.

- (b) *Applicability.* These provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month, equal to about 25 gallons or 220 pounds, and which require site plan review under the provisions of this article or other township ordinances.

- (c) *Site plan information requirements.*

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- (1) Completion and submission of the hazardous substance reporting form for site plan review.
 - (2) Locations of existing and proposed service facilities and structures, both above and below ground, shall be shown, including:
 - a. Public and private groundwater supply wells on-site and on adjacent properties.
 - b. Septic systems and other wastewater treatment systems. The location of the drainfield and the septic tank, if applicable, shall be clearly distinguished.
 - c. Areas to be used for the storage, use, loading/unloading, recycling, or disposal of hazardous substances and polluting materials, including interior and exterior areas. Include construction materials to be used for such areas, i.e. concrete pad, asphalt, synthetic liner, etc.
 - d. Underground storage tank locations.
 - e. Locations of exterior drains, dry wells, catchbasins, retention/detention areas, sumps and other facilities designed to collect, store or transport stormwater or wastewater. The point of discharge for all drains and pipes should be specified on the site plan.
 - f. Locations of existing wetlands and watercourses, including lakes, ponds, rivers, and streams.
 - g. Soil characteristics of the parcel, at least to the detail provided by the U.S. Soil Conservation Service.
 - h. Existing topography, with a maximum contour interval of two feet indicated.
 - i. Delineation of areas on the site which are known or suspected to be contaminated, along with a report on the status of site cleanup.

(d) *Site plan review standards.*

- (1) *Groundwater protection standards.*
 - a. The project and related improvements shall be designed to protect the natural environment, including lakes, ponds, streams, wetlands, floodplains, groundwater, and steep slopes and to ensure the absence of an impairment, pollution, and/or destruction of the air, water, natural resources and the public trust therein.
 - b. Stormwater management and drainage facilities shall be designed to retain the natural retention and storage capacity of any wetland, water body, or watercourse, and shall not increase flooding or the potential for pollution of surfacewater or groundwater, on-site or off-site.
 - c. Sites at which hazardous substances and polluting materials are stored, used, or generated shall be designed to prevent spills and discharges to the air, surface of the ground, groundwater, lakes, streams, rivers or wetlands.
 - d. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances and polluting materials shall be met. No discharges to groundwater, including direct and indirect discharges, shall be allowed without required permits and approvals.
 - e. In determining conformance with the standards in this chapter, the township shall take into consideration the publication titled "Small Business Guide to Secondary Containment" and other references.
- (2) *Aboveground storage and use areas for hazardous substances and polluting materials.*

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- a. Hazardous substances and polluting materials, whether in liquid or solid form, shall be stored in product-tight containers or tanks, primary containment structures, which are free of leaks and protected from accidental damage and vandalism.
 - b. Secondary containment (double enclosure) shall be provided for liquid or semiliquid hazardous substances and polluting materials. Secondary containment shall be of sufficient volume to hold any leak or spill for the time necessary to clean up the spill.
 - c. Secondary containment structures such as outbuildings, storage rooms, sheds, and pole barns must not have floor drain connections leading to soils, groundwater, or nearby drains or rivers. Manually operated sumps or impervious areas to collect and hold water, leaks, and spills are recommended.
 - d. Areas and facilities used for the loading and/or unloading of hazardous substances and polluting materials, as well as areas where such materials are handled and used, shall be designed and constructed to prevent discharge or runoff to floor drains, rivers, lakes, groundwater, or soils.
- (3) *Floor drain connections and potential discharges.*
- a. All floor drains shall be connected to a public sewer system, an on-site holding tank, or an approved on-site disposal system authorized through a state groundwater discharge permit.
 - b. Floor drains which are likely to receive industrial or commercial wastewaters, either through accidental spills or intentional discharges, shall not be allowed without evidence that all necessary state, county, and wastewater treatment plant approvals have been obtained.
- (4) *Underground storage tanks.*
- a. Existing and new underground storage tanks shall be registered with the authorized state agency in accordance with requirements of the U.S. Environmental Protection Agency and the state police fire marshal division.
 - b. Installation, operation, maintenance, closure, and removal of underground storage tanks shall be in accordance with requirements of the state police fire marshal division. Leak detection, corrosion protection, spill prevention and overflow protection requirements shall be met. Records of monthly monitoring or inventory control must be retained and available for review by government officials.
 - c. Out-of-service abandoned underground tanks shall be emptied and removed from the ground in accordance with the requirements of the state police fire marshal division, and the state department of natural resources (MDNR).
- (5) *Spill prevention and emergency response plans.*
- a. All facilities storing in excess of 100 kilograms, equal to about 25 gallons or 220 pounds, of hazardous substances or petroleum products shall prepare a written spill prevention and emergency response plan.
 - b. The MDNR Pollution Incident Prevention Plan (PIPP) review checklist and the state police EMD publication 602, available at the office of the township zoning administrator, shall provide guidance for development of the plan, provided state and federal agency requirements for spill prevention and emergency response plans are met.
 - c. Spill prevention and emergency response plans shall be kept on file at the facility, available for inspection at any time by the township fire chief or designee.

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- d. It shall be the responsibility of the facility owner to prepare updated spill prevention and emergency response plans whenever there is a change in the use, handling, or storage of any hazardous substances or petroleum products.

(6) *Contaminated soils and/or groundwater.*

- a. Site plans shall take into consideration the location and extent of any contaminated soils and/or groundwater on the site, and the need to protect public health and the environment.
- b. Development shall not be allowed on or near contaminated areas of a site unless information from the department of natural resources is available indicating that cleanup will proceed in a timely fashion.

(Ord. No. 7, § 30.7, 10-5-92)

Sec. 58-488. Conditional approvals.

- (a) As part of an approval of the site plan the planning commission, zoning administrator, or building official may impose additional conditions or limitations that in its judgment may be necessary for protection of the public interest. Such conditions shall be related to and ensure that the standards established in this chapter are met.
- (b) Approval of a site plan, including conditions made as part of the approval, shall be attached to the property described as part of the application and not to the owner of such property.
- (c) A record of conditions imposed shall be maintained. The conditions shall remain unchanged unless an amendment to the site plan is approved.

(Ord. No. 7, § 30.8, 10-5-92)

Sec. 58-489. Validity of approved site plan.

- (a) Approval of the site plan is valid for a period of one year. If actual physical construction of a substantial nature of the improvements included in the approved site plan has not commenced and proceeded meaningfully toward completion during that period, the approval of the site plan shall be null and void. Substantial improvements shall include the installation of one or more underground utility systems, the installation of streets or the installation of one or more building foundations. Upon written application, filed prior to the termination of the one year period, the planning commission may authorize a single extension of the time limit for approval of a site plan for a further period of not more than one year.
- (b) Site plans whose approval has expired shall require resubmission as an initial application.
- (c) Approval of the site plan shall void any corresponding site plan previously approved for any portion of the site.

(Ord. No. 7, § 30.9, 10-5-92)

Sec. 58-490. Conformity to approved site plan required.

Following final approval of a site plan by the planning commission, zoning administrator or building official, the applicant shall construct the site plan improvements in complete conformity with the approved plan. Failure to do so is a violation of this chapter and subject to the sanctions of article VI, division 4, of this chapter.

(Ord. No. 7, § 30.10, 10-5-92)

Sec. 58-491. Performance guarantee required.

