

*Fabius
Township
Michigan
Code
of
Ordinances*

CODE OF ORDINANCES FABIUS TOWNSHIP, MICHIGAN

Published in 2013 by Order of the Township Board
Adopted July 10, 2013

TOWNSHIP BOARD

Dan Wilkins	Township Supervisor
Judy Holman	Trustee
Cliff Maxwell	Trustee
Cindy Haradine	Township Treasurer
Carol Wilkins	Township Clerk

LEGAL COUNSEL

Bauckham, Seeber Kauffman, Thall and Koches, P.C.

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

Source materials used in the preparation of the Code were 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 comparative tables appearing in the back of this Code, the reader can locate any ordinance included herein.

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

Chapter and Section Numbering System

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

Page Numbering System

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

CODE	CD1:1
CODE APPENDIX	CDA:1
CODE COMPARATIVE TABLES	CCT:1
STATE LAW REFERENCE TABLE	SLT:1
CODE INDEX	CDi:1

Index

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

Copyright

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

ORDINANCE ADOPTING A CODE OF ORDINANCES ORDINANCE NO. 140

Adopted: July 10, 2013

Effective: August 17, 2013

An ordinance adopting, codifying, and enacting a Code of Ordinances for Fabius Township, St. Joseph County, Michigan; providing for the repeal of certain ordinances not included therein; providing a penalty for the violation thereof; providing for the additions or amendments; providing for interpretation of certain ordinances; and providing when such code and this ordinance shall become effective.

The Township of Fabius, St. Joseph County, Michigan ordains:

Section I. Code adopted

The Code entitled "Code of Ordinances, Fabius Township, Michigan," published by Municipal Code Corporation, consisting of chapters 1 through 46, each inclusive and codifying Fabius Township's ordinances, is hereby adopted.

Section II. Certain ordinances repealed

All ordinances of a general and permanent nature enacted on or before July 9, 2013, and not included in the Code or recognized and continued in force by reference therein, are repealed. The repeal provided for in this section 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 III. Violations and penalties

A. In this section, the term "violation of the Code" means any of the following:

1. Committing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
2. Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
3. Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, or by rule or regulation authorized by ordinance.

B. In this section, the term "violation of the Code" does not include the failure of a township officer or township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.

- C. A person convicted of a violation of this Code, the violation of which is forbidden by law from being made a municipal civil infraction or civil infraction, shall be punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of this Code that substantially corresponds to a violation of state law, a misdemeanor for which the maximum period of imprisonment is 93 days, shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both.
- D. Except for violations of this Code expressly designated in subsection (C) of this section to be misdemeanors and for violations of this Code that cannot be made municipal civil infractions, violations of this Code shall be municipal civil infractions.
- E. Except as otherwise provided by law or ordinance:
 - 1. With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - 2. As to other violations, each violation constitutes a separate offense.
- F. Except as otherwise provided:
 - 1. A person convicted of a violation of this Code or who is found responsible for a municipal civil infraction or admits responsibility for a municipal civil infraction shall pay costs which may include all expenses, direct and indirect, to which Fabius Township has been put in connection with the municipal civil infraction.
 - 2. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered.
- G. The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise, or other administrative sanctions.
- H. Violations of this Code that are continuous with respect to time are a public nuisance or nuisance per se and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

Section IV. Additions or amendments

Additions or amendments to the Code when passed in such form as to indicate an intention 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.

Section V. Interpretation of certain ordinances.

Ordinances adopted after July 9, 2013 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 VI. Effective date

This ordinance shall take effect 30 days after the date of its publication following its adoption by the Fabius Township Board.

FABIUS TOWNSHIP
Kathy L. McDonough
P.O. Box 455
13108 Broadway Road
Three Rivers, MI 49093
269-244-5640

CERTIFICATE OF ADOPTION

Kathy L. McDonough, Fabius Township Clerk, hereby certifies that in pursuance of law and statute provided, the Board enacted and passed Ordinance No. 140 at a regular meeting of the Township Board held on July 10, 2013, at the Township Hall, said Ordinance to become effective on August 17, 2013.

Motion by Wilkins, support by Brueck.

The following members voted "aye":

Wiikins
Brueck
Kroggel
Holman
McDonough

The following members voted "nay".

None

I further certify that in accordance with Township Board direction that a summary of the adopted Ordinance was published in the Three Rivers Commercial on July 18, 2013, and that said Ordinance was recorded in the Ordinance book on July 10, 201.

DATED: July 15, 2013

/s/ Kathy L. McDonough
Clerk

Attest:

/s/ John Kroggel
Supervisor

SUPPLEMENT HISTORY TABLE

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

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

Ord. No.	Date Adopted	Included/ Omitted	Supp. No.
139	7-10-2013	Omitted	1
140	7-10-2013	Included	1
141	5-14-2014	Included	1
142	9-10-2014	Included	1

143	1-14-2015	Included	1
144	8-12-2015	Included	2
145	10-14-2015	Included	2
146	2-18-2016	Omitted	2
147	6- 8-2016	Included	2
148	3- 8-2017	Omitted	3
149	11- 9-2017	Included	3
150	1-10-2018	Included	3
151	4-11-2018	Omitted	3
152	9-12-2018	Omitted	3
153	1- 9-2019	Included	3
154	1- 9-2019	Included	3
155	3-13-2019	Omitted	3
158	5- 8-2019	Omitted	4
159	6-12-2019	Omitted	4
160	6-20-2019	Included	4
161	7-10-2019	Omitted	4
162	9-11-2019	Omitted	4
163	1- 8-2020	Included	4
164	2-12-2020	Included	4

Chapter 1 - GENERAL PROVISIONS

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

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

State Law reference— Authority to codify ordinances, MCL 41.186.

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

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

Generally.

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

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

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

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

- (1) The term "and" indicates that all the connected terms, conditions, provisions or events apply.
- (2) The term "or" indicates that the connected terms, conditions, provisions or events apply singly or in any combination.
- (3) The term "either...or" indicates that the connected terms, conditions, provisions or events apply singly but not in combination.

County. The term "county" means St. Joseph County, Michigan.

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

Gender. Words of one gender include all other genders.

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

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

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

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

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

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

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

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

Owner. The term "owner," as applied to property, includes any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or part of such property.

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

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

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

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

Public acts. References to public acts are references to the Public Acts of Michigan. (For example, a reference to Public Act No. 168 of 1959 is a reference to Act No. 168 of the Public Acts of Michigan of 1959.) Any reference to a public act, whether by act number or by short title, is a reference to such act as amended.

Real property, real estate, land, lands. The terms "real property," "real estate," "land" and "lands" include lands, tenements and hereditaments.

Road, street or highway. The term "road," "street" or "highway" means the entire width subject to an easement for a public right-of-way or owned in fee by the Township, county, or state, of every way or place, of whatever nature, whenever any part thereof is open to the use of the public as a matter of right for purposes of public travel.

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

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

Signature or subscription. The term "signature" or "subscription" includes a mark when the person cannot write.

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

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

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

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

Township Board. The term "Township Board" means the Township Board of Fabius Township, Michigan.

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

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

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

State Law reference— Definitions and rules of construction applicable to state statutes, MCL 8.3 et seq.

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

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

State Law reference— Catchlines in state statutes, MCL 8.4b.

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

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

State Law reference— Effect of repeal of state statutes, MCL 8.4, 8.4a.

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

- (a) All ordinances adopted subsequent to this Code that amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of the Code and printed for inclusion in the Code. Portions of this Code repealed by subsequent ordinances may be excluded from this Code by omission from reprinted pages affected thereby.
- (b) Amendments to provisions of this Code may be made with the following language: "Section (or chapter, article, division or subdivision, as appropriate) _____ of the Code of Ordinances, Fabius Township, Michigan, is hereby amended to read as follows:...."
- (c) If a new section, subdivision, division, article or chapter is to be added to the Code, the following language may be used: "Section (or chapter, article, division or subdivision, as appropriate) _____ of the Code of Ordinances, Fabius Township, Michigan, is hereby created to read as follows:...."
- (d) All provisions desired to be repealed should be repealed specifically by section, subdivision, division, article or chapter number, as appropriate, or by setting out the repealed provisions in full in the repealing ordinance.

State Law reference— Ordinance adoption procedures, MCL 42.181 et seq.

Sec. 1-6. - Supplementation of Code.

- (a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the Township. A supplement to this Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of the supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages that have become obsolete or partially obsolete. The new pages shall be so prepared that when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the person authorized to prepare the supplement may make formal, nonsubstantive changes in ordinances and parts or ordinances included in the supplement, insofar as necessary to do so in order to embody them into a unified code. For example, the person may:
 - (1) Arrange the material into appropriate organizational units.
 - (2) Supply appropriate catchlines, headings and titles for chapters, articles, divisions, subdivisions and sections to be included in the Code, and make changes to any such catchlines, headings, or titles already in the Code.
 - (3) Assign appropriate numbers to chapters, articles, divisions, subdivisions and sections to be added to the Code.
 - (4) Where necessary to accommodate new material, change existing numbers assigned to chapters, articles, divisions, subdivisions or sections.
 - (5) Change the words "this ordinance" or similar words to "this chapter," "this article," "this division," "this subdivision," "this section" or "sections _____ to _____" (inserting section numbers to indicate the sections of the Code that embody the substantive sections of the ordinance incorporated in the Code).
 - (6) Make other nonsubstantive changes necessary to preserve the original meaning of the ordinances inserted in the Code.

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

- (a) In this section, the term "violation of this Code" means any of the following:
 - (1) Committing an act that is prohibited or made or declared unlawful, an offense, a violation or a misdemeanor by ordinance or by rule or regulation authorized by ordinance.
 - (2) Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance.
 - (3) Failure to perform an act if the failure is prohibited or is made or declared unlawful, an offense, a violation or a misdemeanor by ordinance, or by rule or regulation authorized by ordinance.
- (b) In this section, the term "violation of this Code" does not include the failure of a Township officer or Township employee to perform an official duty unless it is specifically provided that the failure to perform the duty is to be punished as provided in this section.
- (c) A person convicted of a violation of this Code, the violation of which is forbidden by law from being made a municipal civil infraction or civil infraction, shall be punished by a fine not to exceed \$500.00, imprisonment for a period of not more than 90 days, or both; however, unless otherwise provided by law, a person convicted of a violation of this Code that substantially corresponds to a violation of state law, a misdemeanor for which the maximum period of imprisonment is 93 days, shall be punished by a fine of not more than \$500.00, imprisonment for a term of not more than 93 days, or both.
- (d) Except for violations of this Code expressly designated in subsection (c) of this section to be misdemeanors and for violations of this Code that cannot be made municipal civil infractions, violations of this Code shall be municipal civil infractions.
- (e) Except as otherwise provided by law or ordinance:
 - (1) With respect to violations of this Code that are continuous with respect to time, each day that the violation continues is a separate offense.
 - (2) As to other violations, each violation constitutes a separate offense.

(f) Except as otherwise provided:

- (1) A person convicted of a violation of this Code or who is found responsible for a municipal civil infraction or admits responsibility for a municipal civil infraction shall pay costs which may include all expenses, direct and indirect, to which Fabius Township has been put in connection with the municipal civil infraction.
- (2) In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered.
- (g) The imposition of a penalty does not prevent suspension or revocation of a license, permit or franchise, or other administrative sanctions.
- (h) Violations of this Code that are continuous with respect to time are a public nuisance or nuisance per se and may be abated by injunctive or other equitable relief. The imposition of a penalty does not prevent injunctive relief or civil or quasi-judicial enforcement.

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 1-8. - Severability.

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

State Law reference— Severability of state statutes, MCL 8.5.

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

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

State Law reference— Similar provisions as to state statutes, MCL 8.3u.

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

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

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

Nothing in this Code or the ordinance adopting this Code affects the validity of any ordinance or portion of an ordinance listed below that are not published in this Code, and all such ordinances or portions of ordinances continue in full force and effect to the same extent as if published at length in this Code:

- (1) Changing the boundaries of the Township.
- (2) Promising or guaranteeing the payment of money or authorizing the issuance of bonds or other instruments of indebtedness.
- (3) Authorizing or approving any contract, deed, or agreement.
- (4) Making or approving any appropriation or budget.

- (5) Providing for salaries or other employee benefits.
- (6) Granting any right or franchise.
- (7) Adopting or amending a comprehensive plan.
- (8) Levying or imposing any special assessment.
- (9) Dedicating, establishing, naming, locating, relocating, opening, paving, widening, repairing or vacating any road, street, sidewalk or alley.
- (10) Establishing the grade of any road, street or sidewalk.
- (11) Dedicating, accepting or vacating any plat.
- (12) Levying, imposing or otherwise relating to taxes.
- (13) Granting a tax exemption for specific property.
- (14) Rezoning property or amending the Zoning Map.
- (15) Anything that is temporary, although general in effect.
- (16) Anything that is special, although permanent in effect.
- (17) Anything the purpose of which has been accomplished.

Chapter 2 - ADMINISTRATION^[1]

Footnotes:

--- (1) ---

State Law reference— Townships generally, MCL 41.1a et seq.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Annual meeting of electors.

The annual meeting of the electors of the Township, where the same has not been abolished, shall be held on the last Saturday in the last month of the aforesaid fiscal year at such time and place as is determined by the Township Board.

(Ord. No. 17, § III)

State Law reference— Similar provisions, MCL 41.8.

Secs. 2-2—2-20. - Reserved.

ARTICLE II. - TOWNSHIP BOARD^[2]

Footnotes:

--- (2) ---

State Law reference— Township Board generally, MCL 41.70 et seq.

Secs. 2-21—2-43. - Reserved.

ARTICLE III. - OFFICERS AND EMPLOYEES^[3]

Footnotes:

--- (3) ---

State Law reference— Township Supervisor, MCL 41.61 et seq.; Township Clerk, MCL 41.65 et seq.; Township Treasurer, MCL 41.76 et seq.; Public Officers and Employees generally, MCL 15.1 et seq.

DIVISION 1. - GENERALLY

Sec. 2-44. - Powers of Constables.

- (a) Pursuant to authority vested in the Township Board by Public Act 246 of 1946 (MCL 41.181 et seq.) of the State of Michigan, no elected or appointed Constable of Fabius Township shall exercise any power; or assume any duty prescribed by the laws of the State of Michigan, except as follows:
- (1) Township Constables shall be authorized to serve all criminal warrants or other criminal process lawfully directed to them by the Township Board, the Township Clerk or another officer.
 - (2) Township Constables shall be authorized to serve all civil notices and process lawfully directed to them by the Township Board, the Township Clerk or any other officer.
 - (3) Township Constables shall be authorized to serve any writ, process or order lawfully directed to them in the Township, within the county in which the Township is situated.
 - (4) Township Constables shall be authorized to be ministerial officers of the district court and may be appointed as district court officers by the district court and may perform the duties permitted pursuant to ch. 83 of Public Act No. 236 of 1961 (MCL 600.8301 et seq.).
 - (5) Township Constables shall be authorized to attend sessions of the circuit court for the County of St. Joseph, when notified for that purpose by the sheriff of the county.
 - (6) Township Constables shall be authorized, when directed by the Township Board, to perform liquor control inspections under the liquor control ordinance of the Township.
 - (7) Township Constables shall be authorized to perform such other duties or powers of their office when so directed by the Township Board or an elected Township officer.
- (b) Any elected or appointed Township Constable who shall violate any provision of this section shall thereby assume sole responsibility and liability for any damage resulting from such action constituting said violation.

(Ord. No. 83, §§ 1, 2, 2-14-2001)

Editor's note— The date given for Ord. No. 83 is the adoption date.

State Law reference— Authority to restrict or limit powers of Constables, MCL 41.82.

Secs. 2-45—2-61. - Reserved.

DIVISION 2. - ORDINANCE ENFORCEMENT OFFICER

Sec. 2-62. - Office established.

There is hereby established the office of Ordinance Enforcement Officer within the Township of Fabius, St. Joseph County, Michigan.

(Ord. No. 77, § 1, 2-24-2000)

Sec. 2-63. - Appointment and removal.

The Township Board is hereby authorized by resolution, at any regular meeting of said Board, to appoint any person to the office of Ordinance Enforcement Officer for such term or terms as may be designated in said resolution. Said Board may further, by resolution, remove any person from said office, in the discretion of said Board.

(Ord. No. 77, § 2, 2-24-2004)

Sec. 2-64. - Authorization to enforce ordinances; additional authority of Deputy Sheriffs, Township Constable or Zoning Administrator.

- (a) The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of the Township, whether heretofore or hereafter enacted, and whether such ordinances specifically designate a different official to enforce the same or do not designate any particular enforcing officer. Where a particular officer is so designated in any such ordinance, the authority of the Ordinance Enforcement Officer to enforce the same shall be in addition and supplementary to the authority granted to such other specific officer. The authority of such Ordinance Enforcement Officer shall also be in addition and supplementary to the authority vested in the Township Supervisor by state statute. The ordinance enforcing authority of the Township Supervisor and the other officers specifically designated in any Township ordinance shall continue in full force and effect and shall in no way be diminished or impaired by the terms of the within ordinance.
- (b) The Ordinance Enforcement Officer, any Deputy Sheriff for the county, the Township Constable, and the Township Zoning Administrator are hereby designated "authorized local officials" and are authorized to issue notices of violation, appearance tickets, ordinance violation citations and/or complaints and municipal civil infraction citations in accordance with sections 8701(a), 8701(b) and 8707(2) of the Revised Judicature Act of 1961 (MCL 600.8701(a), 600.8701(b); and MCL 600.8707(2) and section 9c of the Code of Criminal Procedure (MCL 764.9c).

(Ord. No. 77, § 3, 2-24-2004)

State Law reference— Authorization to issue appearance tickets, MCL 764.9c; authorization to issue municipal civil infraction citations, MCL 600.8707.

Sec. 2-65. - Enforcement duties.

The Ordinance Enforcement duties authorized in this division shall include, among others, the following: investigation of ordinance violations, serving notice of violations, serving appearance tickets as authorized under chapter IV of the Code of Criminal Procedure (MCL 764.1 et seq.), appearance in court or other judicial proceedings to assist in the prosecution of ordinance violators, and such other ordinance-enforcing duties as may be delegated by the Township Supervisor or assigned by the Township Attorney.

(Ord. No. 77, § 4, 2-24-2004)

Secs. 2-66—2-88. - Reserved.

ARTICLE IV. - FINANCE

Sec. 2-89. - Fiscal year.

Commencing in 1979, the fiscal year of the Township shall extend from April 1 of each year until March 31 of the following year.

(Ord. No. 17, § I)

State Law reference— Similar provisions, MCL 41.72.

Sec. 2-90. - Reimbursement of Township for fire protection services or other emergency services.

- (a) *Purpose.* This section is adopted for the purpose of providing financial assistance to the Township for providing fire protection services and/or other emergency services from those receiving direct benefits from the service available.
- (b) *Charges.* The township treasurer shall bill the responsible party, as determined by emergency personnel and police department personnel, for fire and emergency protection services provided by the township fire department a minimum charge of \$500.00 per run from the time of departure from the fire station for up to five hours; thereafter, an additional charge of \$500.00 per hour for actual costs of labor and materials will be made. In addition there will be a \$250.00 charge for extrication services provided by the fire department.
- (c) *Time for payment.* It shall be the responsibility of the township treasurer to send a bill to the responsible party, as determined by emergency personnel and police department personnel, for fire or emergency protection services by first class mail as soon as practical after the services are rendered. All of the foregoing charges shall be due and payable within 30 days of the date invoice is rendered. In the event of default in payment, the amount due shall be collectable through proceedings in district court or in any other court of competent jurisdiction as a matured debt.
- (d) *Exemptions.* The following properties and services shall be exempt from the foregoing charges:
 - (1) False alarms (except faulty alarm systems).
 - (2) Fires involving Township buildings, grounds and/or rights-of-way property.
 - (3) Fires of unknown origin on road rights-of-way.
- (e) *Nonexclusive charge.* The foregoing rates and charges shall not bar other charges that may be made by the Township for the costs of expenses of maintaining and operating fire protection service, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electorate approving the same to be a special assessment established under the applicable state statutes. General fund appropriations may also be made to cover such additional costs and expenses.

(Ord. No. 40, §§ I—V; Ord. No. 66, 9-1-1989; Ord. No. 125, 9-30-2008; Ord. No. 141, §§ I, II, 5-14-2014)

Editor's note— The date given for Ord. No. 66 is the adoption date.

Secs. 2-91—2-108. - Reserved.

ARTICLE V. - ORDINANCE VIOLATIONS BUREAU

Sec. 2-109. - Title.

This article shall be known and cited as the Township Municipal Ordinance Violations Bureau Article.

(Ord. No. 100, § 1, 4-14-2004)

Sec. 2-110. - Establishment, location and personnel of Bureau.

- (a) *Establishment.* The Township Municipal Ordinance Violations Bureau (hereafter "Bureau") is hereby established pursuant to section 8306 of the Revised Judicature Act of 1961 (MCL 600.8396), for the purpose of accepting admissions of responsibility for ordinance violations designated as municipal civil infractions, and to collect and retain civil fines/costs for such violations as prescribed herein.

- (b) *Location.* The Bureau shall be located at the Township hall/office or such other location in the Township as may be designated by the Township Board.
- (c) *Personnel.* All personnel of the Bureau shall be Township employees. The Township Board may by resolution designate a Bureau Clerk with the duties prescribed herein and as otherwise may be delegated by the Township Board.

(Ord. No. 100, § 2, 4-20-2004)

Sec. 2-111. - Bureau authority.

The Bureau shall only have authority to accept admissions of responsibility (without explanation) for municipal civil infractions for which a municipal ordinance violations notice has been issued and served, and to collect and retain the scheduled civil fines/costs for such violations specified pursuant to this article or another applicable ordinance. The Bureau shall not accept payment of fines/costs from any person who denies having committed the alleged violation or who admits responsibility only with explanation. The Bureau shall not determine or attempt to determine the truth or falsity of any fact or matter relating to an alleged ordinance violation.

(Ord. No. 100, § 3, 4-20-2004)

Sec. 2-112. - Ordinance violation notice requirements; admission/denial of responsibility.

- (a) *Ordinance violation notice requirements.* Municipal civil infraction violation notices shall be issued and served by authorized Township Officials as provided by law. A municipal ordinance violation notice shall include, at a minimum, all of the following:
 - (1) The violation;
 - (2) The time within which the person must contact the Bureau for purposes of admitting or denying responsibility for the violation;
 - (3) The amount of the scheduled fines/costs for the violation;
 - (4) The methods by which the violation may be admitted or denied;
 - (5) The consequences of failing to pay the required fines/costs or contact the Bureau within the required time;
 - (6) The address and telephone number of the Bureau;
 - (7) The days and hours that the Bureau is open.
- (b) *Denial of responsibility.* Where a person fails to admit responsibility (without explanation) for a violation within the jurisdiction of the Bureau and pay the required civil fines/costs within the designated time period, the Bureau Clerk or other designated Township employee shall promptly report the same to the appropriate ordinance enforcement personnel of the Township. The ordinance enforcement personnel shall thereafter proceed as authorized to issue and file a municipal civil infraction citation for such violation with the County District Court having jurisdiction of the matter. The citation shall be on a form designated by the County District Court, shall be filed with the court within three days of issuance and shall consist of a sworn complaint containing, at a minimum, the allegations stated in the municipal ordinance violation notice and shall fairly inform the alleged violator how to respond to the citation. 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 shall thereafter be processed in the manner required by law.

(Ord. No. 100, § 1, 4-20-2004)

Sec. 2-113. - Schedule of civil fines/costs.

Unless a different schedule of civil fines is provided for by an applicable ordinance, the civil fines payable to the Bureau upon admissions of responsibility by persons served with municipal ordinance violation notices shall be determined pursuant to the following schedule:

1st violation within 3-year period*	\$ 75.00
2nd violation within 3-year period*	150.00
3rd violation within 3-year period*	375.00
4th or subsequent violation within 3-year period*	500.00

*Determined on the basis of the date of violation(s).

In addition to the above-prescribed civil fines, costs in the amount of \$10.00 shall be assessed by the Bureau if the fine and costs are paid within ten days of the date of service of the municipal ordinance violation notice. Otherwise, costs of \$20.00 shall be assessed by the Bureau.

(Ord. No. 100, § 5, 4-20-2004)

Sec. 2-114. - Records and accounting.

The Township 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. 100, § 6, 4-20-2004)

Sec. 2-115. - Availability of other enforcement options.

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

(Ord. No. 100, § 7, 4-20-2004)

Chapter 6 - BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. - IN GENERAL

Secs. 6-1—6-18. - Reserved.

ARTICLE II. - STATE CONSTRUCTION CODE

DIVISION 1. - GENERALLY

Sec. 6-19. - Enforcement.

- (a) *Generally.* Pursuant to the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.), in accordance with section 8b(6) of Public Act No. 230 of 1972 (MCL 125.1508b(6)), the Township building official is hereby designated as the enforcing agency to discharge the responsibility of the Township under Public Act No. 230 of 1972 (MCL 125.1501 et seq.). The Township has assumed responsibility for the administration and enforcement of said act throughout its corporate limits.
- (b) *Code appendix.* Pursuant to the provisions of Public Act No. 230 of 1972 (MCL 125.1501 et seq.), in accordance with section 8b(2) of Act 230, of Public Act No. 230 of 1972 (MCL 125.1508b(2)), and appendix G of the state building code, the Township affirms its designation as the administering and enforcing agency for the State Construction Code within the corporate limits thereof and in accordance therewith designates the Township building official as the enforcing agent to discharge the responsibilities of the municipality therewith.