- (a) In the interest of ensuring compliance with the provisions of this chapter, protecting the natural resources, and protecting the health, safety and welfare of the residents of the township and future users or inhabitants of an area for which a site plan for a proposed use has been submitted, the planning commission, zoning administrator or building official may require the applicant to deposit a performance guarantee as set forth in this section. The purpose of the performance guarantee is to ensure completion of improvements connected with the proposed use as required by this chapter, including but not limited to, roadways, lighting, utilities, sidewalks, drainage, fences, screens, walls, landscaping, and widening strips.
- (b) "Performance guarantee" as used in this section means a cash deposit, certified check, irrevocable bank letter of credit, or corporate surety bond in the amount of the estimated cost of the improvements to be made as determined by the applicant and verified by the township zoning administrator or building official.
- (c) Where the planning commission, zoning administrator, or building official requires a performance guarantee, such performance guarantee shall be deposited with the treasurer prior to the issuance of a building permit by the building inspector for the development and use of the land. Upon the deposit of the performance guarantee the township shall deposit the performance guarantee, if in the form of a cash deposit or certified check, in an interest-bearing account to the applicant.
- (d) An approved site plan shall also prescribe the period of time within which the improvements for which the performance guarantee has been required are to be completed. The period will begin from the date of issuance of the building permit.
- (e) If the performance guarantee deposited is a cash deposit or certified check, the township shall rebate to the applicant 50 percent of the deposited funds when 60 percent of the required improvements are completed and the remaining 50 percent of the deposited funds when 100 percent of the required improvements are completed as confirmed by the zoning administrator or building official. If a request is made by the applicant for a temporary certificate of occupancy without completion of required exterior improvements, the applicant may apply the performance guarantee required in this section to assure compliance with the standards of this chapter and the specifications of the approved site plan.
- (f) Upon the satisfactory completion of the improvements for which the performance guarantee was required, as determined by the zoning administrator or building official, the treasurer shall return to the applicant the performance guarantee deposited and any interest earned thereon.
- (g) If the applicant defaults in making the improvements for which the performance guarantee was required within the time period established by the township, the township shall have the right to use the performance guarantee deposited and any interest earned thereon to complete the improvements through contract or otherwise, including specifically the right to enter upon the subject property to make the improvements. If the performance guarantee is not sufficient to allow the township to complete the improvements for which it was posted, the applicant shall be required to pay the township the amounts by which the costs of completing the improvements exceeds the amount of the performance guarantee deposited. Should the township use the performance guarantee or a portion thereof, to complete the required improvements, any amounts remaining after said completion shall be applied first to the township administrative costs in completing the improvement with any balance remaining being refunded to the applicant.
- (h) If the applicant has been required to post a performance guarantee or bond with another governmental agency other than the township to insure completion of an improvement associated with the proposed use prior to the township conditional approval, the applicant shall not be required to deposit with the township a performance guarantee for that specific improvement.

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- (i) At the time the performance guarantee is deposited with the township and prior to the issuance of a building permit, the applicant shall enter an agreement incorporating the provisions hereof with the township regarding the performance guarantee.

(Ord. No. 7, § 30.11, 10-5-92)

Sec. 58-492. Amendments to approved site plan.

- (a) An applicant who has been granted site plan approval shall notify the zoning administrator or building official of any proposed amendment to such approved site plan. Site plans previously approved may be amended pursuant to the requirements of this section.
- (b) Amendments to an approved site plan may be made by the planning commission, zoning administrator, or building official provided that such changes conform to this chapter and the land owner agrees. Minor changes may be approved by the zoning administrator or building official provided the change does not result in any of the following:
 - (1) A significant change in the use or character of the development.
 - (2) An increase in overall coverage of structures.
 - (3) A significant increase in the intensity of use.
 - (4) A reduction in required open space.
 - (5) A reduction in required off-street parking and loading.
 - (6) A reduction in required pavement widths or utility pipe sizes.
 - (7) A significant increase in traffic on public streets or an increase in the burden on public utilities or services.
- (c) The following shall be considered a minor change:
 - (1) Reduction of the size of any building or sign.
 - (2) Movement of buildings and/or signs by no more than ten feet as long as setbacks are maintained.
 - (3) Plantings approved in the site plan landscape may be replaced by similar types of landscaping on a one-to-one or greater basis.
 - (4) Changes of building materials to a higher quality, as determined by the zoning administrator.
 - (5) Internal rearrangement of a parking lot which does not affect the number of parking spaces or alter access locations or design.
 - (6) Changes required or requested by the township for safety reasons shall be considered minor changes.
- (d) Should the zoning administrator or building official determine that the requested modification to the approved site plan is not minor, resubmission to the planning commission for an amendment shall be required and conducted in the same manner as an original application.

(Ord. No. 7, § 30.12, 10-5-92)

Sec. 58-493. Appeals of final site plans.

Any person aggrieved by the decision of the planning commission, zoning administrator, or building official with respect to an approval or denial of a site plan shall have the right to appeal the decision to the board of

zoning appeals. The appeal shall be filed with the township clerk within five business days of the decision of the planning commission, zoning administrator, or building official. The appeal shall be filed in writing and shall state the aggrieved party's grounds for appeal.

(Ord. No. 7, § 30.13, 10-5-92)

Sec. 58-494. As-built site plan.

- (a) Six copies of as-built drawings shall be submitted to the zoning administrator at least one week prior to the anticipated occupancy of any building. The drawing must show building locations, paving, grades, easement, utility locations, landscaping, etc.
- (b) The zoning administrator or building official shall circulate the as-built plans among the appropriate departments for review to insure conformity with the approved site plan and other township requirements. Once each department has approved the as-built plans the zoning administrator or building official may make the final inspection and issue the occupancy permit.

(Ord. No. 7, § 30.14, 10-5-92)

Sec. 58-495. Approval and issuance of permits.

Neither the township zoning administrator or building official nor the township utilities department shall issue any permits under their respective jurisdictions unless site plans covered by this article have been stamped "approved" by the planning commission, zoning administrator, or building official and until there is full and complete compliance with this article.

(Ord. No. 7, § 30.17, 10-5-92)

Sec. 58-496. Land clearing.

No person shall undertake or carry out any such activity or use, including any grading, clearing, cutting and filling, excavating, or tree removal associated therewith for which site plan approval is first required by this article. Nor shall such activity proceed prior to obtaining necessary soil erosion and sedimentation control permits, wetlands permits, or floodplains permits. Any violation of this provision is subject to the fines and penalties prescribed in article VI, division 4 of this chapter for each day of the violation from the day of discovery of the incident until an approved restoration plan, or an approved site plan is granted.

(Ord. No. 7, § 30.18, 10-5-92)

ARTICLE IX. WIND TURBINES

Sec. 58-497. Purpose.

The purpose of this article is to establish guidelines for siting and utilization of wind turbines in the Charter Township of Muskegon, and to promote the safe, effective, and efficient use of wind turbines and wind energy systems to reduce the on-site consumption of electricity supplied by utility companies. Moreover, the township desires to lessen any potential adverse impacts wind turbines and wind energy facilities may have on residential areas and land uses through careful design, placement, noise limitations, and camouflaging techniques.

(Ord. No. 09-01, § 1, 3-15-08)

Sec. 58-498. Definitions.

The following definitions shall apply in the interpretation of this article.

- (a) *Ambient* means the sound pressure level exceeded 90 percent of the time or L90.
- (b) *Anemometer tower* means a freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system, which is an accessory land use to a utility grid wind energy system.
- (c) *ANSI* means the American National Standards Institute.
- (d) *dB(A)* means the sound pressure level in decibels. It refers to the "a" weighted scale defined by ANSI. A method for weighting the frequency spectrum to mimic the human ear.
- (e) *Decibel* means the unit of measure used to express the magnitude of sound pressure and sound intensity.
- (f) *IEC* means the International Electrotechnical Commission.
- (g) *ISO* means the International Organization for Standardization.
- (h) *Lease unit boundary* means boundary around property leased for purposes of a wind energy system, including adjacent parcels to the parcel on which the wind energy system tower or equipment is located. For purposes of setback, the lease unit boundary shall not cross road rights-of-way.
- (i) *On-site wind energy system* means a land use for generating electric power from wind and is an accessory use that is intended to primarily serve the needs of the consumer at that site.
- (j) *Rotor* means an element of a wind energy system that acts as a multibladed airfoil assembly, thereby extracting through rotation, kinetic energy directly from the wind.
- (k) *Shadow flicker* means alternating changes in light intensity caused by the moving blade of a wind energy system casting shadows on the ground and stationary objects, such as, but not limited to, a window at a dwelling.
- (l) *Sound pressure* means an average rate at which sound energy is transmitted through a unit area in a specified direction. The pressure of the sound measured at a receiver.
- (m) *Sound pressure level* means the sound pressure mapped to a logarithmic scale and reported in decibels (dB).
- (n) *Utility grid wind energy system* means a land use for generating power by use of wind at multiple tower locations in a community and includes accessory uses such as, but not limited to, a SCADA tower, electric substation. A utility grid wind energy system is designed and built to provide electricity to the electric utility grid.
- (o) *Wind energy system* means a land use for generating power by use of wind; utilizing use of a wind turbine generator and includes the turbine, blades, and tower as well as related electrical equipment. This does not include wiring to connect the wind energy system to the grid. See also on-site wind energy system and utility grid wind energy system.
- (p) *Wind site assessment* means an assessment to determine the wind speeds at a specific site and the feasibility of using that site for construction of a wind energy system.