(Ord. No. 132, §§ 1, 2, 5-22-2010)

Sec. 6-20. - Designation of regulated floodprone hazard areas.

The Federal Emergency Management Agency (FEMA) has completed a flood insurance study (FIS) for the county and the Township. The Township adopts by reference the flood insurance rate maps (FIRMs) for Fabius Township, St. Joseph County, Michigan; said FIRMs, FIS and FIRM panels 26149C0159D and 26149C0160D related thereto designated by FEMA are therefore declared to be a part of section 1612.3 of the state building code, and provide the content of the "Flood Hazards" section of Table R301.2(1) of the state residential code.

(Ord. No. 132, § 3, 5-22-2010)

Secs. 6-21—6-43. - Reserved.

DIVISION 2. - VIOLATIONS

Sec. 6-44. - Purpose.

Pursuant to the provisions of the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1501 et seq.), the Township has assumed responsibility for the administration and enforcement of the State Construction Code and the nationally recognized codes which comprise the same as incorporated by reference or pursuant to an administrative rule adopted thereunder. The purpose of this division is to designate violation of the State Construction Code and the nationally recognized codes comprising the same as municipal civil infractions as permitted by section 23(3) of the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1523(3)).

(Ord. No. 122, § 1, 7-22-2007)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 6-45. - Designation as municipal civil infraction.

The Township as the administering and enforcing agency for the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1501 et seq.) hereby designates violations of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized code adopted by the state via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the state municipal civil infractions as authorized by section 23(3) of the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1523(3)).

(Ord. No. 122, § 3, 7-22-2007)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 6-46. - Penalties.

The Township, as the administering and enforcing agency the Stille-DeRossett-Hale Single State Construction Code Act (MCL 125.1501 et seq.), hereby sets forth penalties for violation of the State Construction Code; of any of the nationally recognized codes incorporated into the State Construction Code; or of any nationally recognized codes adopted by the state via administrative rule pursuant to the State Construction Code together with amendments, additions, or deletions as determined appropriate by the state; by amending the respective "penalty" provision in each as follows:

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

	Minimum fine	Maximum fine
1st offense	\$150.00	\$500.00
2nd offense*	300.00	500.00
3rd offense*	425.00	500.00
4th or more offense*	500.00	500.00

*Within three-year period determined on the basis of the date of commission of the offense(s).

(Ord. No. 122, § 4, 7-22-2007)

Secs. 6-47—6-65. - Reserved.

ARTICLE III. - RENTAL PROPERTY

Sec. 6-66. - Title.

This article shall be known and cited as the Township rental property article.

(Ord. No. 113, § I, 5-27-2006)

Sec. 6-67. - 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:

Dwelling, multiple-family, means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, one-family, means a building designed exclusively for and occupied exclusively by one family.

Dwelling, two-family means a building designed exclusively for and occupied exclusively by two families.

Family means one or two persons or parents, with their direct linear descendants and adopted or foster children (and including the domestic employees thereof) together with not more than two persons not so related, occupying a dwelling as a single housekeeping unit.

Rental property means any building or structure used as a residential building housing one or more human beings (also known as tenants) for which the owner (also known as landlord) is being paid, either in cash, by check, or by in-kind contributions or by trade. The term "rental property" includes homes rented seasonally or year-round by the week or monthly, even if for only one week per year. Such buildings or structures must, in order to qualify for rental usage, comply with the regulations in section 6-69.

(Ord. No. 113, § II, 5-27-2006)

Sec. 6-68. - Sanctions.

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions or requirements of this article or who fails to submit or falsifies or violates any of the representations set forth in the rental registration form submitted to the Township Administrator to secure the registration of the described rental property with the Township shall be deemed to be responsible for a municipal civil infraction as defined by state statute, which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum fine	Maximum fine
1st offense	\$150.00	\$500.00
2nd offense	225.00	500.00
3rd offense	375.00	500.00
4th or more offense	500.00	500.00

(Ord. No. 113, § VI, 5-27-2006)

Sec. 6-69. - Regulations.

- (a) All rental property must comply with the occupancy limits as prescribed by the state residential code and this Code. A one-family dwelling unit that is leased or rented can only be leased or rented to a single family, not to multiple families or groups.
- (b) The landlord of each rental property shall provide outdoor refuse receptacles and adequate commercial refuse disposal and shall arrange removal of all refuse no less than one time per week during the rental period.
- (c) It shall hereafter be unlawful for any owner of a rental dwelling, regardless of the nature of the ownership thereof, to lease or rent the same during any period if:

- (1) The building fails to meet the minimum requirements of the state residential building code to the extent the code is applicable thereto.
- (2) The building is dilapidated, unsafe or dangerous.
- (3) The building's roof, walls, windows and doors have leaks or are not weatherproof so as to prevent material heat loss and drafts and interior abnormal moisture.
- (4) The rental unit is not furnished with an operable and safe furnace or heating system adequate to maintain the premises at a temperature of not less than 68 degrees during sub-zero weather conditions.
- (5) The premises are not supplied with plumbing and sanitary sewage systems in proper working condition and without consequent pollution or contamination. All electrical systems and wiring are in proper working order and adequate for the electricity service expected therefrom.
- (6) The exterior of the premises are not maintained in a neat and orderly manner without unreasonable accumulations of junk and debris or uncontrolled growth. Structures and accessory buildings must be maintained without unsightly peeling or flaking of paint or deterioration thereof.
- (7) Exterior glass is not maintained intact without being open to the elements or in a state of disrepair.
- (8) An adequate sanitary supply of water is not available within the buildings upon the premises that is within acceptable limits for fluoride, nitrates, nitrites, or other contaminants or pollutants as prescribed by the State Department of Environmental Quality.
- (9) Any separate dwelling unit in a basement or above the first floor level of the building is not provided with two separate convenient means of ingress and egress usable by the occupants thereof.
- (10) An adequate supply of hot, potable water is not available within the interior of the premises for the convenient and safe use of all the occupants thereof.
- (11) The entire premises are not free of any hazardous or unsafe condition caused by any structural failure, deterioration or disrepair, unguarded openings or unhealthful or unsanitary activities or circumstances which would be injurious to the occupants thereof or to any other persons or property in and about the premises.
- (12) The rental unit does not have adequate off-street parking for vehicles owned or used regularly by the tenants.

(Ord. No. 113, § III, 5-27-2006)

Sec. 6-70. - Additional regulations for tenants.

- (a) It shall hereafter be unlawful for any tenant of any dwelling, regardless of the terms and conditions of any lease or rental agreement to the contrary, to engage in any illegal, unlawful, unusual, abnormal, hazardous, malicious or neglectful activity within or upon the premises which would cause the same to be unrentable under the provisions of section 6-69 or to be a general nuisance in the neighborhood within which the same is located under state law.
- (b) No tenant or occupant of any rental dwelling within the Township shall cause, allow, permit or create any unreasonable or improper noise or disturbance, injurious to the health, peace or quiet of the nearby residents and property owners of the rental dwelling.
- (c) The following noises and disturbances are hereby declared to be a violation of this section; provided, however, that the specification of the same is not thereby to be construed to exclude other violations of this section not specifically enumerated:
 - (1) The playing of any radio, CD player or any musical instrument in such a manner or with such volume as to annoy or disturb the quiet, comfort or repose of other persons.
 - (2) Yelling, shouting, hooting or singing between the hours of 10:30 p.m. and 7:00 a.m., or at any time or place so as to annoy or disturb the quiet, comfort, or repose of any persons in the vicinity.

- (d) Tenants or occupants must maintain the outside of the rental premises free from uncontained litter, trash, refuse, household waste, cans, bottles and returnables.

(Ord. No. 113, § IV, 5-27-2006)

Sec. 6-71. - Inspections.

The landlord, tenant, building official of the Township and such other officials as may be designated by the Township Board shall be authorized to inspect all rental premises when required to ascertain compliance with this Code upon reasonable prior notice to the owner or tenant of the premises to be inspected.

(Ord. No. 113, § V, 5-27-2006)

Chapter 10 - ENVIRONMENT AND NATURAL RESOURCES

ARTICLE I. - IN GENERAL

Secs. 10-1—10-18. - Reserved.

ARTICLE II. - WETLANDS PROTECTION¹⁴

Footnotes:

--- (1) ---

State Law reference— Wetlands protection, MCL 324.30301 et seq.; local wetland protection ordinances, MCL 324.30307 et seq.

DIVISION 1. - GENERALLY

Sec. 10-19. - Short title.

This article shall be known and may be cited as the Township Wetlands Protection Article.

(Ord. No. 70, art. I, § 100, 4-21-1999)

Sec. 10-20. - Definitions.

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

Buffer area means all upland and bottom land areas within a 25-foot zone located on the site and adjacent to protected wetlands.

Contiguous means any of the following:

- (1) A permanent surface water connection or other direct physical contact;
- (2) A seasonal or intermittent direct surface water connection; or
- (3) A groundwater connection.

Development means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Drainageway means any drainage course, watercourse, drain, pipe, natural stream, creek, or swale which serves to transport stormwater runoff.

Fill material means soil, sand, gravel, clay, peat, debris and refuse, waste of any kind, or any other material which displaces sod or water or reduces water retention potential.

Lake means a natural or permanent artificial water body that has definite banks, a bed, visible evidence of a continued occurrence of water.

Locally protected wetlands means any of the following:

- (1) Any wetlands regardless of size, contiguous to a river, canal, creek, stream, lake or pond including wetlands which are two acres or less in size;
- (2) Specially designated wetlands determined by the Township Board to be essential to the preservation of the natural resources from pollution, impairment or destruction according to the criteria as set forth in section 10-102(c);
- (3) In making this determination, the Township Board must find one or more of the following functions applies to the particular site:
 - a. It supports state or federal endangered or threatened plants, fish or wildlife;
 - b. It meets the Township's criteria for a unique ecosystem;
 - c. It serves as an important water storage or groundwater recharge area.

Locally protected wetlands will be indicated on the Township Wetlands Map.

Mitigation of wetlands means any or all of the following:

- (1) Methods for eliminating or reducing potential damage or destruction to wetlands; or
- (2) Creation of wetlands from uplands to offset the loss.

Mitigation shall not be considered when it is feasible and prudent to avoid wetland impacts or when the impacts would be otherwise prohibited under federal, state and local wetlands protection regulations.

Ordinary high water mark means the line between upland and bottom land which persists through successive changes in water levels, below which the presence and action of the water is so common or recurrent that the character of the land is markedly distinct from the upland and is apparent in the soil itself, the configuration of the surface of the soil and the vegetation.

Person means an individual, firm, partnership, association, corporation, company, organization or legal entity of any kind, including governmental agencies conducting operations within the Township.

Planning Commission shall mean the Township of Fabius Planning Commission.

Pond means a natural or permanent artificial body that has permanent open water.

Prohibited activity includes:

- (1) Depositing or permitting the placing of fill material in a wetland;
- (2) Dredging, removing and permitting the removal of soil or minerals from the wetland;
- (3) Constructing, operating or maintaining a use or development in a wetland; or
- (4) Draining surface water from a wetland.

Seasonal means any intermittent or temporary activity which occurs annually and is subject to interruption from changes in weather, water level, or time of year, and may involve annual removal and replacement of any operation, obstruction or structure.

Special wetlands are those wetlands identified as locally rare or a unique ecosystem and shall be designated by the Township Board and delineated on the Township Wetlands Map.

Stream means a waterway which has definite banks, a bed and visible evidence of a continued flow or continued occurrence of water.

Structure means any assembly of materials above or below the surface of the land or water, including, but not limited to, houses, buildings, bulkheads, piers, docks, rafts, landings, dams, sheds or waterway obstructions.

Upland means areas within 25 feet of protected wetlands, and natural drainageways.

Watercourse means any waterway, drainageway, drain, canal, river, stream, lake, or detention basin, or any body of surface water having well-defined banks, either continually or intermittently flowing.

Wetland means land characterized by the presence of water at a frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp or marsh, and which is any of the following:

- (1) Contiguous to an inland lake or pond, or a river or stream;
- (2) Not contiguous to an inland lake or pond, or a river or stream; and more than five acres in size; or
- (3) Not contiguous to an inland lake or pond, or a river or stream; and five acres or less in size if the Department determines that protection of the area is essential to the preservation of the natural resources of the state from pollution, impairment, or destruction and the Department has so notified the owner.

Wetland district means all protected wetlands and buffer areas located on the site.

Wetland vegetation means plants, such as trees, shrubs, and grasses, that exhibit adaptations to allow, under normal conditions, germination or propagation and to allow growth with at least their root systems in water or saturated soil. Wetland vegetation is the macrophytic plant life that occurs in areas where permanently or periodically saturated conditions of sufficient duration to exert a controlling influence on the plant species present.

Wetlands Map means the Township Wetlands Map as included within the Township General Development Master Plan. The map, initially based on the National Wetlands Inventory published by the U.S. Department of Interior, Fish and Wildlife Service, shall be updated from time to time, delineating the general location of wetlands and drainageways which may be subject to regulation under this article. Delineation of wetland boundaries on individual parcels or sites shall be the responsibility of persons applying for a wetland or drainageway use approval.

(Ord. No. 70, art. III, § 300, 4-21-1999; Ord. No. 143, § I.A, 1-14-2015)

State Law reference— Definitions, MCL 324.30301.

Sec. 10-21. - Purpose.

The purpose of this article is:

- (1) To provide for the protection and appropriate use of wetlands within the Township in order to minimize disturbance of these vital natural features.
- (2) To coordinate the provisions of this article with state law as well as to provide for coordinated enforcement of Wetland Protection Laws and requirements by responsible Township, county and state officials.
- (3) To assign responsibilities for assuring the protection of wetlands within the Township.
- (4) To establish procedures for the processing of applications for permits involved in the permitted use of wetlands in the Township

(Ord. No. 70, art. II, § 200, 4-21-1999)

Sec. 10-22. - Legislative findings.

- (a) The Township finds that:

- (1) Wetland conservation is a matter of Township concern because the quality of life, property values, tax base, recreational opportunities and wildlife habitat are enhanced by the presence of the lakes, rivers, streams, and wetlands within the Township.
- (2) A loss of wetland may deprive the people of the Township of some or all of the following benefits to be derived from the wetland:
 - a. Flood and storm control by the hydrologic absorption and storage capacity of the wetlands.
 - b. Wildlife habitat by providing breeding, nesting, and feeding grounds and cover for many forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened, or endangered wildlife species.
 - c. Protection of subsurface water resources and provision of valuable watersheds and recharging ground water supplies.
 - d. Pollution treatment by serving as a biological and chemical oxidation basin.
 - e. Erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 - f. Sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- (3) Wetlands are valuable as an agricultural resource for the production of food and fiber, including certain crops which may only be grown on sites developed from wetland.
- (b) The criteria of subsection (a) of this section shall be considered and kept in mind by all Township Officials and Boards concerned with administering this article.

(Ord. No. 70, art. IV, § 400, 4-21-1999)

Sec. 10-23. - Continuation of pre-existing nonconforming uses.

A regulated activity that was lawful before the enactment of the ordinance from which this article is derived, but which is not in conformity with the provisions of this article, may be continued, provided that it is not:

- (1) Changed to another nonconforming location or operation;
- (2) Reestablished after having been discontinued for one year;
- (3) Expanded, except in conformity with this article; or
- (4) Rebuilt or repaired after complete or partial destruction, when the destruction exceeds 50 percent of the fair market value immediately prior to damage.

(Ord. No. 70, art. VII, § 700, 4-21-1999)

Secs. 10-24—10-49. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 10-50. - Enforcement responsibilities.

The following responsibilities are assigned for the administration and enforcement of this article:

- (1) *Zoning Administrator.*
 - a. Reviews all applications for building permits, septic permits, dredging, earth change/soil erosion control permits, site plans, preliminary subdivision plats, special exception use permits, rezoning requests or similar actions and determines whether any wetlands are affected by or involved in the proposed action.

- b. Advises applicants if a wetlands and drainageway use application is required in connection with the requested permit or proposed activity. Consults with the Planning Commission or Wetland Protection Advisory Committee when questions arise.
- c. Reviews for completeness and accuracy all wetland/drainageway use applications, to include the conduct or authorization of a field inspection to verify accuracy of information received.
- d. Forwards applications that are beyond his authority to approve or disapprove to the Planning Commission in the case of site plans and subdivision plats, and in all other cases, to the Township Board for review and decision.
- e. Conducts necessary field inspections to ensure compliance with approved permits. Takes appropriate enforcement action. Reports violations promptly to the appropriate law enforcement officials of the Township, county, or state. Keeps Township Supervisor and Planning Commission informed of any problem areas.

(2) *Planning Commission.*

- a. Includes Township Wetlands Protection Map as part of the General Development Master Plan.
- b. Reviews, approves, or denies, within its authority, all special exception use requests, site plans, rezoning requests, and preliminary subdivision plats, taking into consideration the requirements of this article, as well as other applicable ordinances, laws, and regulations. In the case of subdivision plats, forwards its recommendations to the Township Board in accordance with provisions of the subdivision control ordinance and other applicable laws and regulations.
- c. Part 91 Soil Erosion Permits. A local agency or general law Township that issues Part 91 Soil Erosion permits shall notify the Township or Planning Commission immediately upon receipt of an application for a soil erosion permit that requires an earth change which disturbs wetlands regulated by the Township. A local agency or general law Township shall not issue a Part 91 Soil Erosion Permit to a person if the project involves wetlands until the Township or Zoning Board has approved the project.

(3) *Township Environmental and Wetlands Protection Advisory Committee.* An Environmental and Wetlands Protection Advisory Committee of at least five and not more than seven residents shall be established to perform the following functions:

- a. Arranging for the compiling and publication of the Township Wetlands Map and keeping it current. Forwarding copies of successive editions of the Township Wetlands Map to the Planning Commission for reference as well as inclusion in the general development master plan, as well as providing to other Township Boards and Officials.
- b. Advising the Township Board on all matters pertaining to environmental and wetlands protection, to include road maintenance and construction, sanitary sewer construction, operation of land fills, soil erosion permits, and recycling facilities, and reviewing applications for wetlands/drainageway use.
- c. Advising the Planning Commission and other Township Boards and Officials on issues related to environmental and wetlands protection.
- d. Maintaining liaison with the State Department of Environmental Quality and other state, county, or local agencies concerning environmental and wetlands protection.
- e. Meet at least quarterly to carry out its responsibilities. (More frequent meetings will be required until the Wetlands Map is completed.)

(4) *Township Board.*

- a. The Township Board shall appoint at least five but not more than seven residents to be members of the Advisory Committee.

- b. Budgets, allocates, and approves expenditures for the administration, operation and training of the Environmental and Wetland Protection Advisory Committee and the preparation, publication, and maintenance of the Township Wetlands Map.
- c. The Township Board has the authority to enter into an agreement to make contracts with the federal government, other state agencies, municipalities, private agencies or persons for the purpose of making studies and/or maps for the efficient preservation, management, protection and use of wetland resources. Such a study shall be available as a public record for distribution at cost.
- d. The Township Clerk shall notify the Michigan Department of Environmental Quality of the adoption of this ordinance. The Township shall enter into an agreement with the Michigan Department of Environmental Quality providing for the exchange of information and for the coordination of permit and use approvals as required by Section 8 of the Goemaere-Anderson Wetland Protection Act (Act 203, Public Acts of 1979).

(Ord. No. 70, art. V, § 500, 4-21-1999; Ord. No. 93, §§ I—IV, 9-25-2002; Ord. No. 120, § II, 8-17-2007; Ord. No. 143, § I.B, 1-14-2015)

Secs. 10-51—10-73. - Reserved.

DIVISION 3. - WETLANDS MAP

Sec. 10-74. - Wetlands Map preparation.

The Township shall prepare and make available for public inspection a map that shows the general location of protected wetlands and drainageways, subject to Township approval requirements. The accuracy and scale of information presented on the map shall be stated. The map shall be updated from time to time and included within the Township General Development Master Plan.

(Ord. No. 70, art. VIII, § 800, 4-21-1999)

Sec. 10-75. - Site surveys.

- (a) The Wetlands Map shall not be considered a substitute for on-site field inspection. The applicant for a use approval shall be responsible for identifying boundaries of protected wetlands, buffer areas, and drainageways located on the project site.
- (b) The landowner is responsible for having the locations of protected wetlands, buffer areas, and drainageways on the project site identified and marked by qualified personnel of either the State Department of Environmental Quality or a consulting firm competent in this field. The Zoning Administrator, in consultation with the Planning Commission or Environmental and Wetlands Protection Advisory Committee, shall determine whether a level 1, 2, or 3 wetland assessment is required to adequately evaluate the project.

(Ord. No. 70, art. VIII, § 801, 4-21-1999; Ord. No. 120, § II, 8-17-2007)

Sec. 10-76. - Use of Map.

The Wetlands Map will be used by Township Boards and Officials to identify areas which may be subject to federal, state and local regulation. When the Zoning Administrator, Planning Commission, Township Board, or other Township official determines that protected wetlands, buffer areas, or drainageways may be affected by a requested building permit, special exception use permit, site plan, subdivision plat, or other application or activity, the Zoning Administrator will notify the applicant in writing that an application for a wetlands/drainageway permit is required, unless such application accompanies the request submitted. All Township review and approval procedures shall be suspended until such time as a complete wetlands and drainageways use application has been received, or until satisfactory

evidence has been presented to show that protected wetlands or drainageways are not located on the site.

(Ord. No. 70, art. VIII, § 802, 4-21-1999; Ord. No. 120, § II, 8-17-2007)

Secs. 10-77—10-95. - Reserved.

DIVISION 4. - PROHIBITED AND PERMITTED ACTIVITIES

Sec. 10-96. - Exemptions.

- (a) An activity in a wetland that was effectively drained for farming before October 1, 1980, and that on and after October 1, 1980, has continued to be effectively drained as part of an ongoing farming operation is not subject to regulation under this article.
- (b) A wetland that is incidentally created as a result of one or more of the following activities is not subject to regulation under this article:
 - (1) Excavation for mineral or sand mining, if the area was not a wetland before excavation. This exemption does not include a wetland on or adjacent to a water body of one acre or more in size.
 - (2) Construction and operation of a water treatment pond or lagoon in compliance with the requirements of state or federal water pollution control regulations.
 - (3) A diked area associated with a landfill if the landfill complies with the terms of the landfill construction permit and if the diked area was not a wetland before diking.

State Law reference— Similar provisions, MCL 324.30305(3), (4).

Sec. 10-97. - Prohibited activities.

It shall be unlawful for any person to do any of the following unless and until written approval is obtained from the Township pursuant to this article:

- (1) Deposit or permit to be deposited any material or structures, into, within or upon any wetlands, or into any drainageway.
- (2) Remove or permit to be removed any soil or minerals from any protected wetland, or from or onto buffer areas adjacent to protected wetlands, or from or into any drainageway.
- (3) Create, enlarge, diminish or alter a lake, creek, stream, canal, river or any other naturally or artificially occurring water body or drainageway.
- (4) Construct or place a temporary, seasonal, or permanent use, structure, or development not in existence on October 1, 1980 or constructed pursuant to part 303 of the Natural Resources and Environment Protection Act (MCL 324.30301 et seq.) within any protected wetland or buffer area, except by special permit from the Fabius Township Board or except as allowed by this ordinance, e.g., seasonal docks in section 10-98.
- (5) Construct, extend, or enlarge any pipe, culvert or open or closed drainage facility except as allowed in section 10-98.
- (6) Construct, enlarge, extend or connect any private or public sewage or waste treatment plant discharge to any lake, stream, drainageway or watercourse, or wetland except in accordance with the requirements of the county, state and/or the United States, to the extent that such entities have jurisdiction.
- (7) Drain, or cause to be drained, any water from a protected wetlands.
- (8) Alter the flow of surface water or groundwater which is essential for sustaining wetland hydrology, wetland vegetation, or aquatic life.

- (9) Any activity which would destroy, erode or harm a wetland area, such as, but not limited to, the riding of dirt bikes, ATVs, 4 by 4s or other vehicle types or similar related activities which result in the harm and destruction of a wetland area or its plants and soil.

(Ord. No. 70, art. VI, § 600, 4-21-1999; Ord. No. 90, § 1, 4-16-2002; Ord. No. 120, § III, 8-17-2007; Ord. No. 143, § II.A, 1-14-2015)

Sec. 10-98. - Activities not requiring permit.

- (a) Activities that require a permit under part 325 (MCL 324.30305 et seq.) or part 301 (MCL 324.30305 et seq.) of the Natural Resources and Environmental Protection Act or a discharge that is authorized by a discharge permit under section 3112 (MCL 324.3112) or 3113 (MCL 325.3113) of the Natural Resources and Environmental Protection Act shall not require a permit under this article.
- (b) The following uses shall be allowed in a wetland without a permit subject to other laws of this state and the owner's regulation:
- (1) Fishing, trapping, or hunting.
 - (2) Swimming or boating.
 - (3) Placement of seasonal docks, rafts or boat hoists as governed by other state or federal regulations.
 - (4) Grazing of animals.
 - (5) Hiking.
 - (6) Farming, horticulture, silviculture, lumbering, and ranching activities, including plowing, irrigation, irrigation ditching, seeding, cultivating, minor drainage, harvesting for the production of food, fiber, and forest products, or upland soil and water conservation practices. A wetland altered under this subsection shall not be used for a purpose other than a purpose described in this subsection without a permit from the Township.
 - (7) Maintenance or operation of serviceable structures in existence on the effective date of the ordinance from which this article is derived, in existence under state law prior to October 1, 1980, or constructed pursuant to the ordinance from which this article is derived.
 - (8) Construction or maintenance of farm or stock ponds.
 - (9) Maintenance, operation, or improvement which includes straightening, widening, or deepening of the following which is necessary for the production of harvesting of agricultural products:
 - a. An existing private agricultural drain.
 - b. That portion of a drain legally established pursuant to the Drain Code of 1956 (MCL 280.1 et seq.), which has been constructed or improved for drainage purposes.
 - c. A drain constructed pursuant to other provisions of this article.
 - (10) Construction or maintenance of farm roads, forest roads, or temporary roads for moving mining or forestry equipment, if the roads are constructed and maintained in a manner to ensure that any adverse effect on the wetland will be otherwise minimized.
 - (11) Drainage necessary for the production and harvesting of agricultural products if the wetland is owned by a person who is engaged in commercial farming and the land is to be used for the production and harvesting of agricultural products. Except as otherwise provided in this article, land improved under this subdivision after the effective date of the ordinance from which this article is derived or improved under state law prior to October 1, 1980, shall not be used for non-farming purposes without a permit from the Township. This subsection shall not apply to a wetland which is contiguous to a lake or stream, or to a tributary of a lake or stream or to a wetland which are determined to be locally protected wetlands, in which case a permit shall be required.

- (12) Maintenance or improvement of public streets, highways, or roads, within the right-of-way and in such a manner as to ensure that any adverse effect on the wetland will be otherwise minimized. Maintenance or improvement does not include adding extra lanes increasing the right-of-way, or deviating from the existing location of the street, highway or road.
- (13) Maintenance, repair, or operation of gas or oil pipelines and construction of gas or oil pipelines having a diameter of six inches or less, if the pipelines are constructed, maintained, or repaired in a manner to ensure that any adverse effect on the wetland will be otherwise minimized.
- (14) Maintenance, repair, or operation of electric transmission and distribution power lines and construction of distribution power lines, if the distribution power lines are constructed, maintained, or repaired in a manner to ensure that any adverse effect on the wetland will be otherwise minimized.
- (15) Operation or maintenance, including reconstruction of recently damaged parts or serviceable dikes and levees in existence on the effective date of the ordinance from which this article is derived or constructed pursuant to this article.
- (16) Construction of iron and copper mining tailings basins and water storage areas.
- (c) After the effective date of the ordinance from which this article is derived but immediately prior to the approval of a state program under section 404 of title 4 of the Clean Water Act of 1977, 33 USC 1344, where a project solely involved the discharge of fill material subject to the individual permit requirements of section 404 of title 4 of the Clean Water Act of 1977, 33 USC 1344, an additional permit shall not be required by this section.

(Ord. No. 70, art. VI, § 601, 4-21-1999; Ord. No. 93, §§ V, VI, 9-25-2002; Ord. No. 143, § II.B—E, 1-14-2015)

State Law reference— Similar provisions, MCL 324.30305.

Sec. 10-99. - Application submission procedures for use of wetlands or drainageways.

Applications for approval to use wetlands or drainageways shall be submitted to the Zoning Administrator and the Environmental and Wetlands Protection Advisory Committee and shall consist of the following:

- (1) One copy of wetlands use permit application form of the U.S. Army Corps of Engineers and the State Department of Environmental Quality.
- (2) One copy of a drawing of the proposed activity, including at least the following:
 - a. Title block, including the applicant's name, name of body of water, section of Township, description of activity, scale of drawing, and date drawing was prepared. The title block shall indicate the name and professional credentials of the engineer, architect, planner, or other person preparing the site drawing and the name and professional credentials of the wetlands scientist or environmental specialist who has delineated wetlands boundaries and types.
 - b. Location and extent of protected wetlands, buffer areas and drainageways on the site, as identified through field survey and presented on a topographic map of suitable scale. For projects of five acres, a scale of at least one inches equals 100 feet is acceptable.
 - c. Types of wetlands on the site (e.g., forested, shrub, emergent marsh, wet meadow, and aquatic bed), identified by using methods approved by the State Department of Environmental Quality as set forth in the state Wetland Determination Manual Draft for Field Testing or other official publication.
 - d. A site plan, subdivision plat, or planning map which overlays the proposed development or project onto the wetland district and drainageways. Existing and proposed structures shall be clearly identified in relation to existing shore features (length of frontage, water depth and

bottom configuration). If existing structures were previously authorized by the Township, a state or federal permit showing corresponding permit numbers.

- e. Typical cross sections of existing and proposed shoreline, waterline, structures, dredge cuts and fills, including dimensions and elevations, and location of wetlands.
- f. Type, volume and area for proposed shoreline construction materials, dredge material, and fill materials.
- g. Type and location of soil erosion control measures, such as silt fences, straw bale berms and sediment basins to be used during construction, including measures which will be used to trap sediment which might otherwise run off into wetlands.
- h. If the proposed activity involved bulkhead construction, the distance along both property lines from the face of the bulkhead to the center line of a street or other definable reference point (e.g., northeast corner of concrete patio, 12-inch maple on west property line).
- i. If the proposed activity involves dredging, the following:
 - 1. If the dredging material is to be placed on-site, outline the disposal areas of the drawing. If the dredge material is to be hauled away, provide a vicinity map showing the disposal area.
 - 2. Show method of containing dredge material to prevent reentry of the material into any drainageway or wetlands. Describe all procedures which the applicant will use to minimize adverse effects of construction.
- (3) Use applications shall be submitted to the Zoning Administrator and the Environmental and Wetlands Protection Advisory Committee on or before the date that the application is made for a preliminary review of subdivision plats, site plans, lot splits, grading approvals, or building permits.
- (4) Upon receipt, the Zoning Administrator shall review the use application for completeness. Applicants shall be notified of any missing items. Following a determination that a use application is complete, the Zoning Administrator shall specify the number of copies to be submitted by the applicant.
- (5) Upon receipt, the Zoning Administrator and the Environmental and Wetlands Protection Advisory Committee shall review the use application for completeness. Applicants shall be notified of any missing items. Following a determination that a use application is complete, the Zoning Administrator and the Environmental and Wetlands Protection Advisory Committee shall specify the number of copies to be submitted by the applicant.
- (6) Township approvals for preliminary subdivision plats, site plans, lot splits, grading approvals, or building permits shall not be granted until approval for the use of protected wetlands, buffer areas, or drainageways has been obtained.

(Ord. No. 70, art. IX, § 900, 4-21-1999; Ord. No. 93, §§ VII—IX, 9-25-2002; Ord. No. 143, § III, 1-14-2015)

Sec. 10-100. - Fees.

With the filing of an application, a non-refundable application fee shall be paid to the Township, in an amount specified by resolution of the Township Board, to cover administration and inspection costs related to the use application.

(Ord. No. 70, art. IX, § 901, 4-21-1999)

Sec. 10-101. - Application review procedures.

- (a) At the request of the applicant or any Township resident, an administrative meeting may be held to review the proposed activity in light of the purposes of this article.
- (b) Upon receipt of a complete application, the Township Zoning Administrator shall examine the Wetlands Map and may conduct or authorize the completion of a field inspection to verify the accuracy of information received. The receipt of a use application shall comprise permission from the owner to complete a wetlands and drainageways inspection.
- (c) If a proposed project does not require Planning Commission review and approval, the approval or disapproval of use applications shall be the responsibility of the Zoning Administrator designated by the Township Supervisor. The Township review shall be completed within 30 days from the time of submittal of a complete application. Applicants shall be notified in writing of the Township decision, including reasons for denial of the use application, if applicable.
- (d) If a proposed project requires Township Board review and approval in accordance with the Zoning Ordinance, subdivision control ordinance, or other Township ordinance, the Planning Commission shall be responsible for reviewing the use application and recommending approval, approval with conditions, or disapproval to the Township Board.
- (e) Upon the receipt of a recommendation from the Planning Commission, the Township Board shall be responsible for the final approval, approval with conditions, or disapproval of applications to use wetlands or drainageways. Applicants shall be notified in writing of the Township decision, including reasons for denial of the use application, if applicable.
- (f) Approvals to use wetlands or drainageways granted by the designated Township administrative official or the Township Board in accordance with this article shall not take effect until seven days following the granting of the approval.
- (g) If a proposed project requires a permit from the State Department of Environmental Quality or the U.S. Army Corps of Engineers. Township Officials may delay consideration and use approval until after state and/or federal permits have been obtained.
- (h) If a proposed project affects protected wetlands that are not subject to state and/or federal permit review, Township review and approval procedures shall be initiated upon receipt of a complete use application.

(Ord. No. 70, art. X, § 1000, 4-21-1999; Ord. No. 120, § II, 8-17-2007)

Sec. 10-102. - Review standards and criteria.

- (a) In arriving at a determination with respect to a proposed wetlands and drainageways use application, Township Officials shall take into consideration at least the following standards and criteria:
 - (1) A permit shall be issued only if the proposed project or activity is clearly in the public interest, and is otherwise lawful in all respects.
 - (2) In determining whether the activity is in the public interest, the benefit which would reasonably be expected to accrue from the proposal shall be balanced against the reasonably foreseeable detriments of the activity, taking into consideration the local, state and national concern for the protection and preservation of natural resources from pollution, impairment and/or destruction. The following general criteria shall be applied in undertaking this balancing test:
 - a. The relative extent of the public and private need for the proposed activity.
 - b. The availability of feasible and prudent alternative locations and methods to accomplish the expected benefits from the activity, including alternatives which are off-site or on other commercially available properties.
 - c. The extent and permanence of the beneficial or detrimental effects which the proposed activity may have on the public and private use to which the area is suited, including the benefits the wetland provides.

- d. The probable impact on the proposal in relation to the cumulative effect created by other existing and anticipated activities in the watershed.
 - e. The probable impact on recognized historic, cultural, scenic, ecological, or recreational values and on the public health or fish or wildlife.
 - f. The size and quality of the wetland being considered.
 - g. The amount and quality of the wetland being considered.
 - h. Proximity to any waterway.
 - i. Extent to which upland soil erosion adjacent to protected wetlands or drainageways is controlled.
 - j. Economic value, both public and private, of the proposed land change to the general area.
 - k. Findings of necessity for the proposed project which have been made by other state or local agencies.
- (b) An approval shall not be granted unless it is shown that an unacceptable disruption will not result to the aquatic resources. An approval shall not be granted unless the applicant also shows either of the following:
- (1) The proposed activity is primarily dependent upon being located in the wetlands; or
 - (2) A feasible and prudent alternative does not exist.
- (c) Upon application for a wetland use permit for locally protected wetlands, approval shall be granted unless the Township Board, with the advice of the Environmental and Wetland Protection Advisory Committees, determines that the wetland is essential to the preservation of the natural resources of the Township. The following criteria shall be considered in making the determination:
- (1) The site supports state or federal endangered or threatened plants, fish or wildlife appearing on a list specified in section 36505 of the Natural Resources and Environmental Protection Act (MCL 324.36505).
 - (2) The site represents what is identified as a locally rare or unique ecosystem.
 - (3) The site supports plants or animals of an identified local importance.
 - (4) The site provides groundwater recharge documented by a public agency.
 - (5) The site provides flood and storm control by the hydrologic absorption and storage capacity of the wetland.
 - (6) The site provides wildlife habitat by providing breeding, nesting or feeding grounds or cover for forms of wildlife, waterfowl, including migratory waterfowl, and rare, threatened or endangered wildlife species.
 - (7) The site provides protection of subsurface water resources and provision of valuable watersheds and recharging groundwater supplies.
 - (8) The site provides pollution treatment by serving as a biological and chemical oxidation basin.
 - (9) The site provides erosion control by serving as a sedimentation area and filtering basin, absorbing silt and organic matter.
 - (10) The site provides sources of nutrients in water food cycles and nursery grounds and sanctuaries for fish.
- (d) A request for the approval of uses in the buffer area of the wetland district shall be considered favorably for erosion control structures, storm water management facilities, and water-dependent structures, provided that the flow of water is not diverted from wetlands. The use of the buffer area for permanent structures and earth-moving activities shall be discouraged.

- (e) Each permit approval shall specifically state the effective period of its validity, and shall be restricted to the shortest period possible to allow the permitted activity while protecting the wetland resources and purposes of this article.

(Ord. No. 70, art. XI, § 1100, 4-21-1999; Ord. No. 93, § X, 9-25-2002; Ord. No. 120, § III, 8-17-2007)

State Law reference— Similar provisions, MCL 324.30310.

Sec. 10-103. - Appeal procedures.

- (a) An applicant who is aggrieved by a decision of the Zoning Administrator, Planning Commission, or other Township official concerning the use of wetlands and drainageways may appeal the decision to the Township Board. In reviewing the appeal, the Township Board shall determine whether the review criteria and standards set forth in this division have been met. The Township Board, based upon its appellate review, may reverse, affirm or modify the approval granted by the Zoning Administrator, Planning Commission, or other Township official. An appeal under this section must be brought within 21 days of the administrative decision.
- (b) An applicant who is aggrieved by a decision of the Township Board concerning the use of wetland and drainageways may make an appeal to the county circuit court. In reviewing the appeal, the Township Board shall determine whether the review criteria and standards set forth in this article have been met. An appeal under this section must be brought within 21 days of the decision of the Township Board.

(Ord. No. 70, art. XII, § 1200, 4-21-1999; Ord. No. 120, § II, 8-17-2007)

Sec. 10-104. - Revaluation of property.

A landowner may request a revaluation of the affected property for assessment purposes to determine its fair market value under the use restriction if a permit for any locally protected wetlands is denied by the Township for a proposed wetland use.

State Law reference— Mandatory provisions, MCL 324.30310.

Secs. 10-105—10-121. - Reserved.

DIVISION 5. - WETLAND MITIGATION, MARKING, ENCROACHMENT AND EROSION CONTROL

Sec. 10-122. - Wetland mitigation.

- (a) Prior to considering a proposal for wetland mitigation, the applicant shall submit evidence that all of the following requirements have been satisfied:
 - (1) That all feasible and prudent efforts have been made to avoid the loss of wetland resource values;
 - (2) That all practical means have been considered to minimize impacts; and
 - (3) That it is practical to replace the wetland resource values which will be unavoidably eliminated.
- (b) If the reviewing authority determines that it is practical to replace the wetland resource values which will be unavoidably impacted, the following criteria shall be considered when reviewing an applicant's mitigation proposal:
 - (1) Mitigation shall be provided on-site where practical and beneficial to the wetland resources. If mitigation on-site is not practical and beneficial, mitigation in the immediate vicinity of the permitted activity may be considered. In all cases, mitigation shall be provided within the jurisdiction of the Township.

- (2) Any proposal shall ensure that, upon completion, there shall be no net loss to the wetland resources.
 - (3) The proposal shall give consideration to replacement of the predominant functional values lost within the impacted wetlands.
 - (4) Any mitigation activity shall be completed before initiation of other permitted activities, unless a phased concurrent schedule can be agreed upon between the Township and the applicant.
 - (5) Monitoring to establish documentation of the functional performance of the mitigation may be required as permit conditions, as well as necessary corrective action required, to deliver the wetland resource values identified.
- (c) Wetland impact mitigation and monitoring plans shall become conditions of use approval.
- (d) All costs for preparing and carrying out mitigation and monitoring plans shall be the responsibility of the applicant.

(Ord. No. 70, art. XIII, § 1300, 4-21-1999)

Sec. 10-123. - On-site demarcation of protected wetlands and drainageways.

Through staking or other means, the landowner shall identify the location of protected wetlands, buffer areas, and drainageways on the project site. (See also section 10-74.)

(Ord. No. 70, art. XIV, § 1400, 4-21-1999)

Sec. 10-124. - Display of use approval certification; inspections.

A certificate or authorization for activities in protected wetlands buffer areas and drainageways shall be prominently displayed at the project site. The owner shall display the certificate or authorization continuously while authorized activities are conducted and for ten days following completion. The owner shall allow Township representatives to enter and inspect the premises at any reasonable time, and failure to allow inspections shall constitute a violation of this section.

(Ord. No. 70, art. XIV, § 1401, 4-21-1999)

Sec. 10-125. - Maintenance of erosion control measures.

Maintenance of erosion control measures, including, but not limited to, silt fences, straw bale berms, and sediment traps shall be the responsibility of the landowner. The same shall be maintained throughout the wetland and buffer area.

(Ord. No. 70, art. XIV, § 1402, 4-21-1999)

Secs. 10-126—10-148. - Reserved.

DIVISION 6. - VIOLATIONS AND PENALTIES

Sec. 10-149. - Penalties for violation.

Unless a use approval has been granted by the Township, any of the activities listed in division 4 of this article shall be considered a violation. Any person who violates, disobeys, neglects or refuses to comply with any provision of this article, any administrative decision made under this article, or any permit or approval issued under this article, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this article. Any person responsible for a violation of this article whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal. A violation of this article

shall constitute a municipal civil infraction as defined by state statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st offense	\$ 75.00	\$500.00
2nd offense	150.00	500.00
3rd offense	325.00	500.00
4th or more offense	500.00	500.00

Separate offenses defined. Each act of violation, and every day upon which violation shall occur, shall constitute a separate offense.

(Ord. No. 70, art. XV, § 1500, 4-21-1999; Ord. No. 120, § V, 8-17-2007; Ord. No. 143, § IV.A, 1-14-2015)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 10-150. - Stop work order.

The Township Zoning Administrator may issue a stop work order or withhold issuance of a certificate of occupancy, permits or inspections until the provisions of this article, including any conditions attached to a use approval, have been fully met.

(Ord. No. 70, art. XV, § 1503, 4-21-1999)

Sec. 10-151. - Restoration requirements for illegal wetlands alteration.

In the event of a violation involving illegal alteration of wetlands protected under this article, the Township Zoning Administrator shall have the power to order complete restoration of the wetland area by the person or agent responsible for the violation. If such responsible person or agent does not complete such restoration within a reasonable time following the order, the Township shall have the authority to restore the affected wetlands to their prior condition wherever possible, and the person or agent responsible for the original violation shall be held liable to the Township for the cost of restoration. Requirements and specifications for wetland restoration ordered by the Township shall be coordinated with state and/or federal agency requirements and specifications for wetland restoration, if any.

(Ord. No. 70, art. XV, § 1504, 4-21-1999)

Sec. 10-152. - Other remedies available to the Township.

Injunction—Any activity conducted in violation of this article is declared to be a nuisance per se, and the township may commence a civil suit in any court of competent jurisdiction for an order abating or enjoining the violation. The penalties provided for in this article shall not be exclusive and the Township

shall be entitled to seek any and all other remedies available at law or in equity in connection with the violation of this article.

(Ord. No. 70, art. XV, § 1505, 4-21-1999; Ord. No. 143, § IV.B, 1-14-2015)

Chapter 14 - FIRE PREVENTION AND PROTECTION^[1]

Footnotes:

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State Law reference— State Fire Prevention Code, MCL 29.1 et seq.; authority to adopt fire prevention measures, MCL 41.805.

ARTICLE I. - IN GENERAL

Sec. 14-1. - Open fires.

It shall be unlawful, when the ground is not snow-covered, to start or have an open fire, except for domestic purposes, and to protect persons or property in case of fire, without the permission of the state.

(Ord. No. 8, § 1, 7-15-1966)

State Law reference— Similar provisions, MCL 324.51503.

Secs. 14-2—14-20. - Reserved.

ARTICLE II. - COST RECOVERY FOR HAZARDOUS MATERIALS INCIDENTS

Sec. 14-21. - Purpose.

The purpose of this article is to provide for defraying a portion of expenses of the Township resulting from the Township responding with emergency equipment and personnel to a hazardous materials accident or incident involving the release or threatened release of hazardous materials into the environment which requires emergency attention to protect the health, safety and general welfare of the public.

(Ord. No. 61, § I, 10-21-1996)

Sec. 14-22. - 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:

Hazardous materials includes, but is not limited to, explosives, pyrotechnics, flammable gas, flammable compressed gas, nonflammable compressed gas, flammable liquid, combustible liquid, oxidizing material, poisonous gas, poisonous liquid, irritating material, etiologic material, radioactive material, corrosive material, liquefied petroleum gas, and other materials customarily considered dangerous to living beings or contaminating to the environment.

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

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

(Ord. No. 61, § II, 10-21-1996)

Sec. 14-23. - Liability of charges and costs.

Where the Township's Fire Department responds to a release of hazardous materials or a threatened release of such materials, the responsible party or parties shall be liable to the Township for the following costs incident to such Township response:

- (1) All personnel costs of all personnel attending on behalf of and with the authority of the Township, including their current hourly rate, fringe benefits, and salary apportioned to the length of time in attendance, calculated commencing one hour after receipt of the signal to respond and continuing for each personnel until that personnel has concluded his incident-related responsibilities.
- (2) The equipment costs of all equipment attending as established by an itemized resolution of the Township Board setting forth the costs attributable to each piece of Township equipment which might be involved in such a response. Such resolution may be amended from time to time to reflect changes in equipment, inflation factors, and accounting records of past occurrences.
- (3) Other expenses incurred by the Township, including but not limited to rental or purchase of additional machinery or equipment, retention of consultants, medical and hospitalization costs, replacement costs related to disposable personnel protective equipment required to be disposed of, extinguishing chemicals, supplies and water purchased from water systems, and meals and refreshments for emergency personnel while responding to the hazardous materials incident.
- (4) Additional charges imposed by any other local, state or federal government entities related to the incident.
- (5) Administrative costs incurred in accounting for all expenditures and for billing and collection of such expenditures which shall not exceed 25 percent of the foregoing costs.

(Ord. No. 61, § III, 10-21-1996)

Sec. 14-24. - Billing procedures.

Following the conclusion of the hazardous materials incident, the Fire Chief shall submit a detailed listing of all known expenses to the Township Treasurer, who shall prepare an invoice to the responsible party for payment. The Treasurer's invoice shall demand full payment within 45 days of the receipt of the bill. Any additional expenses that become known to the Township Fire Chief following the transmittal of the bill to the responsible party shall be billed in the same manner on a subsequent bill to the responsible party. For any amounts due that remain unpaid after 45 days, the Township shall impose a late charge of one percent per month, or fraction thereof.

(Ord. No. 61, § IV, 10-21-1996)

Sec. 14-25. - Nonexclusive charges; other remedies.

- (a) The rates and charges set forth in this article shall not be exclusive of other charges that may be made by the Township for the costs and expense of maintaining a Fire Department and/or Police Department, but shall only be supplemental thereto. Charges may additionally be collected by the Township through general taxation after a vote of the electors approving the same, or by special assessments established under state statutes pertinent thereto.
- (b) The Township may pursue any other remedy, or may institute any appropriate action or proceeding, in a court of competent jurisdiction to collect charges imposed under this article. The recovery of charges imposed under this article does not limit the further liability of responsible parties under local ordinance or state or federal law, rule or regulation.

(Ord. No. 61, §§ V, VI, 10-21-1996)

Chapter 18 - NUISANCES

ARTICLE I. - IN GENERAL

Secs. 18-1—18-18. - Reserved.

ARTICLE II. - NOXIOUS WEED CONTROL¹

Footnotes:

--- (1) ---

State Law reference— Noxious weeds, MCL 247.61 et seq.

Sec. 18-19. - Title.

This article shall be known and cited as the Township Noxious Weed Control Article.

(Ord. No. 118, § I, 10-21-2006)

Sec. 18-20. - Definitions.

For the purposes of this article, the terms "noxious weeds" or "weeds" shall be defined as uncontrolled plant or growth over 12 inches in height that is out of character with the development of and landscaping in the neighborhood and contrary to the public health, safety or welfare thereof.

(Ord. No. 118, § I, 10-21-2006)

Sec. 18-21. - Violations.

- (a) *Violation.* Any person or entity who violates, disobeys, neglects or refuses to comply with any provision of this article, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this article. Any person responsible for a violation of this article whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal.
- (b) *Municipal civil infraction.* A violation of this article is a municipal civil infraction as defined by state statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Fine
1st offense	\$ 50.00
2nd offense	75.00
3rd offense	100.00

The above fine, when collected, shall be paid to the Township. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction. The foregoing sanctions shall be in addition to the right of the Township to proceed to enforce its lien against the land in question or to proceed in any other appropriate manner to recover its costs incurred in cutting of the weeds upon the property of any owner.

(Ord. No. 118, § IV, 10-21-2006)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 18-22. - Regulations.