(Ord. No. 09-01, § 1, 3-15-08)

Sec. 58-499. On-site use wind energy systems and anemometer tower.

A single on-site use wind energy system and/or anemometer tower is an accessory use which shall meet the following standards:

- (a) Designed to primarily serve the needs of a home, farm, or small business.
- (b) Shall have a tower height of 70 feet or less.
- (c) Property setback. The distance between an on-site use wind energy system and the owner's property lines shall be equal to the height of the wind energy system tower including the top of the blade in its vertical position. The distance between an anemometer tower and the owner's property lines shall be equal to the height of the tower. No part of the wind energy system structure, including guy wire anchors, may extend closer than ten feet to the owner's property lines, or the distance of required setback in the respective zoning district, whichever results in the greater setback.
- (d) Sound pressure level. On-site use wind energy systems shall not exceed 55 dB(A) at the property line closest to the wind energy system. This sound pressure level may be exceeded during short-term events such as utility outages and/or severe windstorms. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus five dB(A).
 - (1) The wind energy system may exceed 55 dB(A) at the closest property line only where all affected adjacent property owners have consented in writing.
- (e) Construction codes, towers, and interconnection standards. On-site use wind energy systems, including towers, shall comply with all applicable state construction and electrical codes and local building permit requirements. On-site use wind energy systems including towers shall comply with all applicable state and local regulations, and local jurisdiction airport overlay zone regulations. An interconnected on-site use wind energy system shall comply with Michigan Public Service Commission and Federal Energy Regulatory Commission standards. Off-grid systems are exempt from this requirement.
- (f) Safety. An on-site use wind energy system shall have automatic braking, governing, or a feathering system to prevent uncontrolled rotation or over speeding. All wind towers shall have lightning protection. If a tower is supported by guy wires, the wires shall be clearly visible to a height of at least six feet above the guy wire anchors. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
- (g) A temporary anemometer tower installed prior to a development, without power source or foundation, shall be considered an accessory use.

(Ord. No. 09-01, § 1, 3-15-08)

Sec. 58-500. Utility grid wind energy system, on-site use wind energy system over 70 feet high, and anemometer towers over 70 feet high.

A utility grid wind energy system, on-site use wind energy system over 70 feet high, and anemometer towers over 70 feet high shall meet the following standards in addition to the general special use standards:

- (a) *Zones allowed.*
 - 1. Utility grid wind energy systems may only be installed in industrial or commercial zones.
 - 2. On-site use wind energy systems may be installed in any zone.
- (b) *Property setback.*

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1. Anemometer tower setback shall be the greater distance of the following:
 - a. The setback from property lines of the respective zoning district;
 - b. The setback from the road right-of-way; and
 - c. A distance equal to the height of the tower from property lines or from the lease unit boundary, whichever is less.
 2. Utility grid and on-site use wind energy system setback shall be the greater distance of the following:
 - a. The setback from property lines of the respective zoning district;
 - b. The setback from the road right-of-way; and
 - c. A distance equal to the height of the tower including the top of the blade in its vertical position from property lines or from the lease unit boundary, whichever is less.
 3. An operations and maintenance office building, a substation, or ancillary equipment shall comply with any property setback requirement of the respective zoning district. Overhead transmission lines and power poles shall comply with the setback and placement requirements applicable to public utilities.
- (c) *Sound pressure level.* The sound pressure level shall not exceed 55 dB(A) measured at the property lines or the lease unit boundary, whichever is farther from the source of the noise. This sound pressure level shall not be exceeded for more than three minutes in any hour of the day. If the ambient sound pressure level exceeds 55 dB(A), the standard shall be ambient dB(A) plus five dB(A).
1. The wind energy system may exceed 55 dB(A) at the closest property line only where all affected adjacent property owners have consented in writing.
- (d) *Safety.* Safety shall be designed to prevent unauthorized access. Electrical and mechanical components shall have access doors that are kept securely locked at all times when service personnel are not present. All spent lubricants and cooling fluids shall be properly and safely removed in a timely manner from the site of the wind energy system. A sign shall be posted near the tower or operations and maintenance office building that will contain emergency contact information. Signage placed at the road access shall be used to warn visitors about the potential danger of falling ice. The minimum vertical blade tip clearance from grade shall be 20 feet for a wind energy system employing a horizontal axis rotor.
- (e) *Postconstruction permits.* Construction codes, towers, and interconnection standards shall comply with all applicable state construction and electrical codes and local building permit requirements.
- (f) *Preapplication permits.*
1. Utility infrastructure. Utility infrastructure shall comply with Federal Aviation Administration (FAA) requirements, the Michigan Airport Zoning Act (Public Act 23 of 1950, as amended, MCL 259.431 et seq.), the Michigan Tall Structures Act (Public Act 259 of 1959, as amended, MCL 259.481 et seq.), and local jurisdiction airport overlay zone regulations. The minimum FAA lighting standards shall not be exceeded. All tower lighting required by the FAA shall be shielded to the extent possible to reduce glare and visibility from the ground. The tower shaft shall not be illuminated unless required by the FAA. Utility grid wind energy systems shall comply with applicable utility, Michigan Public Service Commission, and Federal Energy Regulatory Commission interconnection standards.
2. Environment.

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- a. The site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities, as identified in the environmental analysis.
 - b. Comply with all applicable federal, state and local regulations.
 - (g) *Performance security.* Performance security shall be provided in an amount to be determined by the township board for the applicant to make any necessary repairs to public roads damaged by the construction of the wind energy system. A road use plan must be submitted to the township prior to a permit being issued.
 - (h) *Utilities.* Power lines should be placed underground, when feasible, to prevent avian collisions and electrocutions. All aboveground lines, transformers, or conductors should comply with the Avian Power Line Interaction Committee (APLIC, <http://www.aplic.org/>) published standards to prevent avian mortality.
 - (i) *[Standards.]* The following standards apply only to utility grid wind energy systems:
 1. Visual impact. Utility grid wind energy system projects shall use tubular towers and all utility grid wind energy systems in a project shall be finished in a single, nonreflective matte finished color. A project shall be constructed using wind energy systems of similar design, size, operation, and appearance throughout the project. No lettering, company insignia, advertising, or graphics shall be on any part of the tower, hub, or blades. Nacelles may have lettering that exhibits the manufacturer's and/or owner's identification. The applicant shall avoid state or federal scenic areas and significant visual resources listed in the local unit of government's plan.
 2. Avian and wildlife impact. Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts on avian and wildlife, as identified in the avian and wildlife impact analysis.
 3. Shadow flicker. Site plan and other documents and drawings shall show mitigation measures to minimize potential impacts from shadow flicker, as identified in the shadow flicker impact analysis.
 4. Decommissioning. A planning commission approved decommissioning plan indicating (1) the anticipated life of the project, (2) the estimated decommissioning costs net of salvage value in current dollars, (3) the method of ensuring that funds will be available for decommissioning and restoration, and (4) the anticipated manner in which the project will be decommissioned and the site restored.
 5. Complaint resolution. A planning commission approved process to resolve complaints from nearby residents concerning the construction or operation of the project.
 6. Electromagnetic interference. No utility grid wind energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennas for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system. No utility grid wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation, unless the interference is insignificant.

(Ord. No. 09-01, § 1, 3-15-08)

Sec. 58-501. Application and site plan review.