- (a) It shall be the duty of all owners of land upon which any weeds are growing, as defined in this article, to prevent the same from becoming a detriment to public health and to destroy the same where necessary to fulfill this duty.
- (b) It shall be the duty of all owners of lands within 50 feet of a residential dwelling upon which uncontrolled plants or growth exists, in excess of 12 inches in height, which is out of character with the development of and landscaping in the neighborhood in which it is located and contrary to the public health, safety or welfare by contributing to the spreading thereof, to keep said plant growth cut to a height not to exceed 12 inches.
- (c) Parcels or lots shall be exempt from the above-mentioned 12-inch height limitation, provided that said parcel or lots are naturally wooded and have plant growth consistent with the general character of the plant growth and landscaping in the surrounding neighborhood in which such parcels or lots are located or if the parcel or lots abut wetlands, lake frontage, or other bodies of water in which a limited buffer is an acceptable environmental practice.
- (d) Nothing in this article shall apply to weeds or other vegetation in fields devoted to agricultural production.
- (e) The Ordinance Enforcement Officer appointed by the Township Board shall be appointed as the Commissioner of Noxious Weeds to enforce this article and shall inspect properties within the Township upon complaint and shall notify the owner of any lands that are not in compliance with this article of the violation thereof by certified mail with return receipt requested and the duty to cut such weeds. If such owner shall neglect or refuse to comply with said notice within ten days from the receipt thereof, said Ordinance Enforcement Officer may enter upon such land of owner and cut the weeds and growth thereon or cause the same to be cut by such other person or agent appointed by the Ordinance Enforcement Officer. All expenses incurred in cutting shall be paid by the owner or owners of such land. The Township shall have a lien upon such land for such expense, which may be enforced in the same manner as the enforcement of tax liens through entry upon the next tax roll of the Township and assessment as a general Township tax. Such expense shall be subject to all interest and penalties provided for taxes due and collectable within the Township under the general tax laws of the state. In addition to the foregoing, the Township may sue the owner or owners in an appropriate court of law for the collection of said debt.
- (f) In the event the owner can not be determined or notified as herein provided, after due diligence to do so, substitute notice can be given to the occupants of the premises or, in the event of vacant, unoccupied land, by publication in the newspaper of general circulation within the Township, once, at least ten days prior to cutting of the weeds by the Township Ordinance Enforcement Officer or agent, and such latter notice shall be deemed compliant with the notice requirements of this article.

(Ord. No. 118, § III, 10-21-2006; Ord. No. 134, § I, 11-20-2010)

Chapter 22 - OFFENSES AND MISCELLANEOUS PROVISIONS

Sec. 22-1. - Explosive detonation control.

- (a) *Title.* This section shall be known as the Township Explosive Detonation Control Section.
- (b) *Intent.* It is the intent of this section to regulate and control the detonation and/or use of explosives within the Township in order to protect the safety, well-being, and tranquility of the public, and to prohibit such detonation for recreational or entertainment purposes, since this can cause a disturbance to neighboring property owners and can cause injury or death or become a nuisance to other people.
- (c) *Prohibition of explosives.* The Township hereby prohibits the detonation of dynamite, TNT, C3 or C4 plastic explosives, explosive mixtures of ammonia nitrate and fuel oil or any other mixture of chemicals for the purpose of causing an explosion within the Township. However, a person may seek a special permit from the Township Board to be issued only when there is a demonstrated need for the use of such explosives for such things as stump removal, earthmoving, ditching, quarrying or similar purposes. In no case shall the Township permit such a use for entertainment or recreation. Said applicant must provide the Township Board with a written safety plan which shall show safe distances, shelters to be employed, a warning system and any other safety measures to prevent injury and to prevent others from accidentally entering the danger zone. Applicants shall also produce liability insurance.
- (d) *Violations; penalties.*
- (1) *Violation.* Any person who violates, disobeys, neglects or refuses to comply with any provision of this section, any administrative decision made under this section, or any permit or approval issued under this section, including any conditions imposed thereon, or who causes, allows, or consents to any of same, shall be deemed to be responsible for a violation of this section. Any person responsible for a violation of this section whether as an owner (by deed or land contract), lessee, licensee, agent, contractor, servant, employee, or otherwise, shall be liable as a principal.
- (2) *Municipal civil infraction.* A violation of this section is a municipal civil infraction as defined by state statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum Fine	Maximum Fine
1st offense	\$ 75.00	\$500.00
2nd offense	150.00	500.00
3rd offense	325.00	500.00
4th or more offense	500.00	500.00

(Ord. No. 96, §§ I—IV, 2-27-2004)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 22-2. - Rubbish, trash and junk vehicles.

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

Abandoned vehicle includes, without limitation, any vehicle that has remained on private property for a period of 48 consecutive hours or more without the consent of the owner or occupant of the property, or for a period of 48 consecutive hours or more after the consent of the owner or occupant of the property has been revoked.

Junk includes, without limitation, parts of machinery, motor vehicles, or farm equipment, broken and unusable furniture, trailers, stoves, refrigerators or other appliances, remnants of wood, metal, or any other cast-off material of any kind, whether or not the same could be put to any reasonable use.

Junk farm equipment includes parts of machinery, farm equipment or farm vehicles, whether licensed or not, not presently usable and located or left parked in excess of 30 days closer than 150 feet from any property line of the owner or occupant of the premises.

Junk motor vehicle includes, without limitation, any vehicle requiring a license that is not licensed for use upon the highways of the state for a period in excess of 30 days, and shall also include, whether licensed or not, any motor vehicle that is inoperative for highway use, for any reason, for a period in excess of seven days; provided that there is excepted from this definition unlicensed, but operative, vehicles that are kept as stock in trade of a regularly licensed and established new or used automobile or other motorized vehicle car lot or dealer; provided further that the time such vehicles may remain upon the premises of a motor vehicle repair garage shall be a period of 120 days rather than 30 days, with extension of an additional 30-day period upon presentation to the enforcing officer of written proof the offending vehicle is involved in insurance claim litigation or a similar matter and additional time is required for settlement before a vehicle can be moved.

Trash includes, without limitation, discarded foodstuffs, garbage, broken glass, metal tin cans, ashes, or any other refuse resulting from human habitation.

(b) *Unlawful storage.* It shall be unlawful for any person, firm or corporation to park, store or permit the storage or accumulation of trash, rubbish, junk, junk motor vehicles or junk farm equipment, or abandon same on any private property in the Township, except within a completely enclosed building or garage, or upon the premises of a properly zoned, licensed and approved junk dealer, junk buyer, dealing in used auto parts, or dealer in secondhand goods.

(c) *Abatement of public nuisance.*

(1) The storage or accumulation of trash, rubbish, junk, junk vehicles or abandoned vehicles, or junk farm equipment, is hereby determined to constitute a public nuisance and to be contrary to the public peace, health, safety and general welfare of the Township.

(2) In addition to the penalties herein stated, the Township may obtain a compliance order from a court whereby if the property owner has not brought the property into compliance with the order, then the Township Supervisor or his duly authorized representative may remove or cause to be removed any trash, rubbish, junk, junk or abandoned vehicles, or junk farm equipment on private property not otherwise within an enclosed building.

(3) The fair and reasonable costs and expenses incurred by the Township for the removal and abatement shall constitute a charge against the owner and/or occupant of the affected premises, payable to the Township.

(d) *Penalty.* In addition to any other civil penalties or remedies provided for in this section, any person, firm, association, partnership, corporation or governmental entity who fails or refuses to comply with an order approved or modified by the Township Board within the time prescribed by that section shall be deemed to be responsible for a municipal civil infraction as defined by state statute, which shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum fine	Maximum fine
1st offense within 3-year period*	\$ 75.00	\$500.00

2nd offense within 3-year period*	150.00	500.00
3rd offense within 3-year period*	325.00	500.00
4th or more offense within a 3 year-period*	500.00	500.00

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

(Ord. No. 75, §§ I—IV, 12-2-1999)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 22-3. - No wake and waterskiing.

- (a) *Title.* This section shall be known and cited as the Fabius Township No Wake and Waterskiing Ordinance.
- (b) *Waterskiing hours for Long and Pleasant Lakes.* On the waters of Long Lake and Pleasant Lake, Fabius Township, St. Joseph County, Michigan, it is unlawful, between the hours of 7:30 p.m. and 11:00 a.m. of the following day, for the operator of a vessel to have in tow, or otherwise assist in the propulsion of, a person on water skis, a water sled, kite, surfboard, or other similar contrivance.
- (c) *No wake hours for Clear Lake.* On the waters of Clear Lake, Fabius Township, St. Joseph County, Michigan, it is unlawful for the operator of a vessel to exceed a slow—no wake speed between the hours of 7:30 p.m. and 11:00 a.m. of the following day.
- (d) *Violations.* Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this section shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine determined in accordance with the following schedule:

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

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

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which Fabius Township has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining

order, or other appropriate remedy to compel compliance with this section. Each day that a violation exists shall constitute a separate offense.

(Ord. No. 138, §§ 1—4, 7-11-2012)

Sec. 22-4. - Prohibition of marijuana establishments.

- (a) *Title.* This section shall be known as and may be cited as the Fabius Township Prohibition of Marijuana Establishments Ordinance.
- (b) *Definitions.* Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, as may be amended.
- (c) *No marijuana establishments.* Fabius Township hereby prohibits all marijuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018 as may be amended.
- (d) *Violations and penalties.*
 - (1) Any person who disobeys, neglects, or refuses to comply with any provision of this section or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this section. A violation of this section is deemed to be a nuisance per se.
 - (2) A violation of this section is a municipal civil infraction, for which the fines shall not be less than \$100.00 nor more than \$500.00, in the discretion of the Court. The foregoing sanctions shall be in addition to the rights of the Township to proceed at law or equity with other appropriate and proper remedies. Additionally, the violator shall pay costs which may include all expenses, direct and indirect, which the Township incurs in connection with the municipal civil infraction.
 - (3) Each day during which any violation continues shall be deemed a separate offense.
 - (4) In addition, the Township may seek injunctive relief against persons alleged to be in violation of this section, and such other relief as may be provided by law.
 - (5) This section shall be administered and enforced by the Ordinance Enforcement Officer of the Township or by such other person(s) as designated by the Township Board from time to time.

(Ord. No. 153, §§ I—IV, 1-9-2019)

Sec. 22-5. - Fabius Township Fireworks Ordinance.

- (a) *Title.* This section shall be known and cited as the "Fabius Township Fireworks Ordinance."
- (b) *Purpose.* The purpose of the section shall be to regulate the ignition, discharge, and use of consumer fireworks in order to protect the health, safety and welfare of township residents in accordance with Michigan Fireworks Safety Act, Public Act 256 of 2011, MCL 28.451 et seq.
- (c) *Definitions.* The following definitions shall apply to this section:

Consumer fireworks means fireworks devices that are designed to produce visible effects by combustion, that are required to comply with the construction, chemical composition, and labeling regulations promulgated by the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507, and that are listed in APA Standard 87-1, 3.1.2, 3.1.3, or 3.5. Consumer fireworks does not include low-impact fireworks.

Firework or fireworks means any composition or device, except for a starting pistol, a flare gun, or a flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation. Fireworks consist of consumer fireworks, low-impact fireworks, articles pyrotechnic, display fireworks, homemade fireworks, and special effects.

Homemade fireworks means any composition or device designed for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation that is not produced by a commercial

manufacturer and does not comply with the construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR parts 1500 and 1507.

(d) *Fireworks use and restrictions.*

- (1) The ignition, discharge, and use of consumer fireworks within Fabius Township is only permitted after 11 a.m. on the following days:
 - a. December 31 until 1 a.m. on January 1.
 - b. The Saturday and Sunday immediately preceding Memorial Day until 11:45 p.m. on each of those days.
 - c. June 29 to July 4 until 11:45 p.m. on each of those days.
 - d. July 5, if that date is a Friday or Saturday, until 11:45 p.m.
 - e. The Saturday and Sunday immediately preceding Labor Day until 11:45 p.m. on each of those days.
- (2) Consumer fireworks shall not be ignited, discharged, or used on any other day not prescribed above.
- (3) Homemade fireworks shall not be discharged in Fabius Township at any time.

(e) *Enforcement, violations, and sanctions.*

- (1) This section may be enforced by any law enforcement officer of the St. Joseph County Sheriff's Department or the Michigan State Police and may also be enforced by the Township's Ordinance Enforcement Officer.
- (2) Any person, firm, association, partnership, or corporation who violates any of the provisions of this section shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by a civil fine of \$1,000.00 for each violation of the section.

(Ord. No. 160, §§ 1—5, 6-20-2019)

Editor's note— Ord. No. 160, §§ 1—5, adopted June 20, 2019, did not specify manner of inclusion; hence, inclusion as § 22-5 is at the discretion of the editor.

Chapter 26 - PLANNING^[1]

Footnotes:

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State Law reference— Michigan Planning Enabling Act, MCL 125.3801 et seq.; Michigan Zoning Enabling Act, MCL 125.3101 et seq.

ARTICLE I. - IN GENERAL

Secs. 26-1—26-18. - Reserved.

ARTICLE II. - PLANNING COMMISSION^[2]

Footnotes:

--- (2) ---

State Law reference— Planning Commissions, MCL 125.3811 et seq.

Sec. 26-19. - Scope, purpose and intent.

This article is adopted pursuant to the authority granted the Township Board to confirm the establishment of a Planning Commission under the Michigan Planning Enabling Act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.), and the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 (MCL 125.3101 et seq.), with the powers, duties and limitations provided by those acts and subject to the terms and conditions of this article and any future amendments to this article.

(Ord. No. 130, § I, 4-30-2009)

Sec. 26-20. - Establishment.

The Township Board hereby confirms the establishment of the Township Planning Commission, under the Michigan Planning Enabling Act, Public Act No. 33 of 2008 (MCL 125.3801 et seq.), formerly established under the Township Planning Act, Public Act No 168 of 1959 (MCL 125.321 et seq.). The Township Planning Commission shall be composed of five to seven members at the discretion of the Township Board. As of April 28, 2009, members of the Township Planning Commission shall 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 (MCL 125.3801 et seq.), except for an ex officio member, whose remaining term on the Planning Commission shall be limited to his term on the Township Board.

(Ord. No. 130, § II, 4-30-2009; Ord. No. 149, § 1, 11-9-2017)

State Law reference— Planning Commission authorized, MCL 125.3811.

Sec. 26-21. - Appointment; terms of service.

- (a) The Township Supervisor shall appoint all Planning Commission members, including the ex officio member, with the approval of the Township Board by a majority vote of the members elected and serving.
- (b) The Planning Commission members, other than an ex officio member, shall serve for terms of three years each. Terms shall be staggered so that, as nearly as possible, one-third of all terms will expire each year.
- (c) 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.
- (d) 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. Planning Commission members may be compensated for their service as provided by the Township Board by resolution.

(Ord. No. 130, § III, 4-30-2009)

State Law reference— Planning Commission membership, MCL 125.3815.

Sec. 26-22. - 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. 130, § IV, 4-30-2009)

State Law reference— Similar provisions, MCL 125.3815.

Sec. 26-23. - Conflict of interest.

(a) Before casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member shall disclose the potential conflict of interest to the Planning Commission. Failure of a member to disclose a potential conflict of interest as required by this article constitutes malfeasance in office.

(b) The Planning Commission shall further define conflict of interest in its bylaws.

(Ord. No. 130, § V, 4-30-2009)

State Law reference— Similar provisions, MCL 125.3815.

Sec. 26-24. - Officers and committees.

(a) 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.

(b) The Planning Commission may also appoint Advisory Committees whose members are not members of the Planning Commission.

(Ord. No. 130, § VI, 4-30-2009)

State Law reference— Similar provisions, MCL 125.3817.

Sec. 26-25. - Bylaws, meetings and records.

(a) The Planning Commission shall adopt bylaws for the transaction of business.

(b) The Planning Commission shall hold at least four regular meetings each year, and shall by resolution determine the time and place of the meetings.

(c) 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.

(d) 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 No. 267 of 1976 (MCL 15.261 et seq.).

(e) 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 No. 442 of 1976 (MCL 15.231 et seq.).

(Ord. No. 130, § VII, 4-30-2009)

State Law reference— Similar provisions, MCL 125.3821.

Sec. 26-26. - 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. If the Township ever operates a water supply system or sewage disposal system, then the Planning Commission shall prepare a capital improvements program.

(Ord. No. 130, § VIII, 4-30-2009)

Sec. 26-27. - Authority to make master plan.

- (a) Under the authority of the Michigan Planning Enabling Act (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.
- (b) 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.
- (c) 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. 130, § IX, 4-30-2009)

State Law reference— Master plan, MCL 125.3831 et seq.

Sec. 26-28. - Zoning powers.

- (a) 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 (MCL 125.3101 et seq.); or other applicable zoning statutes to the Township Planning Commission formerly established under the Township Planning Act, Public Act 168 of 1959 (MCL 125.321 et seq.).
- (b) Any existing Zoning Ordinance shall remain in full force and effect until otherwise amended or repealed by the Township Board.

(Ord. No. 130, § X, 4-30-2009)

Sec. 26-29. - Land division and subdivision recommendations.

- (a) 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.
- (b) The Planning Commission shall review and make recommendations 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.
- (c) The Planning Commission shall have 63 days from receipt of the plat to issue its recommendation of approval, approval with conditions or disapproval, the default of which shall be considered approved.

(Ord. No. 130, § XI, 4-30-2009)

State Law reference— Similar provisions, MCL 125.3871.

Chapter 30 - ROADS AND BRIDGES^{[11](#)}

Footnotes:

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State Law reference— Township roads generally, MCL 41.271 et seq., 41.411 et seq., 247.351 et seq.

ARTICLE I. - IN GENERAL

Secs. 30-1—30-18. - Reserved.

ARTICLE II. - ROAD NAMES AND ADDRESSES

Sec. 30-19. - Title.

This article shall be know and cited as the Township Road Name and Address Article.

(Ord. No. 109, § I, 8-24-2005)

Sec. 30-20. - Definitions.

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

Address means the combination of a set of numbers and a prefix, if necessary (N, S, E, W), a road name and a road suffix (e.g., "road," "street," "avenue," "drive," etc.).

Address number means a set of numbers.

Building means a combination of materials, whether portable or fixed, forming a structure having a roof supported by columns or a wall affording a facility or shelter for use or occupancy by persons, animals or property.

Multiple occupancy building means any building that contains either commercial or residential multiple occupants, including, but not limited to, strip malls, apartment buildings, office buildings or condominiums.

Principal building means the primary building located on a parcel of land.

Road means any vehicular way that is a state, county or municipal roadway or is shown on an approved and recorded subdivision plat, or is a private road that serves two existing or proposed lots, parcels or building sites.

Road name means the proper name of a road, including a prefix, if necessary (N, S, E, W), and a suffix (e.g., "road," "street," "avenue," "drive," etc.).

(Ord. No. 109, § III, 8-24-2005)

Sec. 30-21. - Sanctions.

Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by state statute and shall be punishable by a civil fine determined in accordance with the following schedule:

	Minimum fine	Maximum fine
1st offense	\$ 75.00	\$500.00
2nd offense	150.00	500.00
3rd offense	325.00	500.00
4th or more offense	500.00	500.00

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

(Ord. No. 109, § IX, 8-24-2005)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 30-22. - Purpose.

The purpose of this article is to establish an approval system for naming of private roads in the Township, as well as to provide standards for assigning addresses to buildings within the Township, so as to:

- (1) Facilitate the locating of buildings in order to protect the public health and safety by enabling a quicker response time for police, fire, ambulance and other emergency;
- (2) Provide for more efficient deliver of Township services;
- (3) Provide for efficient parcel delivery and U.S. mail delivery within the Township;
- (4) Create a coordinated system with standards for the naming of private roads within the Township, as well as renaming roads and assigning addresses.

(Ord. No. 109, § II, 8-24-2005)

Sec. 30-23. - Territorial applicability.

The provisions of this article shall apply to all properties with the Township.

(Ord. No. 109, § V, 8-24-2005)

Sec. 30-24. - Administration.

It shall be the responsibility of the Township Board, or its authorized designee, to administer and enforce the provisions of this article.

(Ord. No. 109, § IV, 8-24-2005)

Sec. 30-25. - Road names.

- (a) *Naming of new private roads.* A property owner or plat proprietor shall make application for approval of a proposed private road name to the Township Board, or its authorized designee. Upon receipt of the proposed new private road name, the Township Board, or its authorized designee, shall review

the proposed private road name in consultation with the County Land Resource Center, the County Road Commission, the county E911/central dispatch agency and the State Department of Transportation. The Township Board, or its authorized designee, shall notify the applicant of the acceptance or rejection of the proposed private road name. If the proposed private road name is rejected, the Township Board, or its authorized designee, shall notify the applicant of the reason for the rejection. The Township Board, or its authorized designee, may provide the applicant with a list of approved private road names for the convenience of the applicant.

- (b) *Similar private road names.* The Township Board, or its authorized designee, shall not recommend a private road name that is the same or similar in spelling or pronunciation to an existing street, highway or road, public or private, within the county E911/central dispatch agency service area.
- (c) *Changing existing road names.* The changing of existing road names is discouraged, except in situations where two identical or similar road or street names exist that clearly make the accurate dispatching of emergency vehicles impractical or when one road has two commonly used names or where portions of what appears to be the same road have two or more names. Prior to approving a change of an existing road or street name, the Township Board, or its authorized designee, shall consider the official street or road name as recorded on plats and deeds of adjacent property, as well as the most accurate historical name of the road in question. A primary consideration in determining the single road name to be approved when two or more names are commonly used for a particular road is the potential effect on existing legal documents.

(Ord. No. 109, § VI, 8-24-2005)

Sec. 30-26. - Address numbering.

The County Land Resource Center shall have overall jurisdiction for address numbers in the Township.

(Ord. No. 109, § VII, 8-24-2005)

Sec. 30-27. - Display of address.

All principal buildings shall be required to display an address number in the manner prescribed by the county address ordinance, as administered by the County Land Resource Center.

(Ord. No. 109, § VIII, 8-24-2005)

Chapter 34 - SUBDIVISIONS AND OTHER DIVISIONS OF LAND^[1]

Footnotes:

--- (1) ---

State Law reference— Land Division Act, MCL 560.101 et seq.; Condominium Act, MCL 559.101 et seq.

ARTICLE I. - IN GENERAL

Secs. 34-1—34-18. - Reserved.

ARTICLE II. - SUBDIVISION CONTROL AND SITE CONDOMINIUMS^[2]

Footnotes:

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State Law reference— Land Division Act, MCL 560.101 et seq.; Condominium Act, MCL 559.101 et seq.

DIVISION 1. - GENERALLY

Sec. 34-19. - Short title.

This article shall be known and may be cited as the Township Subdivision Control and Site Condominium Article.

(Ord. No. 76, art. I, § 100, 12-2-1999)

Sec. 34-20. - Definitions.

- (a) The definitions contained in section 102 of the Land Division Act (MCL 560.102) apply to this article and terms used are consistent with such definitions.
- (b) The definitions used in sections 103 through 110 of the Condominium Act (MCL 559.103—559.110) apply to this article, and terms used are consistent with such definitions. The following key definitions are reiterated here for clarity:

Building site, within a condominium development, means that portion of a lot or parcel which is a two-dimensional condominium unit of land (e.g., envelope, footprint), along with any and all limited or general common elements designed for the construction of a principal condominium building in addition to accessory condominium buildings. All building sites shall have access to a public or private street or road.

Common elements means those portions of a condominium project other than the condominium units.

Condominium plan means the plan as required in this article, including, but not limited to, the survey and utility plans, building site, the existing and proposed structures and improvements, including their location on the land.

Condominium project means a development project consisting of not less than two condominium units established in conformance with, and pursuant to, the Condominium Act (MCL 559.101 et seq.)

Condominium unit means that portion of a condominium project designed and intended for separate ownership and use, as described in the master deed of the project, regardless of whether it is intended for residential, office, industrial, business, recreational or any other type of use approved by the State Department of Commerce for such projects.

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

Contractible condominium means a condominium project from which any portion of the submitted land or buildings may be withdrawn pursuant to the expressed provision in the condominium documents and in accordance with this article and the Condominium Act.

Limited common elements means the portions of the common elements reserved in the master deed of a condominium project for the exclusive use of less than all the owners of condominium units in the project.

Lot means a single unit or division of land contained in a platted subdivision, whether it be numbered, lettered, or otherwise designated, that has frontage on a public or private street or road.

Master deed means the legal document prepared and recorded pursuant to the Condominium Act (MCL 559.101 et seq.) within which, or to which, are attached as exhibits and incorporated by reference, the approved bylaws for the project and the approved condominium subdivision plan for the project.

Parcel means a continuous area, tract, or acreages of land which has not been divided or subdivided (i.e., platted) pursuant to, and/or in accordance with, the Land Division Act (MCL 560.101 et seq.).

Plat means a map or chart of a subdivision of land.

Setback means the minimum horizontal distance a building or structure, or any portion thereof, is required to be located from the property lines of the lot, parcel or building site upon which the same is situated from adjacent buildings or structures or from public or private rights of way.

(Ord. No. 76, art. I, § 103, 12-2-1999)

Sec. 34-21. - Infractions and fines.

- (a) Any person, firm, corporation or other entity who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this article shall be responsible for a municipal civil infraction and shall pay a fine according to the following schedule:

First offense	\$ 75.00
Second offense within 3 years	150.00
Third offense within 3 years	325.00
Fourth offense within 3 years	500.00

- (b) If a determination of responsibility is made by the court, the court may impose costs as provided for by law in addition to the fines called for in subsection (a) of this section. Said penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

(Ord. No. 76, art. VIII, § 800, 12-2-1999)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 34-22. - Severance and validity.

Sections of this article shall be deemed to be severable and should any division, section, subsection or provisions hereof be declared by the courts to be unconstitutional or invalid, such holdings shall not affect the validity of this article as a whole or any part hereof, other than the part so declared to be unconstitutional or invalid. Should this article be found to be invalid to the extent that it no longer provides for effective review of condominium developments, such developments shall be reviewed under the site plan provisions of chapter 46, zoning.

(Ord. No. 76, art. IX, § 800, 12-2-1999)

Sec. 34-23. - Purpose.

- (a) The purpose of this article is:
- (1) To regulate and control the subdivision of the land within the Township into plats pursuant to the Land Division Act (MCL 560.101 et seq.);
 - (2) To regulate preliminary and final plats and prescribe the minimum standards to be met by the subdivider; and

- (3) To regulate the development of land within the Township under the provisions of the Condominium Act (MCL 559.101 et seq.), and set the minimum standards to be met by the developer to achieve the same land use results as if the development and improvements were being proposed in accordance with general subdivision statutes, to include all requirements of chapter 46, zoning.
- (b) This article provides supplementary local procedures, standards and rules for the preparation and filing of preliminary and final plats and site condominiums with the Township in order to promote the public safety, health, and general welfare. It was revised in 2005 to conform with changes made to the Land Division Act (MCL 560.101 et seq.) by Public Act No. 525 of 2004.

(Ord. No. 76, art. I, § 101, 12-2-1999; Ord. No. 108, § IV, 7-16-2005)

Sec. 34-24. - Authority.

This article is enacted pursuant to the authority granted by the Land Division Act (MCL 560.101 et seq.); the Condominium Act (MCL 559.101 et seq.) and Public Act No. 246 of 1945 (MCL 41.181 et seq.), which authorizes Township boards to adopt ordinances to secure the public health, safety, and general welfare.

(Ord. No. 76, art. I, § 102, 12-2-1999)

Sec. 34-25. - Amendment procedures.

The Township Board may from time to time, upon recommendation of the Planning Commission, Zoning Administrator, other official, or on its own initiative, amend, supplement or repeal the regulations and provisions of this article in the manner prescribed by law for the amendment of ordinances.

(Ord. No. 76, art. VIII, § 802, 12-2-1999; Ord. No. 108, § I, 7-16-2005)

State Law reference— Ordinance adoption procedures, MCL 41.184 et seq.; Planning Commission recommendation of ordinances governing subdivision of land, MCL 125.3871.

Sec. 34-26. - Variance procedure.

Where there are practical difficulties or undue hardships in carrying out the strict letter of this article, the Township Board, after review and recommendations by the Planning Commission, in passing upon any proposed plat or condominium project, shall have the power to modify any of the terms and provisions of this article so that the spirit of the article shall be observed and public health, safety, and welfare secured.

(Ord. No. 76, art. VII, 12-2-1999; Ord. No. 108, § I, 7-16-2005)

Sec. 34-27. - Amendments to plans.

Any and all proposed amendments to a plat or condominium project shall be submitted for review and approval as were the initial plans as outlined in divisions 2 and 3 of this article.

(Ord. No. 76, art. VI, 12-2-1999)

Sec. 34-28. - Failure to complete construction of public improvement.

In the event the proprietor shall, in any case, fail to complete such work within such time period as required by the conditions of the guarantee for the completion of public improvements, it shall be the responsibility of the Township Board to proceed to have such work completed. To accomplish this, the Board shall use funds from the security deposits made by the developer, or it may take such steps as may

be necessary to require performance in accordance with the deposit agreements executed by the proprietors.

(Ord. No. 76, art. V, 12-2-1999)

Secs. 34-29—34-59. - Reserved.

DIVISION 2. - SUBDIVISION PROCESSING PROCEDURES^[3]

Footnotes:

--- (3) ---

State Law reference— Land Division Act, MCL 560.101 et seq.

Sec. 34-60. - General procedure for pre-application review and approval.

- (a) *Pre-application review.* Public Act No. 525 of 2004 amending the Land Division Act (MCL 560.101 et seq.) provides for an optional pre-application review of a concept plan for a preliminary plat. Such a pre-application review may be requested by a proprietor by submitting a written request to the County Plat Board and submitting copies of the concept plan to the Township Clerk, among others. Normally, a member of the Planning Commission or the Zoning Administrator will represent the Township at the pre-application review meeting. Such pre-application review meetings must take place within 30 days of the written request.
- (b) *Processing times.* If a pre-application review meeting was held, the Township Board must provide its tentative approval of a preliminary plat, with or without conditions, or its rejection with reasons and requirements for tentative approval, within 60 days after a preliminary plat is submitted to the Township Clerk. If not, the time limit is 90 days. Normally, the Planning Commission will be given half the time allowed the Township (either 30 or 45 days) to review and provide comments and recommendations to the Township Board on a preliminary plat.
- (c) *Pre-preliminary plats.* A proprietor may submit a pre-preliminary plat to the Township for informal review and comment, if desired, whether a pre-application review meeting has been requested or not. The Township Board will have such pre-preliminary plats reviewed by the Planning Commission following the same procedures as outlined in section 34-61 for a preliminary plat and will provide its comments to the proprietor based on the Planning Commission's recommendations, within 60 days of submission of the pre-preliminary plat to the Township Clerk.

(Ord. No. 76, art. II, § 200, 12-2-1999; Ord. No. 108, § V, 7-16-2005)

State Law reference— Concept plans, MCL 560.111; time limits for preliminary plans, MCL 560.112; prepreliminary plats authorized, MCL 560.107.

Sec. 34-61. - Subdivision preliminary plats—Tentative approval, applications and processing.

- (a) A proprietor shall submit ten copies of the preliminary plat prepared in accordance with section 111 of the Land Division Act (MCL 560.111) and the provisions of section 18-62 to the Township Clerk, who shall record the date of filing. The application shall be accompanied by a fee of \$500.00, plus a deposit of \$1,000.00 to be held in escrow for engineering review and other costs. If such costs exceed \$1,000.00, the proprietor will be charged as in subsection (c) of this section. Any unexpended portion of the deposit shall be returned to the proprietor upon final plat approval.
- (b) The Township Clerk shall immediately refer one copy of the preliminary plat to the Township Zoning Administrator and seven copies to the chairperson of the Planning Commission.

- (c) The Planning Commission and Zoning Administrator shall jointly review the preliminary plat and determine whether the plat needs to be reviewed by a professional engineer and/or the Environmental and Wetlands Protection Advisory Committee. If professional engineering review is needed, approval of the Township Board shall be obtained and the costs of such engineering review will be charged to the proprietor. The engineer's review will be provided to the Planning Commission, which will consider such review in making its recommendations and will forward the review with its advice to the Township Board within 30 or 45 days of filing, depending on whether a preliminary review meeting has been held, recommending whether the preliminary plat should be approved or rejected, in the latter case setting forth in writing the reasons for recommending rejection and requirements for tentative approval. The Planning Commission will include pertinent comments of the Wetlands Committee.
- (d) The Township Board shall act upon the Planning Commission's recommendation within 90 days from filing, or within 60 days if a preliminary review meeting has been held, in accordance with section 112 of the Land Division Act (MCL 560.112)

(Ord. No. 76, art. II, § 201, 12-2-1999a; Ord. No. 108, §§ I, VI, 7-16-2005)

State Law reference— Plat review fees authorized, MCL 560.109.

Sec. 34-62. - Same—Conditions for tentative approval.

Tentative approval of a subdivision preliminary plat shall be given only if the following conditions are met:

- (1) Privately held reserve strips controlling access to streets shall be prohibited.
- (2) Existing natural features that add value to residential development and enhance the attractiveness of the community, such as streams, watercourses, wetlands, wooded areas, historic spots, and similar irreplaceable assets, should be preserved insofar as possible in the design of the subdivision. Proprietors are encouraged to use conservation design concepts as outlined section 46-584 or to otherwise provide parks and common open space as amenities in subdivisions.
- (3) Except as noted below, wetlands or lands subject to flooding normally will not be platted for residential, commercial, or industrial purposes. However, some lots, particularly those that border lakes, rivers or streams will be found to contain wetlands or be within the 100-year floodplain. Such lots shall have the minimum area required for the zoning district in which they are situated outside of such wetlands or floodplains. Other floodplains and wetlands within a subdivision may be set aside for other purposes, such as parks and/or common open space. Isolated low areas that are not subject to overflow flooding from nearby lakes or streams are not considered to be floodplains.

(Ord. No. 76, art. II, § 203, 12-2-1999; Ord. No. 108, § VII, 7-16-2005)

State Law reference— Plat approval standards, MCL 560.105, 560.106.

Sec. 34-63. - Same—Granting tentative approval.

If the Township Board determines, based on recommendations of a Township Engineer or the Planning Commission, that the proposed preliminary plat complies with all applicable ordinances and statutes and the provisions set forth in section 34-62, it shall grant tentative approval of the preliminary plat. This tentative approval shall confer upon the proprietor, for a period of one year from date of approval, lot size, lot orientation, and street layout. Such tentative approval may be extended at the discretion of the Township Board upon application of the proprietor.

(Ord. No. 76, art. II, § 204, 12-2-1999; Ord. No. 108, § II, 7-16-2005)

Sec. 34-64. - Same—Procedures for final approval.

- (a) After approvals of all authorities as outlined in sections 113 through 118 of the Land Division Act (MCL 560.113—560.118) have been obtained, the approved copies shall be submitted to the Township Clerk.
- (b) Upon receipt, the Clerk shall immediately notify the Zoning Administrator and chairperson of the Planning Commission for further review or recommendations and compliance with the conditions of section 34-65.
- (c) The Township Board shall review the preliminary plat at its next meeting, or within 20 days from the date of submission.

(Ord. No. 76, art. II, § 205, 12-2-1999; Ord. No. 108, § I, 7-16-2005; Ord. No. 108, §§ I, VIII, 7-16-2005)

Sec. 34-65. - Same—Conditions for final approval.

- (a) *Lot depth to width ratio.* Lots proposed for a subdivision shall not exceed a depth to width ratio of 4:1, exclusive of access roads, easements or non-development sites. The depth of a lot shall be the average of the two lot side lines.
- (b) *Roads.*
 - (1) Grades of all proposed roads shall not exceed ten percent or be less than 0.5 percent except upon recommended approval by a Township Engineer, or the Planning Commission if a Township Engineer has not been appointed.
 - (2) All roads within or abutting such plat shall be constructed with not less than a six-inch compacted gravel base, 22 feet wide, covered with not less than two inches of bituminous aggregate pavement. Roads that are intended to be dedicated as public roads must be provided rights-of-way 66 feet wide and be constructed to meet the specifications of the County Road Commission.
 - (3) Permanent dead-end streets shall be provided at the closed end with a turnaround having an outside improved roadway diameter of at least 125 feet as measured from the centerline of the gutter or back of the curb and a street property line diameter of at least 150 feet.
 - (4) Naming of new roads will be in accordance with chapter 30, article II; however, the Township Board reserves the right of final approval on names for new roads.
- (c) *Drainage.* Proper drainage shall be provided within the road right-of-way.
 - (1) Grading and clearing of the right-of-way will be the minimum required to provide adequate drainage and safety. All surface waters shall be adequately drained within a plat by a separate system of drainage structures, or through the connections of such separate system to an adequate adjoining system.
 - (2) Stormwater disposal methods proposed for the subdivision must be adequate to ensure each building site and roadway will not be flooded and that all necessary easements for storm sewers or open drains can feasibly be dedicated to the public for such purposes.
 - (3) Where storm sewers are used, inlet basins must not be spaced further apart than 300 feet, except as approved by the Township Board upon recommendation of a Township Engineer or the Planning Commission.
 - (4) The determination of proper and adequate drainage shall be left to the Township Board upon recommendation of the Planning Commission and engineer. When the Planning Commission deems it advisable, evaluations and recommendations shall be made by a consulting engineer hired by the Township to make such determination at the expense of the proprietor.

- (d) *Sewers and water supply.* Connection to sanitary sewers and/or water supply mains may be required by the Township Board, if it determines that said sewers and/or water mains are reasonably available to the proposed subdivision.
- (e) *Underground utilities.* Unless exceptions have been granted by the Township Board, upon recommendation of the Township Engineer or the Planning Commission, the proprietor shall arrange for all distribution lines for electricity, telephone, television, or similar services distributed by wire or cable to be placed entirely underground throughout the residential subdivision area. Electrical distribution lines shall be defined in accordance with the rules and regulations of the State Public Service Commission. Such conduits or cables shall be placed within private easements provided to such service companies by the proprietor, or within dedicated public ways. All such facilities placed in public ways shall be planned so as not to conflict with other underground utilities. All such facilities shall be constructed in accordance with standards approved by the State Public Service Commission. Private easements for underground utilities shall be shown on the preliminary plat.
- (f) *Street lighting.* Street lighting may be required by the Township Board when recommended by a Township Engineer or Planning Commission for reasons of public health, safety, and welfare.
- (g) *Pedestrian paths.* Pedestrian paths or sidewalks may be required by the Township Board when recommended by a Township Engineer or Planning Commission for reasons of public health, safety, or welfare.
- (h) *Street frontage.* All lots intended for residential use within a subdivision must be provided the minimum street frontage required by the zoning district in which the plat is situated. Land designated as open space, parks, or conservation areas must have access from a public street.

(Ord. No. 76, art. II, § 206, 12-2-1999; Ord. No. 108, §§ I, II, 7-16-2005; Ord. No. 108, § IX, 7-6-2005)

State Law reference— Plat approval standards, MCL 560.105, 560.106.

Sec. 34-66. - Same—Granting final approval.

If the Township Board determines, based upon recommendations of a Township Engineer or Planning Commission, that the preliminary plat has received the required statutory approval of other governmental agencies and complies with the requirements of section 34-65 and the applicable portions of the Land Division Act (MCL 560.101 et seq.), the Township Board shall grant final approval of the preliminary plat. The Township Clerk shall notify the proprietor of approval or rejection according to the requirements of section 120 of the Land Division Act (MCL 560.120). Final approval shall confer upon the proprietor for a period of two years from date of approval the conditional right that the general terms and conditions under which the approval was granted will not be changed. This two-year period may be extended at the discretion of the Township Board upon application of the proprietor.

(Ord. No. 76, art. II, § 207, 12-2-1999; Ord. No. 108, §§ II, X, 7-16-2005)

State Law reference— Plat approval standards, MCL 560.105, 560.106.

Sec. 34-67. - Submission of final subdivision plat for final approval.

- (a) Proposed final plats submitted for final approval by the Township Board shall be submitted to the Township Clerk, who shall immediately notify the Township Engineer, if appointed, Zoning Administrator and chairperson of the Planning Commission of the receipt of such plats.
- (b) Final plats submitted for final approval must be accompanied by:
 - (1) An abstract of title or title insurance policy showing merchantable title in the proprietor of the subdivision as required by section 245 of the Land Division Act (MCL 560.245).

- (2) A filing and recording fee as prescribed by section 241 of the Land Division Act (MCL 560.241), and any other fees that the Township Board may prescribe in its schedule of fees.

(Ord. No. 76, art. II, § 208, 12-2-1999; Ord. No. 108, §§ I, XI, 7-16-2005)

Sec. 34-68. - Subdivision final plat; final approval; review by the Township Board.

- (a) The Township Board shall have the proposed final plat reviewed by the Planning Commission, and engineer, if applicable, in order to confirm its conformance with the requirements of the Land Division Act (MCL 560.101 et seq.) and applicable Township ordinances. The 100-year flood elevation contour, if any, shall be shown on the final plat.
- (b) The Zoning Administrator will review the project site to determine the status of completion or installation of all required roads, streets, bridges, waterways, utilities, public improvements, etc. Work that is found to be incomplete shall be reported to the Township Board, including any work that is covered by escrow.
- (c) See division 4, review and final approval by Township Board of subdivisions or condominiums.

(Ord. No. 76, art. II, § 209, 12-2-1999; Ord. No. 108, §§ II, XII, 7-16-2005)

Secs. 34-69—34-94. - Reserved.

DIVISION 3. - SITE CONDOMINIUMS PROCESSING PROCEDURES¹⁴

Footnotes:

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State Law reference— Condominium Act, MCL 559.101 et seq.

Sec. 34-95. - Preliminary condominium plan tentative approval.

- (a) *Plan requirements.* Every person, firm or corporation which shall hereafter submit a proposed preliminary condominium plan to the Township Board for tentative approval shall submit ten copies of the proposed plan to the Township Clerk. Condominium plans shall be drawn by a registered professional civil engineer or land surveyor. Plans must contain, at a minimum, the following information and fees:
- (1) Proposed name of the project.
 - (2) Full legal description to adequately describe the building sites comprising the project.
 - (3) Names and addresses of the applicant, owners, and professionals who designed the project.
 - (4) The names and addresses of the proprietors and the ownership interest in each in the land included in the preliminary plan, including a legal opinion showing the legal and equitable owners of the land to be developed, plus all grants, reservations, deed restrictions and easements of record which condition the use of the property.
 - (5) Scale of the plan, which shall not be smaller than one inch equals 100 feet.
 - (6) Property lines of adjacent tracts of subdivided and unsubdivided land shown in relation to the tract being proposed for site condominium development, including those areas across abutting roads.
 - (7) Topography of the area proposed to be developed with contour intervals of not more than four feet in elevation.

- (8) Road layout and the type of street construction and drainage structures/facilities planned.
- (9) Lot layout, showing size and shape of proposed building sites.
- (10) Indication of whether proposed site condominium will be served by sanitary sewer and/or public water supply.
- (11) Location of any existing sewers, water mains, storm drains, and other underground utilities with or adjacent to the tract being proposed for development.
- (12) Location of significant natural features, such as watercourses, bodies of water, wetlands, stands of trees, and individual trees within the project area having a caliper of 12 inches or greater at a height of two feet above the existing grade.
- (13) Location of any floodplain located within the area to be developed.
- (14) Indication of general methods of stormwater disposal.
- (15) If the proprietor owns and anticipates developing adjoining land, he shall submit a tentative plan showing the feasibility of developing adjoining land along with the preliminary plan for tentative approval.
- (16) Letters from the County Road Commission and the State Highway Department, where applicable, containing their recommendations to the Township as to the suitability of the proposed street layout and conforming to the location, alignment, and construction requirements of the county or state.
- (17) Location and type of proposed street lights, if planned, conforming with the exterior lighting requirements of chapter 46, zoning.
- (18) A filing fee of \$500.00, plus a deposit of \$1,000.00 to be held in escrow for engineering review and other costs. If such costs exceed \$1,000.00, the proprietor will be charged as outlined in section 34-61(c).
- (19) A fee of \$250.00 for up to ten building sites, plus \$25.00 for each additional building site in excess of ten.
- (b) *Conditions for tentative approval.* The conditions for tentative approval of a subdivision preliminary plat, as outlined in section 34-62, also apply to preliminary site condominium plans.
- (c) *Processing procedures for tentative approval.* The procedures for processing a preliminary plan for tentative approval are as outlined in sections 34-61 and 34-63.
- (d) *Processing procedures for final approval.* The procedures for granting final approval of a preliminary site condominium plan are the same as outlined in sections 34-64 and 34-66.
- (e) *Conditions for final approval.* The conditions for obtaining final approval of preliminary site condominium plan are the same as outlined in section 34-65.

(Ord. No. 76, art. III, § 300, 12-2-1999; Ord. No. 108, § XIII, 7-16-2005)

Sec. 34-96. - Final plans for final approval.

Information to accompany final plans. Proposed final plans for a site condominium development being submitted to the Township Board for final approval shall be accompanied by the following information and fees:

- (1) An abstract of title or title insurance policy showing merchantable title in the proprietor of the development.
- (2) Evidence that all requirements imposed by the Township Board at the time of preliminary approval have been incorporated into the proposed final plan.

(3) Letter from the District Board of Health confirming that the installation of septic disposal fields, if no sewer is available, is generally feasible and practicable on the site of the proposed development.

(4) A fee of \$250.00 for up to ten building sites, plus \$25.00 per building site in excess of ten.

(Ord. No. 76, art. III, § 302, 12-2-1999)

Secs. 34-97—34-120. - Reserved.

DIVISION 4. - REVIEW AND FINAL APPROVAL BY TOWNSHIP BOARD OF SUBDIVISIONS OR CONDOMINIUMS

Sec. 34-121. - Review assistance.

In reviewing a proposed final subdivision plat or site condominium project for final approval the Township Board shall seek the advice and assistance of the Zoning Administrator, the Zoning Board, the Township Attorney, and/or a registered civil engineer or other professionals or inspectors as it deems appropriate.

(Ord. No. 76, art. IV, § 400, 12-2-1999)

Sec. 34-122. - Items to be determined.

In reviewing a proposed final plat or condominium development plan, the Township Board shall determine:

- (1) *Monuments*. All monuments required to be placed in the plat or condominium project have been placed, or a cash or equivalent deposit has been made with the Township and a deposit agreement executed by the proprietors.
- (2) *Roads, bridges, culverts*. All roads, streets, bridges and culverts have been completed and installed or a cash or equivalent deposit has been made with the Township and a deposit agreement executed by the proprietors.
- (3) *Waterways, lagoons*. If the plat or condominium project has any waterways or lagoons, or similar features, that all such waterways, etc., shall be completed or installed or a cash or equivalent deposit has been made with the Township and a deposit agreement executed by the proprietors.
- (4) *Floodplains*. If any floodplains are involved in the proposed plat or condominium project, then such floodplain shall be restricted as provided by this article and the Condominium Act, and such restrictions shall be submitted to the Township Board for review and approval prior to recording, and thereafter shall be recorded with the county register of deeds as part of the plat or master deed or contemporaneously with the recording of the master deed.
- (5) *Utilities*. All utilities servicing the plat or project have been installed and water and sanitary sewer mains, if applicable, have been stubbed to the lot line or building site line or a cash or equivalent deposit has been made with the Township Board of sufficient amount to assure completion thereof within the time specified and a deposit agreement executed by the proprietors.
- (6) *Utility easements*. All underground utility installations, including lines for street lighting systems if used, which traverse privately owned property, shall be protected by easements granted by the proprietor and approved by the public utility. These easements shall be recorded as part of the plat or master deed as private easements for public utilities or easements proved by separate instrument. Easements provided for utilities, either across lots or centered on rear or side lot lines, shall be at least 12 feet wide, usually having six feet dedicated from each adjoining lot or parcel, except that side lot easements three feet wide may be granted for street lighting

dropouts. These easements shall be direct and continuous from block to block or neighborhood, where applicable.

- (7) *Public improvements.* All public improvements, such as fire hydrants, sidewalks, street lights and parks, which may have been required by the Township Board have been completed and installed and reviewed and approved by the Zoning Administrator or a designated engineer, or a cash or equivalent deposit has been made with the Township sufficient in amount to assure completion with the time specified, and a deposit agreement has been executed by the proprietors.
- (8) *Statutory compliance.* The proposed final plat or condominium project complies with all applicable state statutes and Township ordinances and has received the required statutory approval of all other governmental agencies.
- (9) *Execution and recording of plat or deed.* That the plat or master deed is executed by all required owners and recorded with the county register of deeds and filed with the Township Clerk before issuance of any building permits.

(Ord. No. 76, art. IV, § 401, 12-2-1999)

Secs. 34-123—34-142. - Reserved.

ARTICLE III. - LAND DIVISIONS^[5]

Footnotes:

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State Law reference— Land Division Act, MCL 560.101 et seq.

Sec. 34-143. - Title.

This article shall be known and cited as the Township land division article.

(Ord. No. 80, § I, 7-14-2005)

Sec. 34-144. - 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:

Accessible or *accessibility* means, in reference to a parcel, that the parcel meets one or both of the following requirements:

- (1) The parcel has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the County Road Commission or, where applicable, the State Department of Transportation, under Public Act No. 200 of 1969 (MCL 247.321 et seq.); or has an area where a driveway can provide vehicular access to an existing road or street and meet all such applicable location standards and the requirements of chapter 46, zoning.
- (2) The parcel is served by an existing easement that provides vehicular access to an existing road or street and that meets all applicable location standards of the County Road Commission or, where applicable, the State Department of Transportation, under Public Act No. 200 of 1969 (MCL 247.321 et seq.); or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards and the requirements of chapter 46, zoning.

Applicant means a natural person, firm, association, partnership, corporation, or combination of any of them that holds an ownership interest in land whether recorded or not.

Development site means any parcel or lot on which exists or which is intended for building development other than the following:

- (1) Agricultural use involving the production of plants and animals useful to humans, including forages and sod crops; grains, feed crops, and field crops; dairy and dairy products; poultry and poultry products; livestock, including the breeding and grazing of cattle, swine, and similar animals; berries; herbs; flowers; seeds; grasses; nursery stocks; fruits; vegetables; Christmas trees; and other similar uses and activities.
- (2) Forestry use involving the planting, management, or harvesting of timber.