- (a) *Site plans for anemometer tower, utility grid wind energy system, and on-site use wind energy system.* In addition to the requirements for a special use permit application and site plan found in the Muskegon Charter Township zoning ordinance, site plans and supporting documents for anemometer tower, utility grid wind energy system, and on-site use wind energy systems which are over 70 feet high shall include the following additional information:
1. Documentation that sound pressure level, construction code, tower, interconnection (if applicable), and safety requirements have been reviewed and the submitted site plan is prepared to show compliance with these issues.
 2. Proof of the applicant's public liability insurance for the project.
 3. A copy of that portion of all the applicant's lease(s) with the land owner(s) granting authority to install the anemometer tower and/or utility grid wind energy system; legal description of the property(ies), lease unit(s); and the site plan shows the boundaries of the leases as well as the boundaries of the lease unit boundary.
 4. The phases, or parts of construction, with a construction schedule.
 5. The project area boundaries.
 6. The location, height, and dimensions of all existing and proposed structures and fencing.
 7. The location, grades, and dimensions of all temporary and permanent on-site and access roads from the nearest county or state maintained road.
 8. All new infrastructure aboveground related to the project.
 9. A copy of manufacturers' material safety data sheet(s) which shall include the type and quantity of all materials used in the operation of all equipment including, but not limited to, all lubricants and coolants.
- (b) *For utility grid wind energy systems only.*
1. A copy of a noise modeling and analysis report and the site plan shall show locations of equipment identified as a source of noise which is placed, based on the analysis, so that the wind energy system will not exceed the maximum permitted sound pressure levels. The noise modeling and analysis shall conform to IEC 61400 and ISO 9613. After installation of the utility grid wind energy system, sound pressure level measurements shall be done by a third party qualified professional according to the procedures in the most current version of ANSI S12.18. All sound pressure levels shall be measured with a sound meter that meets or exceeds the most current version of ANSI S1.4 specifications for a Type II sound meter. Documentation of the sound pressure level measurements shall be provided to the local government within 60 days of the commercial operation of the project.
 2. A visual impact simulation showing the completed site as proposed on the submitted site plan. The visual impact simulation shall be from four viewable angles.
 3. A copy of an environment analysis by a third party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, historical and cultural sites, and antiquities. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.

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4. A copy of an avian and wildlife impact analysis by a third party qualified professional to identify and assess any potential impacts on wildlife and endangered species. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis, and shall show those measures on the site plan. The applicant shall identify and evaluate the significance of any net effects or concerns that will remain after mitigation efforts.
 - a. Sites requiring special scrutiny include wildlife refuges, other areas where birds are highly concentrated, bat hibernacula, wooded ridge tops that attract wildlife, sites that are frequented by federally and/or state listed endangered species of birds and bats, significant bird migration pathways, and areas that have landscape features known to attract large numbers of raptor.
 - b. At a minimum, the analysis shall include a thorough review of existing information regarding species and potential habitats in the vicinity of the project area. Where appropriate, surveys for bats, raptors, and general avian use should be conducted. The analysis shall include the potential effects on species listed under the Federal Endangered Species Act and Michigan's Endangered Species Protection Law.
 - c. The analysis shall indicate whether a post construction wildlife mortality study will be conducted and, if not, the reasons why such a study does not need to be conducted.
 5. A copy of a shadow flicker analysis at occupied structures to 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 site plan shall identify problem areas where shadow flicker may affect the occupants of the structures and show measures that shall be taken to eliminate or mitigate the problems.
 6. A second site plan, which shows the restoration plan for the site after completion of the project and includes the following supporting documentation:
 - a. The anticipated life of the project.
 - b. The estimated decommissioning costs net of salvage value in current dollars.
 - c. The method of ensuring that funds will be available for decommissioning and restoration.
 - d. The anticipated manner in which the project will be decommissioned and the site restored.
 7. A description of the complaint resolution process developed by the applicant to resolve complaints from nearby residents concerning the construction operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the local government from acting on a complaint. During construction the applicant shall maintain and make available to nearby residents a telephone number where a project representative can be reached during normal business hours.

(Ord. No. 09-01, § 1, 3-15-08)

ARTICLE X. SOLAR ENERGY SYSTEMS

Sec. 58-502. Purpose.

The purpose of this ordinance is to provide for regulation of the construction, installation, and operation of solar energy systems (SEs) in a manner that ensures the protection of the health, safety and welfare of the residents of Muskegon Charter Township while promoting the effective and efficient use of solar energy systems.

(Ord. No. 17-06 , § 1, 5-1-17)

Sec. 58-503. Definitions.

The following definitions shall apply in the interpretation of this article.

Solar cell means any device that directly converts solar radiation into thermal, chemical, or electrical energy through the process of photovoltaics and usually is mounted on solar panels.

Solar energy collector means a photovoltaic cell, panel or panels, and/or other devices or equipment, or any combination thereof, which relies on solar radiation as an energy source for the generation of thermal, chemical or electrical energy.

Solar energy system (SES) means the components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems.

Solar panel means a structure containing one or more receptive cells, the purpose of which is to convert solar energy into usable electrical energy by way of a solar energy system.

Solar storage battery means a device that stores energy from solar radiation and makes it available in the form of thermal, chemical or electrical energy.

(Ord. No. 17-06 , § 1, 5-1-17)

Sec. 58-504. Building-mounted solar energy collector requirements.

A building mounted solar energy collector shall be a permitted use in all zoning districts, subject to the following requirements:

- (a) A building permit is required before installation of any type of solar energy collector.
- (b) Solar panels shall be permitted as a rooftop installation in any zoning district and shall be setback from the building edge at least a distance equal to its height.
- (c) Solar energy collectors that are roof-mounted, wall-mounted or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the building official prior to installation; such proof shall be subject to the building official's approval.
- (d) Solar energy collectors that are wall-mounted shall not exceed the height of the building wall to which they are attached.
- (e) Solar energy collectors shall not be mounted on a building wall that is parallel to an adjacent public right-of-way.
- (f) The exterior surfaces of solar energy collectors that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be generally neutral in color and substantially non-reflective of light.
- (g) Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the township building official prior to installation. The building official shall inspect the completed installation to verify compliance with the manufacturer's directions.
- (h) Solar energy collectors, and the installation and use thereof, shall comply with the most recently adopted Michigan Building Code, National Electrical Code, and all other applicable local codes.

(Ord. No. 17-06 , § 1, 5-1-17)

Sec. 58-505. Ground-mounted solar energy collector requirements.

A ground-mounted solar energy collector system shall be a permitted use in all zoning districts, subject to the approval of the planning commission under article VIII, and subject to the following requirements:

- (a) Ground-mounted solar energy collectors shall be located only as follows:
 - (1) In the rear yard and the side yard. The setback distance required shall be the same as the required setback distance for accessory structures for the zoning district located in.
- (b) Ground-mounted solar energy collectors shall not exceed 16 feet in height, measured from the ground at the base of such equipment.
- (c) The total area of ground-mounted solar energy collectors shall be included in the calculation of the maximum permitted building coverage requirement for the parcel of land.
- (d) Solar energy collectors shall be permanently and safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted with the site plan application and shall be subject to the building official's approval.
- (e) Solar energy collectors shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted to the township building official prior to installation. The building official shall inspect the completed installation to verify compliance with the manufacturer's directions.
- (f) The exterior surfaces of solar energy collectors shall be generally neutral in color and substantially non-reflective of light.
- (g) Ground-mounted solar energy collectors, and the installation and use thereof, shall comply with the most recently adopted Michigan Building Code, National Electrical Code, and all other applicable local codes.

(Ord. No. 17-06 , § 1, 5-1-17)

Sec. 58-506. Solar access requirements.

Solar access: The township makes no assurance of solar access other than the provisions of this article. It is the applicant's responsibility to obtain any necessary covenants or easements from abutting property owners to ensure access to solar energy.

(Ord. No. 17-06 , § 1, 5-1-17)

Sec. 58-507. Decommissioning/abandonment.

- (a) A SES shall be deemed abandoned if it is out of service for a continuous 12 month period.
- (b) A "notice of abandonment" will be issued to the owner advising them that the SES shall be removed at the owner's expense within three months of the date of notice.
- (c) Removal shall require a demolition permit, and the demotion will consist of removal of panels, non-utility owned equipment, conduit, structures, and foundations.

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- (d) Upon removal of a ground array SES, the site shall be cleaned and restored to blend with the existing surrounding vegetation at the time of abandonment.
 - (e) Failure by the owner(s) to complete removal within the three months' time period may result in the township board designating a contractor to complete decommissioning with all the expenses thereof charged to the violator and to become a lien against the premises.

(Ord. No. 17-06 , § 1, 5-1-17)

Secs. 58-508—58-549. Reserved.

ARTICLE XI. MARIHUANA ZONING

Sec. 58-550. Purpose.

The purpose of this article is to regulate the number and locations of permitted commercial marihuana operations in Muskegon Charter Township.

(Ord. No. 19-8 , § 1, 10-7-19)

Sec. 58-551. Definitions.

For purposes of this article, terms and words defined by the Acts shall have the same meaning as provided in those Acts.

Additionally, certain terms and words used herein shall have the following meaning:

Act or Acts mean the Michigan Regulation and Taxation of Marihuana Act of 2018, the Michigan Marihuana Act, Public Act 1 of 2008 as amended, the Marihuana Facilities Licensing Act, Public Act 281 of 2016, and the Marihuana Tracking Act, Public Act 282 of 2016, and all related Michigan Administrative Rules, as amended.