Divide or *division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of sections 108 and 109 of the Land Division Act (MCL 560.108 and 560.109). The terms "divide" and "division" do not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.101 et seq.) or the requirements of other applicable local ordinances.

Exempt split or *exempt division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent. For a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel, any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the Land Division Act (MCL 560.108 and 560.109) or the requirements of an applicable local ordinance.

Forty acres or the equivalent means either 40 acres, a quarter-quarter section containing not less than 30 acres, or a government lot containing not less than 30 acres.

Parent parcel or *parent tract* means a parcel or tract, respectively, lawfully in existence on March 31, 1997.

Tract means two or more parcels that share a common property line and are under the same ownership.

(Ord. No. 80, § III, 7-14-2005)

State Law reference— Similar provisions, MCL 560.102.

Sec. 34-145. - Sanctions for violation; consequences of noncompliance with land division approval requirement.

- (a) Any person who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by state statute, punishable by a civil fine determined in accordance with the following schedule:

	Minimum fine	Maximum fine
1st offense within 3-year period*	\$ 75.00	\$500.00
2nd offense within 3-year period*	150.00	500.00

3rd offense within 3-year period*	325.00	500.00
4th or more offense within 3-year period*	500.00	500.00

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

- (b) Further, any division of land in violation of any provision of this article shall not be recognized as a land division on the Township tax roll and no construction thereon that requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this article.
- (c) An unlawful division or split shall also be voidable at the option of the purchaser and shall subject the seller to the forfeiture of all consideration received or pledged therefor, together with any damages sustained by the purchaser, recoverable in an action at law.

(Ord. No. 80, § VIII, 7-14-2005)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 34-146. - Purpose.

The purpose of this article is to carry out the provisions of the Land Division Act (MCL 560.101 et seq.), to prevent the creation of parcels of property that do not comply with applicable ordinances and said act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing reasonable standards for prior review and approval of land divisions within the Township.

(Ord. No. 80, § II, 7-14-2005)

Sec. 34-147. - Prior approval requirement.

Land in the Township shall not be divided without the prior review and approval of the Township Assessor, or other official designated by the Township Board, in accordance with this article and the Land Division Act (MCL 560.101 et seq.); provided that the following shall be exempted from this requirement:

- (1) A parcel proposed for subdivision through a recorded plat pursuant to the Land Division Act (MCL 560.101 et seq.) and article II of this chapter.
- (2) A lot in a recorded plat proposed to be divided in accordance with the Land Division Act (MCL 560.101 et seq.) and article II of this chapter.
- (3) An exempt split as defined in this article, or other partitioning or splitting that results in parcels of 20 acres or more if each is not accessible and the parcel was in existence on March 31, 1997 or resulted from exempt splitting under the Land Division Act (MCL 560.101 et seq.).

(Ord. No. 80, § IV, 7-14-2005)

Sec. 34-148. - Application for land division approval.

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

- (1) A completed application form on such form as may be approved by the Township Board.

- (2) Proof of fee ownership of the land proposed to be divided.
- (3) A tentative parcel map drawn to scale, including an accurate legal description of each proposed division and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- (4) Proof that all standards of the Land Division Act (MCL 560.101 et seq.) and this article have been met.
- (5) If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- (6) Pay the applicable fee. Said fee shall be established by a fee schedule covering the costs of review of the application and administration of this article and the Land Division Act (MCL 560.101 et seq.) as set from time to time by resolution of the Township Board.

(Ord. No. 80, § V, 7-14-2005)

Sec. 34-149. - Procedure for review of applications for land division approval.

- (a) The Township shall approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this article's requirements and the Land Division Act (MCL 560.101 et seq.), and shall promptly notify the applicant of the decision, and if denied, the reasons for denial. In determining whether to approve or disapprove a land division, the assessor or his designee may seek the advice or comments of the Zoning Board where conformity with the provisions of chapter 46, zoning, are not clear.
- (b) Any person or entity aggrieved by the decision of the assessor or his designee may, within 30 days of said decision, appeal the decision to the Township Board or such other body or person designated by the Township Board, which shall consider and resolve such appeal by a majority vote of said Board or by the appellate designee at its next regular meeting or session affording sufficient time for a 20-day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing. The decision of the Township Board shall be a final decision for purposes of judicial review.
- (c) The assessor or his designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- (d) Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.
- (e) The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.

(Ord. No. 80, § VI, 7-14-2005)

Sec. 34-150. - Standards for approval of land divisions.

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

- (1) The width of each resulting property shall comply with the applicable minimum parcel (lot) width/frontage requirement of chapter 46, zoning.
- (2) The area of each resulting parcel shall comply with the applicable minimum parcel (lot) requirements of chapter 46, zoning.
- (3) The ratio of depth to width of any parcel created by the division does not exceed a four to one ratio, exclusive of access roads, easements, or non-development sites. The depth of a parcel created by a land division shall be measured within the boundaries of each parcel from the abutting

road right-of-way to the most remote boundary line point of the parcel from the point of commencement of the measurement, or from that side of the parcel nearest the road accessed by an approved and recorded easement.

- (4) The proposed land division complies with all requirements of this article and the Land Division Act (MCL 560.101 et seq.).
- (5) All parcels created and remaining shall have adequate accessibility, or an area available therefor, for public utilities and emergency and other vehicles.
- (6) A parcel that is leased for purposes of the erection or construction of a cell tower shall not have to conform to zoning area size requirements, provided that it is located on a conforming parcel.

(Ord. No. 80, § VII, 7-14-2005)

Secs. 34-151—34-170. - Reserved.

ARTICLE IV. - SPLITTING OF PLATTED LOTS

Sec. 34-171. - Title.

This article shall be known as the Fabius Township Platted Lot Split Ordinance.

(Ord. No. 145, § I, 10-14-2015)

Sec. 34-172. - Purpose and enabling authority.

The purpose of this article is to promote the public safety, health and general welfare by facilitating the proper review and orderly layout and development of building sites created by splitting of lots previously platted under the Michigan Land Division Act (formerly Subdivision Control Act), Public Act 288 of 1967, as amended, (MCL 560.101, et seq.), to create one or more additional platted lots therefrom or to allow the split lot to be combined with existing platted lots and non-platted land to create a larger parcel; pursuant to the Land Division Act and the Township Ordinances Act, Public Act 246 of 1945, as amended (MCL 41.181, et seq.).

(Ord. No. 145, § II, 10-14-2015)

Sec. 34-173. - Definitions.

For the purposes of this article, the following words shall have the following meanings:

Applicant: The person or entity holding an ownership interest in the lot proposed to be split.

Split/splitting: To divide or partition an existing platted lot or otherwise modify the boundaries of such lot.

(Ord. No. 145, § III, 10-14-2015)

Sec. 34-174. - Lot split authority and approval criteria.

The Fabius Township Land Division Official may approve the partitioning or division of a previously platted lot in an approved and recorded subdivision or plat in the following circumstances:

- (1) *No intent to create a separate buildable lot:* When the application states that the sole purpose of the requested split is to add land to adjoining existing lots or parcels and not to create a new separate buildable lot, the Land Division Official may approve the application if the requested division will not cause any remaining portion of the original lot which is developed or intended for development to violate any provision of this article, or the provisions of such zoning

ordinance as may be in effect at the time of such application concerning minimum lot frontage, lot width, minimum lot area, and minimum setbacks.

- (2) *Intent to create new buildable lot:* In situations not within the scope of the subsection (1) above, the Land Division Official may approve one or more splits of a lot upon determining that the following criteria are satisfied:
- a. All of the resulting lots comply with the applicable requirements of this article, such zoning ordinance as may be in effect at the time of said application with respect to minimum lot frontage, lot width, lot area, and setbacks, and all other applicable ordinances and the Land Division Act including the number, area and width limitations of Sections 186 and 263 of such Act; or that the resulting lots comply with the applicable requirements of a zoning variance granted as to a particular lot or group of lots by the Township Zoning Board of Appeals. If approval of such a platted lot split is based on a variance granted by the Fabius Township Zoning Board of Appeals, the applicant shall indicate the date on which the variance was granted and the applicant shall attach a copy of the minutes to the application for platted lot split.
 - b. Variance/Zoning Board of Appeals: No variance that has been granted by the Fabius Township Zoning Board of Appeals pursuant to the Fabius Township Zoning Ordinance, in association with a proposed lot split such as a setback or lot width variance, shall be interpreted as an approval of a platted lot split application. Such approval is reserved to the Fabius Land Division Official. If a land division application is intended to create a new buildable lot and such building envelope or proposed structure requires a variance, the applicant shall first go to the Zoning Board of Appeals for variance approval prior to making the platted lot split application.
 - c. Access to such lots complies with the zoning ordinance as may be in effect at the time of such application and any other applicable ordinance.
 - d. The resulting lots will each have access to public and/or private utility services.
 - e. The proposed split and likely development that will result will not cause an unreasonable alteration in the essential character of the area or otherwise be detrimental to any adjoining property.
 - f. The proposed division will not for any other reason be contrary to the public health, safety, or general welfare.

(Ord. No. 145, § IV, 10-14-2015)

Sec. 34-175. - Platted lot split application procedures.

- (a) The applicant shall initiate a platted lot split approval request by filing an application with the township's land division official setting forth the purpose of the proposed split. The application form shall be accompanied by a survey showing the original lot and all lots proposed to result from the requested split, including all dimensions thereof and the legal descriptions therefore, and a survey or other scaled drawing identifying property lines and the location of existing buildings, to proposed and existing lines, on all lots adjacent to the lot to be split including any lots and buildings on the opposite side of the road at the discretion of the Land Division Official.
- (1) In the event the applicant is not the sole owner of the subject lot, the application shall not be approved until all owners have concurred with the filing of said application by signing said application or otherwise giving evidence of their approval.
- (2) If the Zoning Board of Appeals has acted on an application for variance or interpretation as to the particular lot contained in the application, the applicant shall provide a copy of the minutes of the ZBA meeting and the ZBA decision form, if any, to the Land Division Official with the application packet.
- (b) The Land Division Official shall review the application and shall act on the application within 45 days of receipt of a complete application.

- (c) The Land Division Official's decision shall be based on the approval criteria of section 34-174. The Land Division Official has the authority to grant the application for platted lot split, to deny the application, to grant the application with conditions, or to request further information from designated persons.

(Ord. No. 145, § V, 10-14-2015)

Sec. 34-176. - Prohibited actions.

The following actions are prohibited:

- (1) The splitting of a lot in a recorded plat without prior approval of the Township's Land Division Official as required by this article.
- (2) The commencing of construction on, or the application for a building permit for such construction, on any portion of a lot in a plat that was split without prior approval of the Township's Land Division Official as required by this article.
- (3) The submission of any document for recording involving the splitting of a lot in a recorded plat without prior approval of such splitting by the Township's Land Division Official as required by this article.

(Ord. No. 145, § VI, 10-14-2015)

Sec. 34-177. - Application fees.

The fee for consideration of a lot division application pursuant to this article shall be established by motion by the Township Board and may from time to time be revised by the Township Board as deemed necessary.

(Ord. No. 145, § VII, 10-14-2015)

Sec. 34-178. - Violations And Sanctions.

- A. *Violations as municipal civil infractions:* Violations of the provisions of this article or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with an approved application, shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

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

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

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township of Fabius has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article. Each day that a violation of this article exists shall constitute a separate violation of this article.

- (b) *Remedies:* The Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this article. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this article. A violator of this article shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation of this article continues to exist shall constitute a separate violation of this article. The Township Attorney may initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township Board may initiate injunctive action in Circuit Court or any such other remedy provided by law.
- (c) Nothing herein shall prevent the Township Board or a private citizen from taking such additional lawful action as is necessary to restrain or prevent any violation of this article or the Michigan Land Division Act.

(Ord. No. 145, § VIII, 10-14-2015)

Secs. 34-179—34-190. - Reserved.

ARTICLE V. - BOUNDARY LINE ADJUSTMENT

Sec. 34-191. - Title.

This article shall be known as the Fabius Township Boundary Line Adjustment Ordinance.

(Ord. No. 147, § I, 6-8-2016)

Sec. 34-192. - Purpose and enabling authority.

The purpose of this article is to promote the public safety, health and general welfare and the orderly processing of boundary line adjustments as identified in the Michigan Land Division Act (formerly Subdivision Control Act), Public Act 288 of 1967, as amended, (MCL 560.101, et seq.) created by the transfer of land between two or more adjacent parcels, when the property taken from one parcel is added to an adjacent parcel.

The Michigan Land Division Act allows a municipality to adopt an ordinance to carry out its provisions. The Township Board finds it necessary and appropriate to create an ordinance that will required submittal of boundary line adjustments to the Township's Assessing Officer and to provide a methodology for review and approval thereof so that the assessing officer is notified of the boundary line adjustment and can reflect the adjustment in the Township's assessing records.

(Ord. No. 147, § II, 6-8-2016)

Sec. 34-193. - Definitions.

For the purposes of this article, the following words shall have the following meanings:

Applicant: The person or entity holding an ownership interest in the land proposed to be transferred.

Boundary line adjustment. A property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel. Platted lots are not subject to this article. Platted

Lots subject to potential division shall be processed in accordance with the Township's Platted Lot Split Ordinance, Article IV of this chapter.

Recipient. The person or entity that shall own the property subject to boundary line adjustment after the boundary line adjustment is made.

(Ord. No. 147, § III, 6-8-2016)

Sec. 34-194. - Property line transfer application and approval procedures and rights conferred.

- (a) The applicant shall initiate property line transfer application by filing an application for boundary line adjustment with the Township's Land Division Official setting forth the parameters of the proposed boundary line adjustment, together with a survey and map showing the original parcel, that portion of the property subject to the boundary line adjustment and the measurements thereof. The property subject to transfer shall be legally described, either separately or as part of the recipient parcel. In the event the applicant is not the sole owner of the land proposed to be transferred, the application shall not be approved until all owners have concurred with the filing of said application by signing said application or otherwise giving evidence of their approval.
- (b) The Land Division Official shall review the application and shall act on the application within 45 days of receipt of a complete application. The Land Division Official shall record his or her approval on the application, which shall authorize the applicant to record a deed establishing the boundary line adjustment. A copy of the recorded deed shall be transmitted to the Assessing Officer, who shall adjust the Township's assessing records to provide for such property line adjustment. The Land Division Official shall not recognize any property line adjustment that has not been approved under this article.
- (c) The receipt of an approved boundary line transfer does not confer upon the applicant or recipient of such property transferred approval for construction, new construction, addition, zoning or building code approval. Any such application for construction, new construction, addition, zoning or building code approval shall be made in accordance with the Township's ordinances for each as enumerated in this Code of Ordinances.

(Ord. No. 147, § IV, 6-8-2016)

Sec. 34-195. - Prohibited actions.

- (a) No property subject to a property line adjustment may be deeded or transferred without first complying with the application and approval provisions of this article shall be deemed to be a violation of this article.
- (b) Any resulting parcel (after boundary line transfer) shall not be considered a building site unless the parcel conforms to the requirements of this act or the requirements of an applicable local ordinance and the Township Zoning Ordinance.
- (c) The commencing of construction on, or the application for a building permit for such construction, on any portion of property subject to boundary line adjustment under this article without having received zoning and/or building code approval from the Township shall be a violation of this article.
- (d) The submission of any document for recording involving a boundary line adjustment without prior approval of such boundary line adjustment in accordance with this article shall be deemed to be a violation of this article.

(Ord. No. 147, § V, 6-8-2016)

Sec. 34-196. - Application fees.

The fee for consideration of a property line transfer application pursuant to this article shall be established by motion by the Township Board and may from time to time be revised by the Township

Board as deemed necessary and shall approximate the costs to the Township for the Land Division Officer's review and approval.

(Ord. No. 147, § VI, 6-8-2016)

Sec. 34-197. - Violations and sanctions.

- (a) *Violations as municipal civil infractions:* Violations of the provisions of this article or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with an approved application, shall constitute a municipal civil infraction. Any person, firm, association, partnership, corporation, or governmental entity who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by Michigan Statute which shall be punishable by civil fine determined in accordance with the following schedule:

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

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

Additionally, the violator shall pay costs which may include all expenses, direct and indirect, to which the Township has incurred in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 nor more than \$500.00 be ordered. In addition, the Township shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order, or other appropriate remedy to compel compliance with this article. Each day that a violation of this article exists shall constitute a separate violation of this article.

- (b) *Remedies:* The Township Board may institute injunction, mandamus, abatement or other appropriate proceedings to prevent, enjoin, abate or remove any violations of this article. The rights and remedies provided herein are both civil and criminal in nature. The imposition of any fine, or jail sentence or both shall not exempt the violator from compliance with the provisions of this article. A violator of this article shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law. Each day that a violation of this article continues to exist shall constitute a separate violation of this article. The Township Attorney may initiate prosecution proceedings. If the threat to public health and or safety necessitates immediate action, this procedure may be circumscribed and the Township Board may initiate injunctive action in Circuit Court or any such other remedy provided by law.
- (c) Nothing herein shall prevent the Township Board or a private citizen from taking such additional lawful action as is necessary to restrain or prevent any violation of this article or the Michigan Land Division Act.

(Ord. No. 145, § VII, 10-14-2015)

Chapter 38 - TRAFFIC AND VEHICLES¹¹

Footnotes:

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State Law reference— Michigan Vehicle Code, MCL 257.101 et seq.; powers of local authorities, MCL 257.605, 257.606.

ARTICLE I. - IN GENERAL

Secs. 38-1—38-18. - Reserved.

ARTICLE II. - MOTOR VEHICLE STORAGE AND REPAIR

Sec. 38-19. - Purpose and regulations.

- (a) *Title.* This article shall be known as the Township Motor Vehicle Storage and Repair Article.
- (b) *Purpose.* The purpose of this article is to limit and restrict the outdoor storage, parking, repair or unreasonable accumulation of junk, unused, partially dismantled or nonoperating vehicles, including any conveyance, trailer, boat, aircraft or new or used parts thereof upon premises within the Township; to provide restrictions concerning the repairing of said vehicles; to avoid injury and hazards to children and others attracted to such vehicles; and to minimize the devaluation of property values and the psychological ill effects of the presence of the same upon adjoining residents and property owners. This article does not apply to the storage of operational and licensed (if applicable) watercraft or other recreational vehicles.
- (c) *Regulations.*
 - (1) No person, firm or corporation shall park or store or permit to be parked or stored upon any premises within the Township any vehicle, including any conveyance, boat, aircraft, or trailer of any kind or new or used parts therefrom, unless one or more of the following conditions exist:
 - a. Such parking or storage is located within a fully-enclosed building or in an area that is totally obscured from adjacent premises or adjacent roads or highways by natural land contours, evergreen screening or fencing. If located in a residential or agricultural area, said fencing shall not encompass more than half an acre of land and shall not encompass, nor include as one of its boundaries, a principle residence or dwelling.
 - b. A special permit is first obtained therefor, for a period not to exceed 45 days, from the Supervisor of the Township or such other officer or official as the Township Board may designate, to be granted only in special hardship cases beyond the control of the applicant, where special or peculiar circumstances exist, where no adjoining property owner is adversely affected thereby and where the spirit and purpose of these regulations are still observed.
 - c. Such vehicle or conveyance is licensed or registered by the state, is an operable vehicle or conveyance, has all of its main component parts attached as hereinafter defined, and is, in fact, regularly operated for its designed purpose.
 - d. Such vehicles, boats, trailers, aircraft or conveyances are located in a duly licensed and properly zoned junkyard, salvage yard, new or used car dealer's lot, automobile repair facility or storage yard where such uses or operations are legally authorized under chapter 46, zoning.
 - e. Such vehicle is awaiting repairs or delivery to owners at an authorized service station, garage, paint shop, or body shop registered with the state pursuant to the Motor Vehicle Service Repair Act (MCL 257.1301 et seq.), provided that such vehicle is locked, licensed by the state, and is not a public nuisance.

- f. Such vehicle, boat, trailer, aircraft or conveyance, although temporarily inoperable because of minor mechanical failure, has substantially all of its main component parts attached as hereinafter defined; is, where subject to a license or registration, licensed or registered by the state; is not in any manner a dismantled vehicle; and the premises do not contain any such vehicle, boat, aircraft, trailer or conveyance for longer than 14 days in any one year. The term "main component parts" means, for the purpose of this article, those parts required by state law or by necessity for its operation upon a public highway, waterway or airway.
- (2) No repairing, redesigning, modifying or dismantling work or operations shall be allowed upon any vehicle, boat, trailer, aircraft or conveyance or parts thereof upon any public right-of-way or public property (except for emergency minor repairs not exceeding one hour in duration) or upon any property not zoned for such purpose except such occasional minor work by the owner thereof as may infrequently be required to maintain the same in normal operating condition and as shall be accomplished within fully enclosed buildings; will not constitute a nuisance or annoyance to adjoining property owners or occupants; and does not violate any provisions of chapter 46, zoning.
- (3) The foregoing shall not be construed to prohibit the storage of farm machinery, vehicles, equipment and material used for agricultural purposes upon an operating farm of not less than 20 acres. Farm equipment not in use but stored for parts shall be stored in an area totally obscured from adjacent premises and roads.
- (d) *Nuisance.* Any parking, storage, placement or operations in violation of the provisions of this article are hereby declared to be a public nuisance which may be enjoined or which may subject the violator to the fines and penalties herein provided for.
- (e) *Violations.* Any person, firm, association, partnership, corporation or governmental entity who violates any of the provisions of this article shall be deemed to be responsible for a municipal civil infraction as defined by state law which shall be punishable by a civil fine determined in accordance with the following schedule:

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

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

(Ord. No. 99, 4-14-2004; Ord. No. 135, § 1, 12-14-2011)

Chapter 42 - UTILITIES

ARTICLE I. - IN GENERAL

Secs. 42-1—42-18. - Reserved.

ARTICLE II. - WATER SUPPLY

DIVISION 1. - GENERALLY

Sec. 42-19. - Title and purpose.

- (a) This article shall be known as the Township Water Supply Article.
- (b) It is hereby determined and declared to be necessary and desirable for the public health, safety and welfare of the inhabitants of the Township to receive a water supply system in order to provide domestic water service within the Township.

(Ord. No. 103, § I, 9-22-2004)

Sec. 42-20. - Definitions.

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

Connection charge means the charge assessed the user of the system for connection to the system.

Industrial user means any individual, partnership, firm or corporation engaged in a business for profit conducting and utilizing as a major part of said business, a manufacturing process or operation. An industrial user as applied to this article shall be subject to the prior determination by resolution of the Township Board.

Rate means those rates and charges made to the owners or occupants of premises connected to, and supplied by, the water supply system, and as the same shall be modified and adjusted from time to time.

Revenues shall be construed as meaning all monies and income derived from the operation of the water supply system.

Superintendent means the duly authorized, hired and appointed superintendent of the water supply system, and agent duly acting by authority for said superintendent.

Water connection means that part of the water distribution system connecting the water main with the premises served up to the meter.

Water supply system or *Lockport Township Water System* shall be construed to include all plants, works, instrumentalities and property (as the same from shall time to time exist), used or useful in connection with the obtaining of a water supply system, the treatment of water and/or the distribution of water by and through the Township.

Water System Board or *Water Board* shall be construed to mean the Lockport Township Water Board created and appointed by Lockport Township to act in an advisory and management capacity of the water supply system.

(Ord. No. 103, § II, 9-22-2004)

Sec. 42-21. - Enforcement and penalties.

- (a) Whenever, by the provisions of this article, the performance of an act is required or the performance of any act is prohibited, a failure to comply with such provisions shall constitute a violation of this article. The failure, neglect or refusal to comply with a cease or desist order of the superintendent, operator, or the Water Board shall constitute a violation of this article.
- (b) Any violation of the provisions of this article shall constitute a municipal civil infraction as defined by state statute and shall be punishable by a civil fine or not more than \$500.00 along with costs which may include all expenses, direct and indirect, to which the Township or the Water Board has been put in connection with the municipal civil infraction. In no case, however, shall costs of less than \$9.00 or more than \$500.00 be ordered. A violator of this article shall also be subject to such additional sanctions and judicial orders as are authorized under state law. The foregoing sanctions

shall be in addition to the right of termination of public water service to a violator and the right to obtain injunctive relief in a court of law.

- (c) In addition to the enforcement rights of subsection (b) of this section, the Township, on behalf of the Water Board, or the Water Board may bring civil proceedings for a mandatory injunction or injunctive order or such other remedial relief as will correct or remedy the violation, including damages for the costs and expenses thereof. The Township, on behalf of the Water Board, or the Water Board may join in such action or actions with any number of property owners.

(Ord. No. 103, § VII, 9-22-2004)

State Law reference— Penalty for ordinance violations, MCL 41.183; municipal civil infractions, MCL 600.8701 et seq.

Sec. 42-22. - Use of water supply system required.

- (a) Each property owner owning property on which is located a structure using water shall, at his own expense, cause said premises to be connected to the water supply system when available to the premises.
- (b) Such connections shall be completed promptly, but in no case later than 90 days from the date water services are available to the premises. Water services shall be available to the property whenever a water main, line, or pipe shall be located adjacent, contiguous to the premises, or not more than 200 feet at the nearest point from the structure on said premises. However, in the event said water line is implemented by a state program which does not require mandatory connection and the connections are, in fact, optional, then the requirements in this section do not apply.