Applicant means a person who applies for a license under this article and includes an officer, director, and managerial employee of the applicant and a person who holds any direct or indirect ownership interest in the applicant.

Licensee means a person holding a license from the charter township under the charter township marihuana licensing ordinance and also holding a state operating license.

Marihuana means marihuana grown, used, tested, or transferred for use as defined by the Acts.

Marihuana grower means a licensee that is a commercial entity located in the charter township that cultivates, dries, trims, or cures and packages marihuana for sale to a processor or provisioning center.

Marihuana provisioning center means a licensee that is a commercial entity located in the charter township that purchases marihuana from a grower or processor and sells, supplies, or provides marihuana to end users. Provisioning center includes any commercial property where marihuana is sold at retail to end users. 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 Michigan Marihuana Act is not a provisioning center for purposes of this article.

Marihuana facility means a location at which a license holder is licensed to operate under this article.

Marihuana processor means a licensee that is a commercial entity located in this state that purchases marihuana from a grower and that extracts resin from the marihuana or creates a marihuana-infused product for sale and transfer in packaged form to a provisioning center.

Marihuana safety compliance facility means a licensee that is a commercial entity that receives marihuana from a marihuana facility, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the marihuana to the marihuana facility.

Marihuana secure transporter means a licensee that is a commercial entity located in this state that stores marihuana and transports marihuana between marihuana facilities for a fee.

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

(Ord. No. 19-8 , § 1, 10-7-19)

Sec. 58-552. Licenses available.

This section shall identify the number of licenses available to be issued, location limitation for licenses available and additional requirements.

- (1) *Provisioning centers.* Provisioning centers are a permitted use in the neighborhood commercial (C-1), shopping center (C-2) and commercial/industrial (M) zoning districts under the following limitations:
 - a. Three licensed provisioning centers shall be allowed for C-1 or C-2 zoned properties with minimum required road frontage upon E. Apple Ave. between Creston Street and Brooks Road.
 - b. One licensed provisioning center shall be allowed for C-1, C-2, or M zoned properties with minimum required road frontage upon Laketon Avenue between Rouse Street and Wierengo Drive, including the South West corner parcel of Rouse Street and Laketon Avenue.
 - c. One licensed provisioning center shall be allowed for C-1, or C-2 properties with minimum required road frontage upon Whitehall Road between Dykstra Road and River Road.
 - d. Two licensed provisioning centers shall be allowed for C-1, or C-2 properties with minimum required road frontage upon Holton Road between Russell Road and River Road.
 - e. A provisioning center may have a medical marihuana license, recreational marihuana license or both, subject to separate applications and approvals.
 - f. A provisioning center may have no more than one medical marihuana license and no more than one recreational marihuana license.
 - g. No grow operation or growing of marihuana plants is permitted.
 - h. All charter township license holders must also possess the required license from the state.
 - i. If an applicant obtains a license from the charter township, application to the state for the required state license must be made within 90 days. If the charter township license holder is unable to obtain the required state license within 180 days of the application date to the state, the charter township license is revoked and is made available to other applicants. however, if the state license is pending a decision by the state, the time to obtain the state license is extended one additional 180-day period.
 - j. All license holders must comply with the Acts.
 - k. No provisioning center is permitted within 1,000 feet of another provisioning center.
 - l. Provisioning centers are prohibited from operating between 10:00 PM and 8:00 AM.

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- (2) *Marihuana growers.* Marihuana growers are allowed as a permitted under the following limitations:
- a. Unlimited licenses are available only within the marihuana overlay district on properties zoned light industrial (I1) or industrial park (IP).
 - b. Unlimited licenses can be issued for structures outside the marihuana overlay district 25,000 square feet or larger that are existing prior to July, 1 2019 once properly zoned.
 - c. Marihuana growers are not permitted outside the permitted areas outlined in a. and b. above, including upon parcels with licensed provisioning Centers.
 - d. Multiple licenses from grow operations are permitted upon a single parcel (stacking licenses), subject to separate licensing applications and approvals.
 - e. All charter township license holders are subject to the same time requirements as outlined in section 58-552(1)i.
 - f. All license holders must comply with the Acts.
 - g. All charter township license holders must also possess the required license from the state.
- (3) *Secure transport company.* Marihuana secure transport companies are allowed as a permitted use within the marihuana overlay district under the following limitations:
- a. All charter township license holders are subject to the same time requirements as outlined in section 58-552(1)i.
 - b. All charter township license holders must also possess the required license from the state.
 - c. All license holders must comply with the Acts.
- (4) *Marihuana processor.* Marihuana processor companies are allowed as a permitted use within the marihuana overlay district under the following limitations:
- a. All charter township license holders are subject to the same time requirements as outlined in section 58-552(1)i.
 - b. All the charter township license holders must also possess the required license from the state.
 - c. All license holders must comply with the Acts.
- (5) *Marihuana safety compliance facility.* Marihuana safety compliance facility companies are allowed as a permitted use within the marihuana overlay district under the following limitations:
- a. All charter township license holders are subject to the same time requirements as outlined in section 58-552(1)i.
 - b. All charter township license holders must also possess the required license from the state.
 - c. All license holders must comply with the Acts.

(Ord. No. 19-8 , § 1, 10-7-19)

Sec. 58-553. Additional site plan regulations.

- (a) No marihuana facility is permitted within 1,000 feet of a public or private school.
- (b) No marihuana facility is permitted within 1,000 feet of a state licensed child care facility.
- (c) No marihuana facility is permitted within 1,000 feet of a state licensed substance use disorder program.

(Ord. No. 19-8 , § 1, 10-7-19)

Sec. 58-554. Review and approval.**(a) *New license application.***

- (1) The applicant must submit a medical marihuana commercial license application, recreational marihuana commercial license application or both including required application fees, as determined by township board resolution, subject to this article and the Acts to the charter township planning department.
- (2) The applicant must submit a site plan application and required site plan documents in accordance with chapter 58 article VIII, Site Plan Review of the Muskegon Charter Township Code of Ordinances. The applicant must submit a special use permit application along with required documents, fees and escrow in accordance with chapter 58 article II, Special Use permit if required by ordinance. The site plan application, special use permit application and documents must be deemed complete by the townships planner/zoning administrator before this requirement is deemed satisfied.
- (3) The charter township planning commission shall review the site plan application in accordance with the site plan standards of section 58-486 and all requirements of chapter 5, Marihuana Licensing Ordinance of the Muskegon Charter Township Code of Ordinances and any other applicable ordinance.
- (4) The planning commission shall approve or deny the site plan application in accordance with the charter township site plan approval requirements and recommend issuance or denial of a commercial marihuana licensee to the charter township board of trustees. Site plan approval shall be contingent upon an approval of a commercial marihuana license in the charter township and a marihuana facility license issued by the state.
- (5) The charter township board of trustees shall review the application, consider the planning commission's recommendation and issue or deny a commercial marihuana license.

(b) *Renewal license application.*

- (1) The applicant must submit a medical marihuana commercial license application and/or recreational marihuana commercial license application including required application fees as applicable.
- (2) If there are no changes to the preceding year's application, the application for license renewal will be submitted directly to the charter township board of trustees for consideration of renewal.
- (3) If any changes have occurred to any part of the original application, the renewal is subject to the new license application as outlined in section 58-554(a) above.
- (4) The renewal application shall include any violations, complaints, enforcements and any other information necessary for the township board to determine whether the renewal of the license is in the best interest of the safety of the residents of the charter township.

(Ord. No. 19-8 , § 1, 10-7-19)

Sec. 58-555. Marihuana overlay district.

The marihuana overlay district is an overlay area that allows marihuana establishments within a specific boundary area. The underlying zoning of the property must be appropriate for the marihuana facility proposed upon the property. If the property does not have the proper underlying zoning, the property must receive a zoning map amendment prior to application for the medical marihuana commercial license or the recreational marihuana commercial license.

The marihuana overlay district is as described below:

The marihuana overlay district begins at the centerline of Laketon Avenue and centerline of Walker, then north 1,290 feet, then east 2,240 feet, then south 2,610 feet, then west 2,240 feet, then north 1,320 feet to the point of beginning, consisting of slightly more than 130 acres of land.