(Ord. No. 103, § III, 9-22-2004)

Sec. 42-23. - Unlawful tapping, removing, installing, etc., of mains, pipes, meters, etc.

It shall be unlawful for any person, except employees of the Water Board acting in their official capacity, to tap, change, remove, disconnect, repair, install, break a seal, turn on or in anyway molest any water mains, branch pipes, services, meters, valves, fittings or other appurtenances of the water distribution system.

(Ord. No. 103, § V(A), 9-22-2004)

Sec. 42-24. - Unlawful use of fire hydrants, curb cock or valves; wrench or key for valves and hydrants.

- (a) It shall be unlawful for any person, whether employed by the Water Board or otherwise, to operate any fire hydrant, curb cock or valve which controls water which is not being metered, except as provided in subsections (b) and (c) of this section.
- (b) Customers may turn water on and off by the valve immediately ahead of the meter in the basement or meter pit in which the meter is located, at their pleasure.
- (c) It shall be unlawful to operate any other valve or hydrant, except by a wrench or key that has been approved by the Water Board and which person has been authorized by the Water Board to operate a valve or hydrant.

(Ord. No. 103, § V(B), 9-22-2004)

Sec. 42-25. - Unlawful use of water supplied for fire sprinklers; maintenance and testing of sprinkler systems.

When meters are installed to measure water to fire protection sprinkler systems, it shall be unlawful to use water through such meters for any purpose other than extinguishing fires or testing or filling the

sprinkler system or its appurtenances. Customers using water for fire systems shall maintain their sprinkler systems in a tight condition, free from drips, leaks and unlawful uses of water at all times. Tests of sprinkler systems shall be made at such times as authorized by the superintendent to best protect the water system.

(Ord. No. 103, § V(C), 9-22-2004)

Sec. 42-26. - Establishment and protection of water resource and land preserve.

- (a) In the event that the Water Board or Lockport Township needs to maintain ownership or control of lands necessary for the water system in the Township and with the authorization by the Township Board, then the Water Board or Lockport Township may protect the water supply environment to the greatest degree possible, and to preserve the character of the land in as natural a state as possible, while providing for water supply development needs. Therefore, the land uses permitted in these areas shall be limited to those activities necessary for water supply purposes and for passive recreational uses, such as nature study, wildlife observation, hiking and minimal forest management.
- (b) All unauthorized motorized vehicles and equipment; hunting, trapping, and the carrying of firearms of any type; and sewers, garbage dumps and other possible sources of contamination shall be prohibited in the areas referred to in subsection (a) of this section. All activities that could affect the land or water environment, which are not specifically approved or prohibited in this section, must receive prior approval from the Water Board.
- (c) Land areas owned by the Water Board or Lockport Township and contiguous to the land referred to in subsection (a) of this section may be used for more active recreational uses that are compatible with the intent of this section.

(Ord. No. 103, § V(D), 9-22-2004)

Sec. 42-27. - Fluoride treatment.

The Water Board shall not, nor shall any person, add fluoride to the water supply or the facilities supplying water to the residents of the Township, which may be consumed by humans and rejects the mandatory requirements of section 12721 of the Public Health Code (MCL 333.12721) regarding fluoridation of water supplies.

(Ord. No. 103, § V(E), 9-22-2004)

Sec. 42-28. - Cross connections.

- (a) The Township adopts by reference the Water Supply Cross Connection Rule of the State Department of Public Health, being Michigan Administrative Code pt. 14 (Mich. Admin. Code R325.11401 et seq.)
- (b) It shall be the duty of the Township to assist with the mandatory inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The frequency of inspections and reinspections based on potential health hazards involved shall be as established by the Water Board cross connection control program and as approved by the State Department of Public Health.
- (c) The representative of the Water Board shall have the right to enter at any reasonable time any property served by a connection to the public water supply system for the purpose of inspecting the piping system or systems thereof for cross connections. On request of the owner, lessees or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connections.
- (d) The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the state and Township

plumbing codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as:

"WATER UNSAFE FOR DRINKING"

- (e) This section does not supersede the state plumbing code and any ordinance of the Township in conflict herewith, but is supplementary to them.
- (f) The Water Board is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section exists, and to take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water services to such property shall not be restored until the cross connection has been eliminated in compliance with the provisions of this section.

(Ord. No. 103, § VI, 9-22-2004)

Secs. 42-29—42-59. - Reserved.

DIVISION 2. - WATER CONNECTIONS

Sec. 42-60. - Application required; connections and meters; fees and charges therefor.

Application for water connections shall be made through the superintendent on forms prescribed and furnished by the Township. Water connections and water meters shall be installed in accordance with the rules and regulations of the Water System Board and upon payment of the required connection fee and meter installation fee. All meters and water connections shall be the property of the Lockport Township Water System. Connection fees and meter installation charges shall not be less than the cost of the materials, installation and overhead attributable to such installations. Such fees and charges shall be established by resolution of the Township Board from time to time, in accordance with the size of the connection furnished and in accordance with the fees and charges required by the Water Board. Further, connection charges shall be based on an equivalent dwelling unit schedule as established and found in appendix A, incorporated herein.

(Ord. No. 103, § IV(A), 9-22-2004)

Sec. 42-61. - Turning water service on or off restricted.

No person other than an authorized employee of the Lockport Township Water System's Department shall turn on or off any water service.

(Ord. No. 103, § IV(B), 9-22-2004)

Sec. 42-62. - Metering required; tampering with meters prohibited.

All premises using water shall be metered, except as otherwise provided in this article. No person except an authorized employee of Lockport Township or Water Board shall break or injure the seal or change the location of, alter or interfere in any way with any water meter.

(Ord. No. 103, § IV(C), 9-22-2004)

Sec. 42-63. - Right of Township to inspect meters.

Employees of the Water Board or Lockport Township shall have the right to enter any premises in which or on which the water is used to inspect, adjust, repair or remove water meters or appurtenances in connection with water meters, at any and all reasonable times.

(Ord. No. 103, § IV(D), 9-22-2004)

Sec. 42-64. - Indemnity from damages.

The Water Board will endeavor to furnish continuous water service to the consumer, but does not guarantee uninterrupted service and will not be liable for any damage which the consumer may sustain by reason of the failure of the service, whether caused by accident, repairs or otherwise, nor will Fabius Township or Lockport Township be liable for damages which the consumer may sustain by reason of failure of the water supply or for damages to persons or property arising, accruing or resulting from the supply of water or from any apparatus or appurtenance in connection therewith.

(Ord. No. 103, § IV(E), 9-22-2004)

Sec. 42-65. - Installation and maintenance of connections.

Water service connections shall be installed and maintained under the direction and control of the superintendent at the request of the property owner or his duly authorized representative. Any change to the site subsequent to the installation of the connection which may affect the operation and maintenance of the service shall relieve the Water Board from all responsibility for maintenance and liability for any resultant damages.

(Ord. No. 103, § IV(F), 9-22-2004)

Sec. 42-66. - Location and size of meters:

- (a) *Accessibility.* Meters shall be located in an accessible space provided by the property owner at the point where the service connection enters the structure and shall not be in a crawl space or a locked storage room. Where it is impractical to place the meter elsewhere, the owner shall provide a meter pit on private property adjacent to the public right-of-way.
- (b) *Meter sizes prescribed; changed.* Meter sizes shall be prescribed by the Water Board. Meter sizes shall be changed when it appears that a meter of the wrong size is in use, except that changes shall not be made for seasonal variations.
- (c) *Meter failure.* If any meter shall fail to register properly, the Water Board shall estimate the consumption on the basis of former consumption and bill accordingly.
- (d) *Inaccurate meters.* A consumer may request that his meter be tested. If the meter is found accurate, a charge in the amount established by resolution shall be made to said consumer. However, if the meter is found to be inaccurate, it shall be repaired or replaced at no charge to said consumer.
- (e) *Accuracy required.* A meter shall be considered accurate if, when tested, it registers not to exceed two percent more or two percent less than the actual quantity of water passing through it. If a meter registers in excess of two percent more than the actual quantity of water passing through it, it shall be considered fast to that extent. If a meter registers in excess of two percent less than the actual quantity of water passing through it, it shall be considered slow to that extent.
- (f) *Bill adjustment.* If a meter has been tested at the request of consumer and shall have been determined to register fast, the Water Board shall credit the consumer with a sum equal to the percent fast multiplied by the amount of all bills incurred by said consumer, within the three months prior to the test, and if a meter so tested is determined to register slow, the Water Board may collect from the consumer a sum equal to the percent slow multiplied by the amount of all the bills incurred by the consumer for the prior three months. When the Water Board on its own initiative makes a test of a water meter, it shall be done without cost to the consumer, other than his paying the amount due to the Water Board for water used by him as above provided, if the meter is found to be slow.
- (g) *Reimbursement for damage.* Any damage which a meter may sustain resulting from carelessness of the owner, agent or tenant or from neglect of either of them to properly secure and protect the meter, as well as any damage which may be wrought by frost, hot water, or steam backing from a boiler, shall be paid by the owner of the property to the Water Board on presentation of a bill therefor; and in

cases where the bill is not paid, the water shall be shut off and shall not be turned on until all charges have been paid.

(Ord. No. 103, § IV(G), 9-22-2004)

Sec. 42-67. - Bypassing meter prohibited; exception.

It shall be unlawful for any person to open any valve or make any connection which will make possible the use of water which has not passed through a meter properly installed and recorded on the books of the Water Board, except that in special cases where it is impractical to meter the water and where the amount used can be accurately estimated and where proper arrangements are made for the payment of water so used, the superintendent may grant temporary permission in writing for such use of water without a meter.

(Ord. No. 103, § IV(H), 9-22-2004)

Sec. 42-68. - Meters for water use during construction.

In case of ordinary building construction, a meter shall be set in a place approved by the superintendent at the expense of the customer, to measure the water used during construction. Water so used shall be charged at the usual rates.

(Ord. No. 103, § IV(I), 9-22-2004)

Secs. 42-69—42-94. - Reserved.

DIVISION 3. - RATES AND CHARGES

Sec. 42-95. - Measurement by installed meter; quarterly billing.

Except as here and otherwise provided, water furnished by the system to each premises within the Township shall be measured by a meter installed and controlled by Lockport Township or Lockport Water Board. Charges for water services to each premises shall be billed each quarter of a year (three months), as provided in this division.

(Ord. No. 103, § VIII(A), 9-22-2004)

Sec. 42-96. - When rendered and payable; penalties for late payment; requirements for restoration of service.

- (a) Bills will be rendered quarterly, payable without penalty within 15 days from billing date. Payments received after such period shall bear a penalty of ten percent of the amount of the bill. If not paid within 30 days from billing date, Lockport Township is authorized and shall discontinue the water service to the affected premises.
- (b) When water service has been shut off pursuant to this section, the service shall not be restored until all sums due and owing have been paid in full, including an additional \$25.00 turn-on charge, and an appropriate deposit consistent with the rules and regulations of the Water Board.

(Ord. No. 103, § VIII(B), 9-22-2004)

Sec. 42-97. - Free service prohibited.

No free service shall be furnished by the system to the Township, or to any person, firm or corporation, public or private, or to any public agency or instrumentality.

(Ord. No. 103, § VIII(C), 9-22-2004)

Sec. 42-98. - Charges constituting a lien.

Charges for services furnished by the system to any premises shall be a lien thereon from date of billing, and on April 1 of each year, the person or agency charged with the management of the system shall certify any such charges which have been delinquent for six months or more to the Township Assessor, who shall enter the same upon the next tax roll against the premises to which such service shall have been rendered, and said charges shall be collected and said lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll.

(Ord. No. 103, § VIII(D), 9-22-2004)

Sec. 42-99. - Rates estimated to meet expenses.

The rates hereinbefore established are estimated to be sufficient to provide for the payment of the expenses of administration and operation of the system and such expenses for the maintenance thereof, as many as may be necessary to preserve the same in good repair and working order. Said rates and charges shall further be estimated to provide a reserve fund for the reasonable and normal replacement and expansion of said system as the same may be required from time to time. Rates shall be fixed and revised from time to time by the Township Board by resolution so as to produce the foregoing amounts as directed by Lockport Township through their Water Board and Township Board, either or both.

(Ord. No. 103, § VIII(E), 9-22-2004)

Chapter 46 - ZONING^[u]

Footnotes:

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State Law reference— Michigan Zoning Enabling Act, MCL 125.3101 et seq.; Michigan Planning Enabling Act, MCL 125.3801 et seq.

ARTICLE I. - IN GENERAL

Sec. 46-1. - Preamble.

This chapter is established pursuant to the authority conferred by the Public Acts of the State of Michigan, and in such case is made and provided for the purpose of promoting the public health, safety, peace, morals, comfort, convenience, and general welfare of the inhabitants of the Township by protecting and conserving the character and social and economic stability of the agricultural, residential, commercial, industrial, natural resources and other use areas; by securing the most appropriate use of land; preventing overcrowding the land and undue congestion of population; providing adequate light, air and reasonable access; and facilitating adequate and economical provision of transportation, water, sewers, schools, recreation, and other public requirements, and by other means, all in accordance with a comprehensive plan.

(Zoning Ord. 1977, preamble; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-2. - Short title.

This chapter shall be known and may be cited as the Fabius Township Zoning Ordinance.

(Zoning Ord. 1977, art. I, § 100; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-3. - 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:

Access property means a property, parcel, or lot abutting a lake or pond either natural or manmade, and used or intended to be used, for providing access to a lake or pond by pedestrian or vehicular traffic to and from offshore land regardless of whether said access is gained by easement, common fee ownership, single fee ownership, lease, license, gift, business invitation or any other form of dedication or conveyance.

Accessory use or *accessory* means a use which is clearly incidental to, customarily found in connection with, and (except in the case of accessory off-street parking spaces or loading) located on the same zoning lot as, the principal use to which it is related. When the term "accessory" is used in this context, it shall have the same meaning as accessory use.

Adjusted parcel area means the net parcel area after the primary conservation area has been deducted from the gross parcel area.

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

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

Animal feed lot means an enclosure where cattle, sheep, hogs, poultry, and/or livestock are retained for the sole purpose of fattening the same for subsequent slaughter, exclusive, however, of a natural pasture or similar area where the same graze or feed upon natural growth produced upon the same or contiguous land where the animals and/or poultry are retained.

Animal unit (animals per animal unit). For purposes of this chapter, the number of animals per animal unit shall be defined as follows:

Animal	Animal Unit
Cattle	1.00
Horses	1.00
Swine	0.50
Sheep/goats	0.50
Turkeys/ducks	0.04
Poultry/fowl	0.02

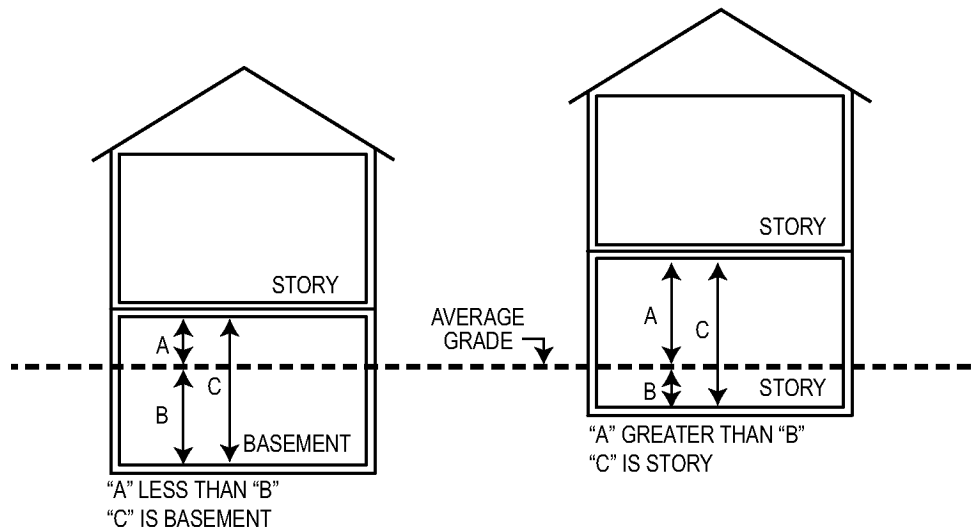
The equivalency of other types of animals not specifically listed above shall be that of the type listed which is most similar in terms of manure output, as determined by the Planning Commission. See also the provisions of applicable generally accepted agricultural management practices (GAAMPs); especially GAAMPs for site selection and odor control for new and expanding livestock production facilities, adopted June 1, 2000, which may govern.

Apartment means a suite of rooms or a room in a multiple-family building arranged and intended for a place of residence of a single-family or a group of individuals living together as a single housekeeping unit.

Auto repair station means a place where, along with the sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles, collision service, such as body, frame, or fender straightening and repair, overall painting and undercoating of automobiles.

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. A basement shall not be counted as a story. (See illustration.)

Basement and Story

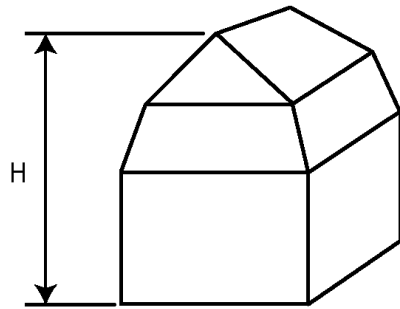


Block means the property abutting one side of a street and lying between the two nearest intersecting streets, (crossing or terminating) or between the nearest such street and railroad right-of-way, unsubdivided acreage, lake, river, or stream; or between any of the foregoing and any other barrier to the continuity of development, or Township boundary lines of St. Joseph County.

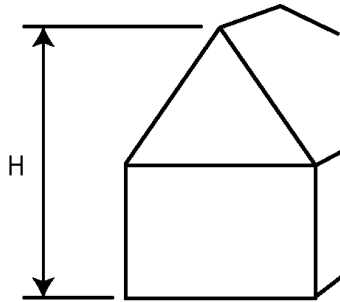
Building means a structure erected on-site, a mobile home or mobile structure, a pre-manufactured or pre-cut structure, above or below ground, designed primarily for the shelter, support, or enclosure of persons, animals, chattels, or property of any kind.

Building height means the vertical distance measured from the established grade to the highest point of the roof structure or parapet; normally the highest ridge for gable, gambrel, mansard, or hip roofs, the highest edge of a sloped flat or shed-style roof. An architectural projection from the roof, such as a church spire shall not be considered in calculating the height of a building. Antennae and chimneys projecting over the highest point of the roof structure or parapet shall not be considered in calculating the height of a building.

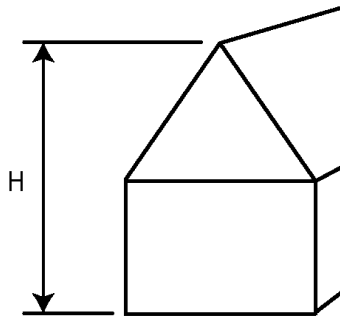
Building Height



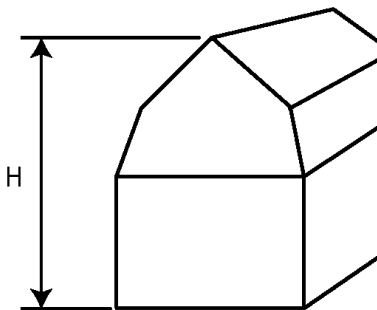
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HIP ROOF



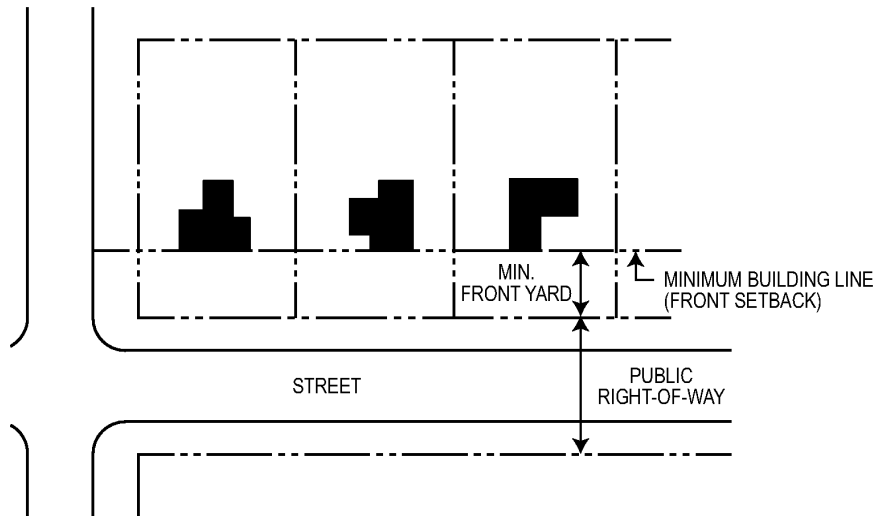
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GAMBREL ROOF

Building line means a line formed by the face of the building, and for the purpose of this ordinance, a minimum building line is the same as a front setback line. (See illustration.)

Building Line



Club means an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

Commercial wireless telecommunications services means licensed commercial wireless telecommunication service including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), and similar services that are marketed to the general public.

Convalescent or nursing home means a structure with sleeping rooms, where persons are housed or lodged and are furnished with meals, nursing, and medical care.

Development means the construction of a new building or other structure on a zoning lot, the relocation of an existing building on another zoning lot, or the use of open land for a new use.

District means a portion of the unincorporated area of the Township within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter. (See article III of this chapter, zoning districts and map.)

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 motor vehicles so as to serve patrons while in the motor vehicle rather than within a building or structure.

Dwelling, multiple-family, means a building, or a portion thereof, designed exclusively for occupancy by three or more families living independently of each other.

Dwelling, one-family, means a building designed exclusively for and occupied exclusively by one family.

Dwelling, two-family, means a building designed exclusively for and occupied exclusively by two families living independently of each other.

Dwelling unit means a building or portion thereof, designed for occupancy by one family for residential purposes, having cooking facilities, sleeping areas, bathing facilities, and complying with the following standards:

- (1) It complies with the minimum square footage requirements of this chapter for the zoning district in which it is located.
- (2) Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations for construction are different than those

imposed by the Township building code, then and in that event, such federal or state standard or regulation shall apply.

- (3) It is firmly attached to a permanent foundation constructed on the site in accordance with the Township building code and shall have a wall of the same perimeter dimensions of the dwelling and constructed of such materials and type as required in the applicable building code for single-family dwellings. In the event that the dwelling is a mobile home, as defined herein, such dwelling shall, in addition thereto, be installed pursuant to the manufacturer's setup instructions and shall be secured to the premises by an anchoring system or device complying with the rules and regulations of the State Mobile Home Commission.
- (4) In the event that a dwelling is a mobile home as defined herein, each mobile home shall be installed with the wheels removed. Additionally, no dwelling shall have any exposed towing mechanism, undercarriage, or chassis.
- (5) The dwelling is connected to a public sewer and water supply or to such private facilities approved by the Local Health Department.
- (6) The dwelling contains a storage capability area in a basement located under the dwelling, in an attic area, in closet areas, or in a separate structure of standard construction similar to or of better quality than the principal dwelling, which storage area shall be equal to ten percent of the square footage of the dwelling or 100 square feet, whichever shall be less.
- (7) The dwelling contains no additions or rooms or other areas which are not constructed with similar quality workmanship as the original structure, including permanent attachment to the principal structure creating continuous climate-controlled space and construction of a foundation as required herein.
- (8) The dwelling complies with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus, and insulation within and connected to said mobile home shall be of a type and quality conforming to the Mobile Home Construction and Safety Standards as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
- (9) The foregoing standards shall not apply to a mobile home located in a mobile home park except to the extent required by state or federal law or otherwise specifically required in article IV, division 3, subdivision VI of this chapter, MH Mobile Home Residential District.
- (10) All construction required herein shall be commenced only after a building permit has been obtained in accordance with the applicable Township building code provisions and requirements.

Erected means built, constructed, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction, excavation, fill, drainage, and the like, shall be considered a part of erection.

Essential services means the erection, construction, alteration, or maintenance by public utilities or Township departments or commissions, of underground, surface, or overhead gas, electrical, steam, fuel, or water transmission or distribution systems, collection, communication, supply or disposal systems including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, towers, substation buildings, gas regulator stations and regulator buildings and other similar equipment and accessories in connection therewith (but not including any buildings except those expressly referred to herein) reasonably necessary, for the furnishing of adequate service by such public utilities or Township departments or commissions, or for the general public health, safety, or general welfare. This definition does not include towers or other buildings or structures intended specifically to service commercial wireless telecommunications such as cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging and similar services.

Excavation means any breaking of ground, except common household gardening and ground care, and agricultural purposes.