(Ord. No. 19-8 , § 1, 10-7-19)

CODE COMPARATIVE TABLE ORDINANCE DISPOSITION

This is a numerical listing of the ordinances of the township passed by the township board including those used in this Code. Repealed, omitted or superseded ordinances are indicated by the words "not included" in this table.

Ordinance Number	Date	Subject	Section	Section this Code
	3-19-80(Ord.)	Amend 4-f Building		Not included
4	7- 6-37	Building Code		Not included
16A	2-14-40	Use car lots		Not included
1	1-17-49	Creation of fire department		22-26
			I(1)—I(3)	22-27—22-29
			II—VI	22-30—22-34
2	9-12-49	Creation of a Police Depart.		Not included
3	2- 6-53	Traffic Ord.		Not included
5	8- 2-54	Parking		Not included
6	10- 3-55	Sanitary Code		Not included
7	5-28-56	Zoning		Not included
	5-28-56(Ord.)	Amend zoning		Not included
4A	6-20-57	Building Code (1961)		Not included
SW-4	4- 7-58	Water distribution system		Not included
32	4-18-58	Trailer coach residences		Not included
SW-6	5-29-58	Water distribution system		Not included
SW-5	5-29-58	Amend SW-4 water		Not included
31	3-16-59	Swimming pools		Not included
	4-20-59(Ord.)	Amend SW-4 water supply		Not included
	7- 2-59(Ord.)	Fire prevention		Not included
SW-5	7- 3-59	Amend SW-4 water supply		Not included
10	5- 6-63	Fire Ord.		Not included

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(Supp. No. 16)

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11	5-20-63	Health Rules and Regulation		Not included
12	5-20-63	Safety Ord.	art. II, §§ 2, 3	18-1, 18-2
			art. II, § 4	18-4
25	6-18-63	Regulations regarding outdoor amusements		10-61—10-65
SW-6	10- 1-63(eff.)	Amend SW-4 and SW-5 water distribution		Not included
4A	11-22-63	Uniform Building		Not included
13	1-10-64	Tobacco Ord.	3	30-182
14	3-16-64	Plumbing Code		Not included
16	5-26-65	Business activity		Not included
17	5-26-65	Outdoor storage	4, 5	18-28, 18-29
			7	18-30
15	6- 2-65	Curfew Ord.		Not included
4	8- 3-65	Amend SW-4 water distribution system		Not included
18	10- 4-65	Antenna television system licensing		Not included
3B	6- 6-66	Sheridan Drive water system		Not included
19	7-17-67	Disorderly Persons Ord.		Not included
20	8-10-67	Law enforcement qualifications		Not included
22	9- 5-67	Firemen qualifications		Not included
21	12-16-68	Qualifications		Not included
4B	12-19-68	Firemen Building Code (1967)		Not included
23	1-13-69	Traffic Ord.		Not included
23A	2- 3-69	Traffic Ord.		Not included
24	2- 3-69	Police Ord.	II, III	26-26, 26-27
			IV	26-29
19A	3-17-69	Amend Disorderly Persons Ord.	1	30-1
			2(4)	30-2 30-157
			2(5)	30-159
			2(11)	30-101
			2(13)	30-102
			2(15)	30-131
			2(16), (17)	30-132
			2(19)	30-31 30-103
			2(21)	30-104
			2(23)	30-32, 30-33

Muskegon Chrtr Township, (Muskegon Co.), Michigan, Code of Ordinances
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			3	30-76, 30-77
26	5-10-69	Appearance ticket		Not included
27	5-10-69	Ordinance against trespass	1	30-79
			4	30-78
28	5-10-69(eff.)	Minors in possession of intoxicating beverages		Not included
29	5-10-69(eff.)	Assault and assault and battery		Not included
30	5-10-69(eff.)	Petty Larceny Ord.		Not included
33	2- 2-70	Snowmobile Ord.	1—6	50-51—50-56
			7	50-58
			8	50-57
9	3-16-70	Fire Department Rule and Regulation		Not included
19 B	4- 6-70	Amend Disorderly Persons Ord.		Not included
34	4-20-70	Division of platted lots	I—VI	42-2—42-7
			VIII	42-8
35	4-20-70	Plat fees	I—V	42-1
16B	5- 8-70	Amend 16 business activity		Not included
8	8-17-70	Electrical Code	I, II	6-191, 6-192
			III	6-194
			VI(4)	6-195
			VII, VIII	6-196, 6-197
17A	8-17-70	Outdoor storage	1	18-26
	12- 1-70(Ord.)	Amend Apple Ave. sewer rate		Not included
33A	1-11-71	Snowmobile Ord.	1	50-58
36	3- 1-71	Refuse collection agency garbage pickup	2—10	38-2—38-10
37	3-15-71	Garbage and Refuse Ord.	2—8	38-31—38-37
			10—12	38-38—38-40
	4- 5-71(Ord.)	Amend 16 business activity		Not included
W-1	2-21-72	Creation of water usage rights - Apple Ave. water		Not included
16-B	3- 6-72	Amend 16 business activity	1	10-3

Muskegon Chrtr Township, (Muskegon Co.), Michigan, Code of Ordinances
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37A	4- 3-72	Amend garbage and refuse Ord.		Not included
38	4- 3-72	Tax exemption		46-46, 46-47
10-A	6- 5-72	Amend Fire Prevention Codes		Not included
18 A	7-17-72	Antenna television system licensing		Not included
	11- 1-72(Ord.)	Amend Apple Ave. sewer rate		Not included
SW-3	2- 5-73	Apple Ave. sewer rate		Not included
	2- 5-73(Ord.)	Amend Apple Ave. sewer rate (Amend SW-3)		Not included
	2-19-73(Ord.)	Sheridan Drive water system		Not included
39	5-21-73	Parks and playgrounds	1—4	34-1—34-4
40	3- 4-74	Theater licensing	1—4	10-32—10-35
			5	10-31
			6—9	10-36—10-39
4C	10-21-74	Building Code (1973)		Not included
6A	5- 5-75	Plumbing Ord.		Not included
16-C	5- 5-75	Licensing	II, III	10-1, 10-2
			IV—VIII	10-4—10-8
4-C	12- 6-76	Building Code (1976)		Not included
4D	12- 6-76	Housing Code		Not included
	8-15-77(Res)	Sanitary sewer system		Not included
SW-4	9- 6-77	Sewage disposal		Not included
41	11- 7-77	Flood Damage Protection Ord.		Not included
SW-5	11- 7-77	Mandatory sewer connection	1	54-77
			2	54-76
			3—12	54-78—54-87
	11- 7-77(Ord.)	Amend Apple Ave. sewer rate (Amend SW3)		Not included
42	2-19-78	Fiscal Year Ord.	1	2-106
35 A	8-21-78	Plat fees		Not included
38A	10-26-78	Tax exemption, section 8 developments	1—8	46-61—46-68
	4- 2-79(Ord.)	Amend zoning		Not included
23B	8- 6-79	Traffic Ord.	I, II	50-27

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001	11-27-79	Regulation of public and private sewer		Not included
SW-5A	11-27-79	Sewer Ord.		Not included
4E	12- 6-79	Dangerous building		Not included
4-F	12-17-79	Dangerous building		Not included
4-G	12-17-79	Housing		Not included
4H	12-17-79	Building		Not included
M-4	3-17-80	Uniform Mechanical Code		Not included
001-A	6-12-80	Sewer rates		Not included
38-B	12- 1-80	Tax exemption low income	1—10	46-26—46-35
002	5- 4-81	Plumbing permit fees		Not included
43	12-21-81	Uniform Water Rate Ord.		Not included
8A	4- 5-82	Amend Ord. No. 8 Electrical Ord.		Not included
4I	5-17-82	Revised Building	2—4	6-26—6-28
			5, 6	6-30
			7	6-31
			8	6-32, 6-33
			9	29
002-A	5-17-82	Enforcing agency		Not included
7	10- 4-82	Zoning		Not included
001-A	10-20-82	Sewer rates		54-79
44	11- 1-82	Cross connection of water supplies	1—10	54-46—54-55
45	11- 1-82	Uniform Rate Ord.		Not included
SW-5B	12-20-82	Mandatory sewer connection		Not included
4-F-1	1-17-83	Amend housing		Not included
4F-2	3-21-83	Amend building		Not included
17A-1	3-21-83	Outdoor storage		18-27
	3-21-83(Ord.)	Amend zoning		18-27
7	4-18-83	New zoning		58-3
			1.1	58-1
			1.2	58-4
			1.3	58-5
			1.4	58-6
			2.1	58-2
			3.1—3.22	58-7—58-28
			4.0—4.26	58-51—58-77
			5.0—5.3	58-101—58-104
			6.1, 6.2	58-116, 58-117

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			6.3(a)—6.3(d)	58-118—58-121
			6.4—6.8	58-122—58-126
			7.1—7.4	58-136—58-139
			8.1—8.4	58-151—58-154
			9.1—9.4	58-166—58-169
			10.1—10.4	58-181—58-184
			11.1—11.4	58-196—58-199
			12.1—12.4	58-211—58-214
			13.1—13.4	58-226—58-229
			14.1—14.4	58-241—58-244
			15.1—15.5	58-256—58-260
			16.1—16.4	58-271—58-274
			17.1—17.4	58-286—58-289
			18.1—18.4	58-301—58-304
			19.1—19.4	58-316—58-319
			20.1—20.3	58-341—58-343
			21.1—21.10	58-366—58-375
			22.0—22.5	58-396—58-401
			23.0	58-411
			23.1	58-412
				58-415
			23.2, 23.3	58-416, 58-417
			23.4, 23.5	58-413, 58-414
			24.0—24.4	58-431—58-435
			25.1—25.6	58-446—58-451
			26.1, 26.2	58-471, 58-472
10C	4-18-83	Amend Fire Prevention Codes		Not included
	4-18-83(Ord.)	Amend zoning		Not included
10B	2-21-84	Amend Fire Prevention Codes		Not included
19C	6-17-85	Amend Disorderly Persons Ord.	1	30-106
			2(24)	30-105
4J-4L	12-16-85	Amend building		Not included
18-B	3-31-88	Amend antenna television	2—10	14-1—14-9
			12—14	14-10—14-12
			16—18	14-13—14-15
			20—23	14-16—14-19
	9-19-88(Ord.)	Amend zoning		58-153
4-M	12-19-88	Amend building		Not included
4-N	12-19-88	Housing		Not included

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4-O	12-19-88	Dangerous building		Not included
10D	2- 6-89	Amend Fire Prevention Codes	1—4	22-56
10E	3-20-89	Amend Fire Prevention Codes		Not included
4-M	6- 5-89	Amend Building Ord. No. 4-A		Not included
002-C	2- 5-90	Plumbing Code		Not included
002A	2- 5-90	Plumbing Code		Not included
M-4B	2- 5-90	Amend M4B Mechanical		Not included
19-D	11-15-90	Relating to recovery of cost	1—7	50-1
28A	3- 4-91	Sale of alcoholic liquors to minors	1—4	30-211—314
			5—7	30-216—30-218
7	5- 6-91	Zoning		58-72
				58-76
				58-257
				58-259
				58-274
				58-318
				58-341
				58-367
				58-373
				58-375
				58-451
4 U.H.C.-1991	2- 3-92	Uniform Housing Code 1991 Edition		Not included
4-U.B.C., U.B.C. Stds. 1991	2- 3-92	Adopts 1991 Editions of the Uniform Building Code and Uniform Building Code Standards	1, 2	6-76, 6-77
4-U.H.C.-1991	2- 3-92		1	6-56
4-U.B.C.A. & U.B.C	2- 3-92	Amends Ord. 4, U.B.C. & U.B.C. Standards 1991		Not included
CABO 4	2- 3-92	Adopts CABO One and Two Family Dwelling Code		6-101
4-U.C.A.D.B. -1991	2- 3-92	Adopts the Abatement of Dangerous Buildings Code		6-121

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	2- 3-92(1)(Ord.)	Abatement of Dangerous Buildings Code 1991 Edition		Not included
	2- 3-92(2)(Ord.)	Uniform Housing Code 1991 Edition		Not included
	2- 3-92(3)(Ord.)	Adoption of the Uniform Building Code Standards		Not included
23B	3-21-92	Warrantless arrests		50-2
SW-5	8- 3-92	Amends Ord. No. SW-5.		Not included
UMC-4C	8- 3-92	Adoption of the Uniform Mechanical Code	1, 2	6-166, 6-167
18C	9-20-92	Adopt regulations and procedures for basic cable TV rate	1	14-32
			2	14-31
			4	14-33, 14-34
			5—17	14-35—14-47
	9-21-92(Res.)	Fee structure for Ch. 30, site plan review addendum to zoning Ord. 7		Not included
001-A	10- 5-92	Site plan review	30.1—30.14	58-481—58-494
			30.15	58-471
			30.16	58-473
			30.17, 30-18	58-495, 58-496
			30.18	58-496
	11- 2-92(Ord.)	Amend 4 U.B.C. & U.B.C. Standard 1991		Not included
002-1990	11-16-92	BOCA Basic plumbing		Not included
SW-5	12-21-92	Amends Sewer charges, Ord. SW-5 rate and mandatory		Not included
	12-21-92(Ord.)			Not included
10E	1- 4-93	Amend Fire Prevention Codes		22-56
4	3- 1-93	Conference of American Building Officials (CABO)	1	6-76
UPC 1991	3- 1-93	Adoption of the Uniform Plumbing Code	1, 2	6-141, 6-142

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	3- 1-93(Ord.)	Amending Appendix Ch. 12 Uniform Building Code		Not included
	4-19-93(Res.)	Flat rate plumbing permit		Not included
	9-20-93(Res.)	Pertaining to cable television consumer act 1992		Not included
6-IX	2-21-95	Adoption of the National Electric Code	1	6-197
6-III	3- 6-95	Adoption of Uniform Housing Code	1	6-56
6-IV	3- 6-95	Adoption of Uniform Building Code	1, 2	6-76, 6-77
6-VI	3- 6-95	Adoption of the Abatement of Dangerous Buildings Code	1	6-121
6-VII	3- 6-95	Adoption of the Uniform Plumbing Code	1, 2	6-141, 6-142
6-VIII	3- 6-95	Adoption of the Uniform Mechanical Code	1, 2	6-166, 6-167
10F	6-19-95	Adoption of Uniform Fire Code and Uniform Fire Code Standards	1, 2	22-56(a), (b)
46	12- 4-95	Adoption of Section 42 Tax Exemption	Added	46-69—46-80
(Ord. of)	2-21-96	Amending fire department officers	3	22-27
47	4-27-97	Adopting the Code	1—9 Added	Adopting Ord., p.vii
98-2	4-20-98	Adoption of Uniform Plumbing Code		6-141
98-3	4-20-98	Adoption of the Abatement of Dangerous Buildings Code		6-121
98-4	4-20-98	Adoption of Uniform Housing Code		6-56
98-5	4-20-98	Adoption of Uniform Building Code		6-76, 6-77
98-6	4-20-98	Adoption of International Mechanical Code		6-166

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98-7	4-20-98	Adoption of Uniform Water Rate Ord.	Added	54-26—54-34
98-8	5- 4-98	Amends Ord. No. 47		58-12(d)
98-9	5-18-98	Amends Fire Prevention Code		22-56
98-10	5-18-98	Amends Ord. No. 47		58-79(d)(1)
98-11	6- 1-98	Amends Ord. No. 47		58-26
98-12	6-15-98	Amends Ord. No. 47	Added	58-415(4)—(6)
98-13	7- 6-98	Adoption of Abandoned Vehicle Procedures	Added	50-81—50-88
98-14	7-20-98	Amends Ch. 22 Fire Prevention and Protection	Added	22-103(8), (9)
				22-105(6), (7)
				22-106
99-1	4- 5-99	Amends Ch. 30		30-101
			Added	30-102(d)
				30-105
			Added	30-214
			Added	30-241—30-244
6-IX	1- 3-00	Adoption of National Electric Code	1 Added	6-191(e)
(Ord. of)	6- 6-00	Adoption of Site Condominium Regulations	Added	58-80
01-1	4-16-01	Adoption of Sexually Oriented Businesses	Added	10-81—10-99
01-3	5-21-01	Adoption of Influence of Alcohol and Controlled Substances	1 Rpld	50-27(5.15—5015f)
			Added	50-27(5.15—5.15o)
01-4	9- 4-01	Adoption of Public Utility Procedure	1—4 Added	54-101—54-104
02-1	3- 4-02	Amends Ord. No. 47	1	54-76
			2—4	54-79
			5	54-81
02-2	3- 4-02	Adoption of Liquor License Regulations	2 Added	3-21—3-27
02-3	4- 1-02	Adoption of International Fire Code	1	22-56
02-4	6- 4-02	Adoption of International Property Maintenance Code	1, 2	6-271, 6-272
02-5	7- 1-02	Amends Ch. 58	1 Added	58-72(d)

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			2 Added	58-29
			3 Added	58-342(c) and (d)
			4 Added	58-486(3)
02-6	7-15-02	Adoption of provisions for designation and approval of street addresses	1 Added	6-246—6-249
02-7	11-18-02	Adoption of Michigan Vehicle Code	1—4	50-211—50-214
03-1	4-21-03	Adoption of telecommunications ordinance regulating access to and ongoing use of public rights-of-way by telecommunications providers	1—21	14-71—14-91
03-02	5-19-03	Amends Ord. No. 19A	1	30-131
03-03	5-19-03	Amends Ch. 22	1	22-56(a)
03-04	6- 2-03	Adoption of grass and noxious weeds control ordinance	1 Added	18-5
03-05	6- 2-03	Adoption of Prohibited Parking Article VI, Chapter 50	1, 2 Added	50-236
03-06	11- 3-03	Amends Ord. No. 18-B, definition of "gross revenues"	1	14-32
03-07	12-15-03	Amends Ord. No. 02-7	1	50-211
04-01	4-19-04	Adoption of International Fire Code, 2003 Edition	2	22-56
05-01	1-17-05	Amends Ord. No. 03-05, prohibited parking	2	50-236
05-02	5- 2-05	Amends Ord. No. 02-02	1	3-26
05-03	5- 2-05	Amends No. SW-5, rates and charges	1	54-79(2)(d)
05-04	5- 2-05	Amends Ord. No. 98-7, water rates and connection charges	1	54-29(k)
05-05	9-19-05	Adopts Uniform Traffic Code	1, 2	50-26
05-06	10-17-05	Adopts of illicit discharge and illicit connection ordinance	1	18-56—18-141

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05-07	11- 7-05	Adopts uniform water rate ordinance	1—11	54-26—54-36
06-01	5-15-06	Amends sewer rates and charges	1, 2	54-79(1)a., (1)b.
06-02	6-19-06	Amends Ch. 30	1 Dltd	30-7
			2	30-102
06-03	6-19-06	Amends Ch. 30	1	30-101(a)
07-01	3-19-07	Amends Ch 46, repealing Ord. No. 38, Ord. No. 38-A, Ord. No. 38-B, and Ord. No. 46.	Rpld	46-26—46-80
			Added	46-26—46-71
08-01	2- 4-08	Amends Ch. 54	1 Added	54-29(i)
08-02	2- 4-08	Amends Ch. 54	1 Added	54-79(7)
08-03	9- 2-08	Amends Ch. 22	2	22-56
09-01	3-15-08	Amends Ch. 58	1 Added	58-497—58-501
09-04	12-21-09	Amends Ch. 54	1 Added	54-81(3)
10-01	2- 1-10	Dangerous and exotic animals	2 Rpld	58-64.1
		Animals	3 Added	4-1—4-7
10-02	3-15-10	Amends Ch. 58	1—22	58-54—58-58, 58-60(c)(1), 58-61, 58-63, 58-65(a), (j), 58-66, 58-67, 58-68(a), (c), 58-69, 58-71, 58-72(b)(4)a., (c)(2)b., (c)(3)b., (d)(5), (d)(6)f., 58-75(b), 58-77(b), 58-78(a), 58-79(f)(1), (h)(3), 58-123, 58-288(6), 58-342(a)
10-04	4-19-10	Amends Ch. 58	1—5, 7	58-18, 58-68, 58-72, 58-79(d)(1), (f)(1), (h), 58-486(b)(5)
			6 Added	58-243(5)—(10)
10-05	4-26-10	Amends Ch. 58	Added	58-30—58-41
10-06	6-21-10	Amends Ch. 58	1	58-63
			2	58-65(a), (j),
			Added	58-65(l)
			3—6	58-66, 58-69, 58-138(6), 58-153(5), 58-168(5), 58-341(u)
10-07	5- 3-10	Amends Ch. 7	1 Added	7-1—7-17
10-8	5- 3-10	Amends Ch. 38	1, 2	38-4, 38-5

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		Amends Ch. 54	3	54-79
10-09	6-21-10	Amends Ch. 54	1, 2 Added	54-125—54-130
10-11	12- 6-10	Amends Ch. 58	1	58-3
			2—4 Added	58-8(h),(i), 58-9(a), 58-11(a)
10-12	12- 6-10	Amends Ch. 18	2—5 Added	18-175—18-179
10-13	12- 6-10	Amends Ch. 1	1	1-2
			2—8 Added	1-12—1-18
10-14	12- 6-10	Amends Ch. 6	1, 2 Added	6-273—6-276, 6-286—6-297
10-15	12- 6-10	Amends Ch. 46	1	46-53
			2 Rpld	46-55
11-01	3- 7-11	Amends Ch. 54	1	54-79(2)a., b.
11-03	3- 7-11	Amends Ch. 6	2	6-56, 6-76, 6-101, 6- 141, 6-166, 6-191, 6- 271
11-04	3- 7-11	Amends Ch. 22	1	22-56
11-05	6- 6-11	Amends Ch. 58	2	58-366
			3 Added	58-367(b)(13)—(17)
				58-367(c)
			4, 5	58-368, 58-372
			6	58-373(c),(d)(1), (d)(5)
			Added	58-373(h)—(k)
			7	58-374(f),(g)
			8 Added	58-375(4)(e), (6)(b), (f)
			9, 10 Added	58-376, 58-377
11-06	6- 6-11	Amends Ch. 58	2	58-26
11-07	6- 6-11	Amends Ch. 30	2 Added	30-134
11-08	6- 6-11	Amends Ch. 58	2 Dltd	58-60(c)(1)d.
11-09	6-20-11	Amends Ch. 6	1, 2	6-275, 6-276
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			6	6-286
11-10	8-15-11	Amends the Residential Rental Properties Ordinance	1	6-274
			2	6-276
12-01	2-20-12	Amends Ch. 58	2	58-375
12-02	3-19-12	Creates Ch. 6, Art. XV, Sidewalks	2 Added	Ch. 6, Art. XV, 6-311— 6-315
12-03	2-20-12	Amends the Zoning Ordinance	2 Dltd	58-59—58-60
				58-73—58-77
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12-04	3-19-12	Defines sections to be enforced by Municipal Civil Infractions	2	58-451
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12-06	6- 4-12	Amends the Zoning Ordinance	2 Added	58-51(d)
12-08	6-18-12	Amends the Residential Rental Properties Ordinance	2 Added	6-276(2)(e)
12-09	9- 4-12	Amend Fences and Hedges Ordinance 58-66	2	58-66
12-10	8-20-12	Provides regulations for Transient Merchants and Itinerant Vendors	2	7-4
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12-11	9- 4-12	Amends Ch. 58	2 Added	58-375(g)
12-12	8- 6-12	Amends Ch. 30	2	30-159
12-13	10- 1-12	Provides regulations for Dismantled, Inoperable, Junk or Other Such Motor Vehicles Prohibited and Declared Nuisances; Exceptions	2	50-83
			3	50-84
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12-14	9- 4-12	Amends the Residential Rental Properties Ordinance	2 Added	6-276(5)

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12-16	12-17-12	Amends Ch. 30	2—5 Added	Ch. 30, Art. X, 30-265—30-268
13-01	1-22-13	Amends the Zoning Ordinance	2	58-286
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13-03	4-15-13	Amends the Zoning Ordinance	2	58-341(10)
13-04	4-15-13	Amends Ch. 58	2—4	58-375
13-05	4-15-13	Amends Ch. 58	2	18-5
13-06	7-15-13	Amend Ch. 58	2	58-13
13-07	7-15-13	Amends Ch. 4	2	4-3(i)
13-08	9- 3-13	Amends Ch. 54	1 Added	54-30(d)
13-09	9- 3-13	Amends Ch. 6	2	6-166
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16-03	3-21-16	Amends Ch. 58	2	58-258
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16-04	4- 4-16	Amends Ch. 30	2	30-101
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This table shows the location within this Code, either in the text or notes following the text, of references to Michigan Statutes Annotated.

Editor's note(s)—The Michigan Statutes Annotated are obsolete and will no longer be updated. References to MSA will be removed from the Code text as pages are supplemented.

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