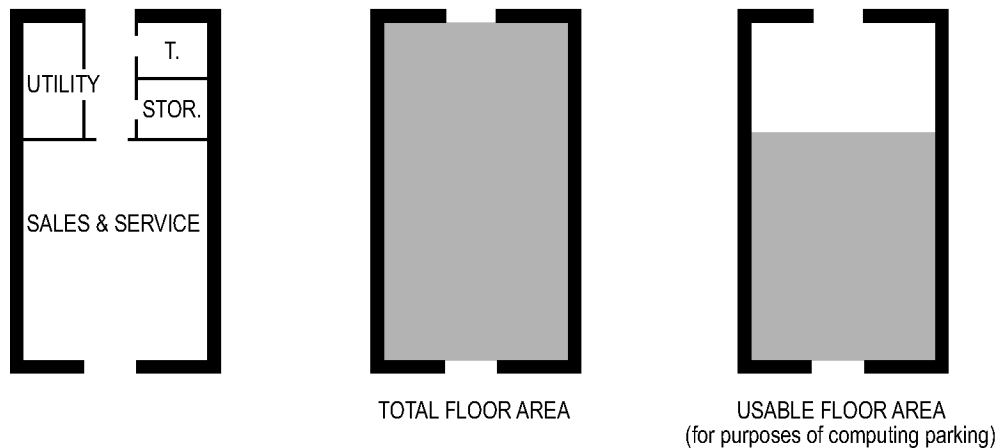
Exception, zoning. See *Zoning exceptions and variances* in this section.

Family means one or two persons or parents, with their direct lineal descendants and adopted or foster children (and including the domestic employees thereof) together with not more than two persons not so related, living together in the whole or part of a dwelling comprising a single housekeeping unit.

Farm means the carrying on of any agricultural activity or the raising of livestock or small animals as a source of income.

Floor area, usable (for the purpose of computing parking), means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, customers or employees. Such floor area which is used or intended to be used principally for the storage or processing of merchandise, hallways, or for utilities or sanitary facilities, shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls. (See illustration.)

Floor Area



Garage, attached means a garage that is attached to the primary structure or main building by means of a common wall or by means of a covered breezeway including a floor, walls (although walls may be screened), and roof structure. If the attached is by way of a breezeway then the maximum separation distance between the garage wall and the conditioned space of the primary building must be less than or equal to 25 feet.

Garage, private, means an accessory building or portion of a main building designed or used solely for the storage of motor-driven vehicles, boats and similar vehicles owned and used by the occupants of the building to which it is accessory.

Garage, service, means any premises used for the storage or care of motor-driven vehicles, or where any such vehicles are equipped for operation, repaired, or kept for remuneration, hire or sale.

Gasoline service station means a place for dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and services for motor vehicles, but not including major automobile repair.

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

Gross parcel area means total area of property being considered for development under the open space residential projects provisions of article V of this chapter.

Home occupation means an occupation or profession customarily carried on by an occupant of a dwelling unit as a secondary use which is clearly incidental to the use of the dwelling unit for residential purposes. The term "home occupation" includes the use of a single-family residence by an occupant of that residence for a home occupation to give instruction in a craft or fine art within the residence.

Hotel means a building or part of a building, with a common entrance or entrances, in which the dwelling units or rooming units are used primarily for transient occupancy, and in which one or more of the following services are offered: maid service, furnishing of linen, telephone, secretarial, or desk service, and bellboy service. The term "hotel" may include a restaurant or cocktail lounge, public banquet hall, ballroom, or meeting room.

Intensive livestock operation means any farm or farm operation engaged in raising, breeding, or feeding beef or dairy cattle, horses, swine, sheep, goats, poultry/fowl, turkeys, ducks, or other livestock in concentrations of 300 or more animal units, including any buildings, structures, excavations, or enclosed areas directly involved therein, including land used for pasture or feedlot purposes, and any animal waste storage structures, excavations, or areas directly connected to or associated with such operations. The number of animals per animal unit is defined elsewhere in this section under the term "animal unit." See also the provisions of applicable generally accepted agricultural management practices (GAAMPs), especially GAAMPs for site selection and odor control for new and expanding livestock production facilities, adopted June 1, 2000, which may govern.

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

Kennel means any lot or premises on which three or more dogs, cats, or other household pets are either permanently or temporarily boarded for remuneration. The term "kennel" shall also include any lot or premises where household pets are bred and sold.

Loading space means an off-street space on the same lot with a building, or group of buildings, for the temporary parking of a commercial vehicle while loading and unloading merchandise and materials.

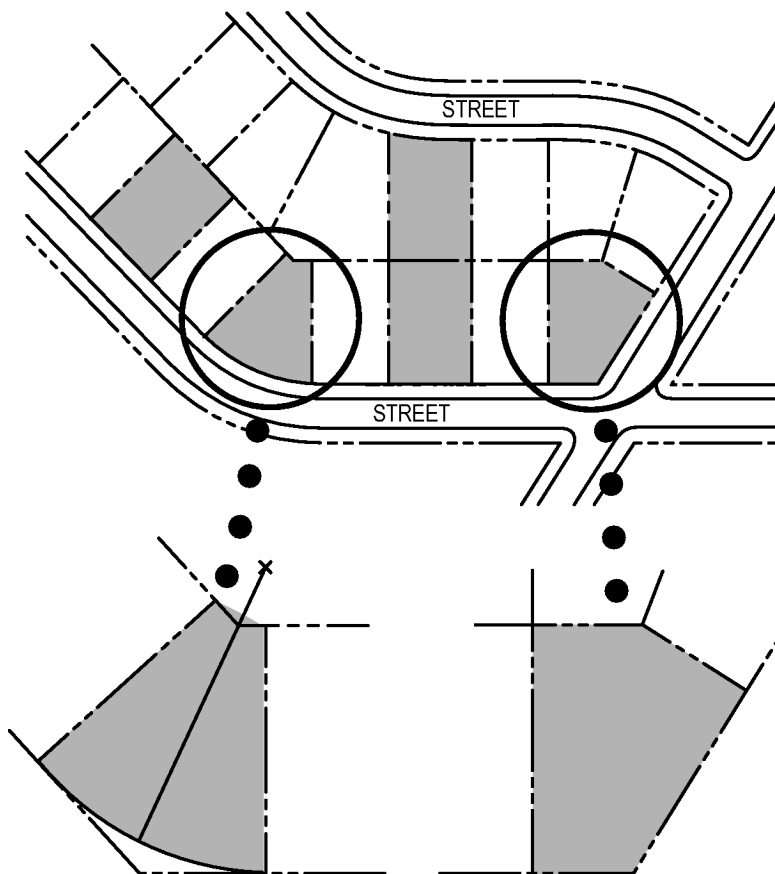
Lot means a parcel of land occupied, or intended to be occupied by a main building or group of such buildings and accessory buildings, when such buildings are under single ownership and when permitted under the provisions of this chapter, or utilized for the principal uses and uses accessory thereto, together with such yards and open spaces as are required under the provisions of this chapter. A lot may or may not be specifically designated as such on public records.

Lot, corner, means a lot where the interior angle of two adjacent sides at the intersection of two streets is less than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purposes of this chapter if the arc is of less radius than 150 feet and the tangents to the curve, at the two points where the lot lines meet the curve or the straight line extended, form an interior angle of less than 135 degrees. (See illustration.)

Lot, interior, means any lot other than a corner lot.

Lot, through, means any interior lot having frontage on two more or less parallel streets, as distinguished from a corner lot. In the case of a row of double frontage lots, all yards of such streets adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

Interior, Through, & Corner Lots



Lot, zoning, means a single tract of land, located within a single block, which, at the time of filing for a building permit is designated by its owner or developer as a tract to be used, developed, or built upon as a unit, under single ownership or control. A zoning lot shall satisfy this chapter with respect to area, size, dimensions and frontage as required in the district in which the zoning lot is located. A zoning lot, therefore, may not coincide with a lot of record as filed with the county register of deeds, but may include one or more lots of record.

Lot area means the total horizontal square footage of the lot or parcel within the lot lines of the lot or parcel.

Lot coverage means the part or percent of the lot occupied by all building footprints including accessory buildings as measured to the building lines.

Lot depth means the horizontal distance between the front and rear lot lines, measured along the median between the side lot lines.

Lot line means the line bounding a lot as defined herein:

- (1) *Front lot line*—In the case of an interior lot, the line separating said lot from the street (known as the right of way line), in the case of a corner lot or double frontage lot, the line separating said lot from that street which is designed as the front street in the plot and the request for zoning compliance permit. In the case of lots bordering on a lake, river, stream, pond or canal, the established water or shoreline shall be designated as the front of such lots.

- (2) *Rear lot line*—The lot line opposite the front lot line. In the case of a lot irregularly shaped at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than ten feet long lying farthest from the front lot line and wholly within the lot.
- (3) *Side lot lines*—Any lot lines other than the front lot lines or the rear lot line. A side lot line separating a lot from a street is a "side street" lot line. A side lot line separating a lot from another lot or lots is an "interior side" lot line.

Lot of record means a parcel of land, the dimensions of which are shown on a document or map on file with the county register of deeds or in common use by municipal or county officials and which actually exists as so shown or any part of such parcel held in record ownership separate from that of the remainder thereof.

Lot width means the required distance between the side lot lines, measured in a straight line at the two points where the required front setback intersects the side lot lines. For lots located on the turning circle of a cul-de-sac, the lot width may be reduced to 80 percent of the required lot width.

Main building means a building in which is conducted the principal use of the lot upon which it is situated.

Major thoroughfare means an arterial street which is intended to serve as a large volume trafficway for both the immediate county area and the region beyond.

Master plan means a generalized graphic community plan indicating the general location for streets, parks, public buildings, and all physical development of the municipality, and includes any unit or part of such plan, and any amendment to such plan or parts thereof.

Mezzanine means an intermediate floor in any story occupying not to exceed 30 percent of the floor area of such story. (See illustration.)

Mobile home means a structure, transportable in one or more sections, which is built on a chassis and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

Mobile home park (trailer court) means any plot of ground upon which three or more mobile homes occupied for dwelling or sleeping purposes are located.

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

Nonconforming building means a building or portion thereof lawfully existing at the effective date of the ordinance from which this chapter is derived (December 13, 1977) or amendments thereto, and that does not conform to the provisions of this chapter for the district in which it is located.

Nuisance factor means an offensive, annoying, unpleasant, or obnoxious thing or practice, a cause or source of annoyance, especially a continuing or repeating invasion of any physical characteristics or activity or use across a property line which can be perceived by or affects a human being, or the generation of an excessive or concentrated movement of people or things, such as, but not limited to:

- (1) Noise.
- (2) Dust.
- (3) Smoke.
- (4) Odor.
- (5) Glare.
- (6) Fumes.
- (7) Flashes.

- (8) Vibration.
- (9) Heat.
- (10) Electronic or atomic radiation.
- (11) Objectionable effluent.
- (12) Noise or congregation of people, particularly at night.
- (13) Passenger traffic.
- (14) Invasion of non-abutting street frontage by traffic.

Nursery, plant materials, means a space, building or structure, or combination thereof, for the storage of live trees, shrubs or plants offered for sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this chapter does not include any space, building, or structure used for the sale of fruits, vegetables, or Christmas trees.

Off-street parking means a facility providing vehicular parking spaces along with adequate drives and aisles for maneuvering so as to provide access for entrance and exit for the parking of more than three vehicles.

Open front store means a business establishment so developed that service to the patron may be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations or automobile service stations.

Open space means the combined area of primary and secondary conservation areas within an open space residential project development, not individually owned, which is designed and intended to conserve environmental features for the common use or enjoyment of the residents of the development or the public. Such open space may contain accessory structures and improvements appropriate for recreational purposes, as provided by division 5 of article IV of this chapter.

Ordinary high water mark means the line between upland and bottomland that persists through successive changes in water levels, below which the presence and absence of water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation. On an inland lake that has a level established by law, it means the high established level. Where water returns to its natural level as the result of the permanent removal or abandonment of a dam, it means the natural ordinary high-water mark". See illustration below:

Parking space means an area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the parking of permitted vehicles.

Permitted uses means principal and accessory uses as listed in this chapter for particular zoning districts that may be carried on within the districts in accordance with any standards, conditions, or requirements as listed in this chapter, subject in most cases to the issuance of a building or other permit by the Township Zoning Administrator. Uses which are permitted uses in a particular zoning district may not be permitted at all in another, or may be permitted as a special exception use if so approved by the Planning Commission. (See *Special exception uses*.)

Primary conservation area means sensitive environmental features that are deducted from the gross parcel area to produce the adjusted parcel area. lands to be deducted include wetlands, inundated lands, (lakes, ponds, streams, drains) lands within a 100-year floodplain, and slopes exceeding 18 percent grade.

Recycling facility is a facility designed and operated solely for receiving, storing, and transferring source-separated recyclable materials such as paper, metal, glass, food waste, office paper and plastic that are kept separate and apart from residential, commercial, and institutional solid waste by the generator of the waste for the purposes of collection, disposition, and recycling

Room means, for the purpose of determining lot area requirements and density in a multiple-family district, a living room, dining room, or bedroom that is equal to 80 square feet in area for each room. The term "room" shall not include the area in kitchens, sanitary facilities, utility provisions, corridors, hallways, and storage. Plans presented showing one-, two-, or three-bedroom units and including a den, library, or other extra room shall count such extra room as a bedroom for the purpose of computing density.

Secondary conservation area means a minimum of 50 percent of the adjusted parcel area which may consist of upland buffers of natural species for wetlands and surface waters, including lakes, ponds, and natural drainageways, other natural or cultural features including, but not limited to mature woodlands, wildlife habitat areas, prime farmland, historic sites, and/or scenic views from public rights-of-way designated for conservation.

Setback means the distance required to obtain minimum front, side or rear yard open space provisions of this chapter.

- (1) *Front setback* is the minimum required horizontal distance between the front lot line and the building line. The front setback on parcels bordering a lake, river, stream, pond, or canal is the side bordering the lake, river, stream, pond or canal.

Shooting range means any facility indoor or outdoor, whether operated for profit or not, and whether public or private, or used for law enforcement firearms training, which is designed for the use of firearms, archery which are aimed at targets, skeet or trap. "Paintball" which is a recreational activity in which balls of paint are shot at targets or moving objects and people from specialized "paintball guns" is also included in this definition. This definition shall not apply to the occasional shooting activities (clay target thrower, target shooting) undertaken by a property owner or tenant for personal enjoyment and contained within the property boundaries.

Sign means a device, structure, painting, fixture or placard using color, graphics, symbols, and/or written copy designed and/or utilized for the purposes of advertising or identifying any event, establishment, product, good, service or displaying or depicting other information.

The following definitions relate to signs:

- (1) *Abandoned sign* means a sign which no longer identifies or advertises a currently operating business, lessee, service, owner, product or activity and/or for which no legal owner can be found.
- (2) *Accessory sign* means a sign relating in subject matter to the main or principal use of the premises.
- (3) *Animated sign* means a sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the animated sign emphasizes graphics and artistic display.
- (4) *Awning, canopy or marquee* means a permanent retractable or fixed shelter constructed of non-rigid material on a supporting framework that projects from the exterior wall of a building.
- (5) *Awning, canopy or marquee sign* means letters, numerals or other drawings painted on, printed on or attached to the surface of an awning, canopy or marquee.
- (6) *Banner sign* means a temporary sign intended to be hung either with or without frames, possessing letters, characters, illustrations or ornamentation applied to paper, plastic, or fabric of any kind.
- (7) *Beacon* means any light with one or more beams directed into the atmosphere or directed at one or more point not on the same lot as the light source; also, any light with one or more beams that rotate or move.
- (8) *Billboard*: See off-premise sign.
- (9) *Building marker* means any sign indicating the name of a building and date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material and attached to the structure.

- (10) *Commercial message* means any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
- (11) *Construction sign* means a sign which displays the name or names of principal contractors, architects, lending institutions, and/or others responsible for construction on the site where the sign is located.
- (12) *Copy* means the wording on a sign surface in either permanent form, manual changeable copy form or electronic changeable form.
- (13) *Copy, electronic changeable* means the wording on a sign that contains letters, symbols, figures, depictions, and/or numbers that can be electronically or digitally changed or that do change electronically or digitally. Such signs can utilize digital, LED or electronic technology.
- (14) *Copy, manual changeable* means the wording on a sign that contains, letters, symbols, figures, depictions and/or numbers that can be manually removed and replaced.
- (15) *Copy, permanent* means the wording on a sign that contains letters, depictions and/or numbers that is permanent in nature.
- (16) *Development sign/building identification sign* means a sign that identifies a development or building by its recognized name, not including a product or service.
- (17) *Digital sign/digital billboard* means a digital sign or digital billboard which usually consists of (or has a portion comprised of) a computer or playback device connected to a large, bright digital screen such as an LCD, LED, computer, plasma or similar display. Such signs can utilize electronic changeable copy.
- (18) *Directional sign* means a sign that gives directions, instructions or facility information for the use on the lot on which the sign is located. A directional sign shall not contain advertising display copy and shall be located on the property where the development is located.
- (19) *Directory sign* means a sign that displays only the names and locations of occupants or the uses of a building, but without advertising display copy.
- (20) *Façade* means the entire building front including the parapet.
- (21) *Face of sign (sign face)* means the area of a sign on which the copy or display is placed.
- (22) *Farm business sign* means a sign advertising the location of a farm or business associated with that farm, such as a farmer's market, road side stand or the farm name.
- (23) *Festoons* means a string of ribbons, tinsel, flags, pennants or pinwheels.
- (24) *Flag* means any fabric, banner, or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government or political subdivision.
- (25) *Freestanding sign* means a sign structurally separated from a building.
- (26) *Gateway sign* means a sign erected by a non-profit entity or a service organization identifying a community, a community organization and/or community activity
- (27) *Gas or air filled balloon sign* means a sign that is made of a nonporous bag of tough, light material filled with gas or air used to convey advertising copy or announce a special event on a temporary basis.
- (28) *Government sign* means a sign erected by Fabius Township, St. Joseph County, the state of Michigan, any other municipal entity and/or the federal government.
- (29) *Ground sign/monument sign* means a freestanding sign supported by a base that rests directly on the ground. The width of the base shall be at least 50 percent of the sign in order to be a ground sign.

- (30) *Home occupation sign* means a sign that identifies a home occupation that is operating on a residential property and is classified as a home occupation per the requirements of this chapter and has received all necessary approvals for such use.
- (31) *Illuminated sign* means a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.
- (32) *Industrial park sign/business park sign* means a freestanding sign that identifies the name of an industrial park, business park or other similar land use, but does not contain advertising copy of any business located within that park.
- (33) *LCD* means liquid crystal display.
- (34) *LED* means light emitting diode.
- (35) *Mansard* means a sloped roof or roof-like façade architecturally comparable to a building wall.
- (36) *Mobile home park identification sign* means a ground or monument sign identifying or recognizing a mobile home park development.
- (37) *Nameplate* means a non-electric on-premise sign giving only the name, address, and/or occupation of an occupant or group of occupants, which does not contain graphics of any kind.
- (38) *Negative space* means the open space surrounding words, numbers or other text on a sign.
- (39) *Neon sign* means an illuminated sign constructed from fluorescent lights in the form of bent glass tubes; the different colors being obtained by adding different gases to the neon.
- (40) *Non-conforming sign* means a sign was lawfully erected prior to this chapter, or amendment thereto, but that does not conform to this chapter or other applicable Township ordinances. Also known as a lawful non-conforming sign.
- (41) *Noncommercial message* means any sign wording, logo or other representation that is not a commercial message.
- (42) *Off premise directional sign* means a sign, not to exceed 100 square feet in area, the sole purpose of which is to direct the public to a place of business located off the premises from where the sign is located.
- (43) *Off premise sign* means a sign which advertises or designates an establishment, service, merchandise, use, entertainment, activity, produce or message which is not conducted, sold, produced, manufactured or furnished upon the parcel or lot where the sign is located (e.g. billboards, off premise directional sign).
- (44) *Parapet* means a wall-like barrier at the edge of a roof or structure.
- (45) *Pennant* means any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in series, designed to move in the wind.
- (46) *Permanent sign* means a sign which is permanently affixed into the ground or a building and meets the requirements of a structure under the Michigan Building Code or its successor code.
- (47) *Point of sale sign* means a sign that carries only the name of the firm, major enterprise or products offered for sale on the premises.
- (48) *Pole or pylon sign* means a sign which is erected upon or supported by the ground on one (1) or more poles, uprights or braces.
- (49) *Portable freestanding sign* means a reusable and movable sign not permanently affixed in the ground or to a structure or building, typically containing changeable copy. Except as otherwise expressly provided for in this Ordinance, such sign shall only advertise, reference, identify or promote a product, service, business or event occurring on the lot or parcel where the sign is located.

- (50) *Political sign* means a temporary sign used in connection with a noncommercial message or an official Township, school district, county, state or federal election or referendum.
- (51) *Projecting sign* means a sign that is attached to and projects from a wall or other structure not specifically designed to support the sign.
- (52) *Real estate sign* means a temporary sign advertising the real estate upon which the sign is located as being for sale, lease or rent.
- (53) *Roofline* means the top edge of a roof or building parapet, whichever is higher, excluding any cupolas, chimneys or minor projections.
- (54) *Roof sign* means a sign which is erected or constructed wholly upon or above the roof of a building and supported on the roof structure.
- (55) *Sidewalk sign* means a sign placed on a sidewalk adjacent to a business that advertises daily or weekly specials. Examples of a sidewalk sign include A-frame signs and sandwich board signs.
- (56) *Sign owner* means a person who owns a sign. The owner of the premises upon which a sign is located is presumed to be the sign owner, unless facts showing someone else to be the sign owner are submitted to the Zoning Administrator and the Zoning Administrator makes a decision that the sign belongs to someone other than the owner of the premises.
- (57) *Snipe sign* means any sign of any size, made of any material, which is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, fences or other objects and the advertising matter appearing thereon is not applicable to the premises upon which the sign is located.
- (58) *Street banner sign* means a sign that is stretched across and hung over a street or road right-of-way or easement.
- (59) *Subdivision or site condominium advertising sign* means a sign advertising available lots and/or units within a subdivision or condominium development, including residential, commercial or industrial developments.
- (60) *Subdivision or site condominium identification sign* means a ground or monument sign identifying or recognizing a subdivision or condominium development, including residential, commercial or industrial developments.
- (61) *Vehicle sign* means a sign containing a commercial message that is painted on, incorporated in, or attached directly to any mode of transportation, including, but not limited to automobiles, trucks, boats, trailers, or airplanes. A sign painted on a vehicle identifying the business owning or using the vehicle, or a sign depicting the name of the owner of the vehicle is not considered a vehicle sign.
- (62) *Wall sign or building sign* means a sign, including painted, individual letters, and cabinet signs, and signs on a mansard that are attached parallel to and extending not more than fifteen (15) inches from the wall of a building.
- (63) *Wayfinding sign* means signs, maps and other graphic methods used to convey location and direction to travelers.
- (64) *Window sign* means a sign placed inside or upon a window facing the outside which is intended to be seen from the street or road right-of-way or the outdoors.

Single loaded street or road means a street or road, usually one-way, that has dwellings or other structures situated on only one side of the road, the other side often being designated open space, as in an open space residential project.

Solar means of or relating to the sun.

- (1) *Accessory use solar energy system* means an accessory use solar energy system is any solar energy system where the primary use of the land is something other than the solar energy system. Such as a residence or business planning a solar energy system to be constructed on

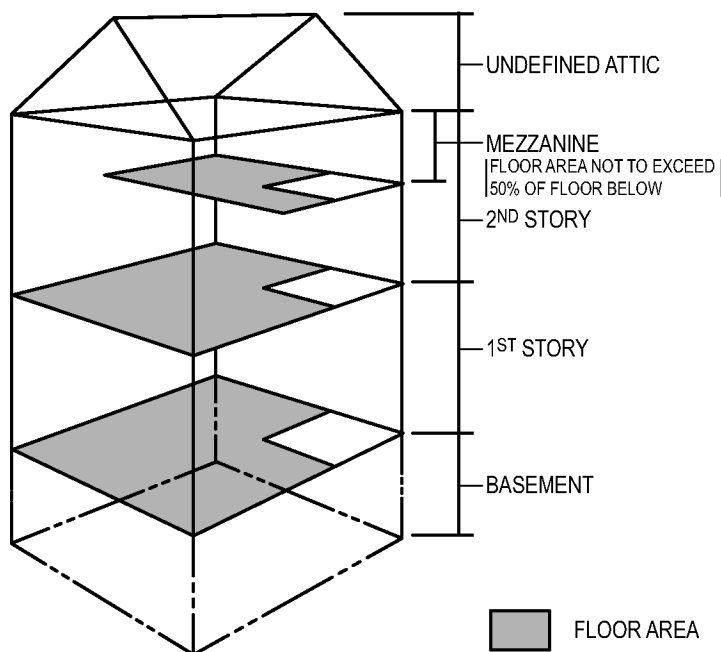
the same site. Accessory use systems may be found mounted on structures that have different uses or near structures that have different uses.

- (2) *Array (solar)* means any number of solar modules or panels connected, whether by photovoltaic devices, concentrating solar thermal devices, or any other various solar technologies, to provide a single electrical output level required for any given system.
- (3) *Module/Panel (solar)* means several individual solar cells connected in an environmentally protected housing producing a standard output voltage and power. Multiple modules / panels can be assembled into an array for increased power and/or voltage.
- (4) *Photovoltaic device (solar)* means a system of components that generate electricity from incident sunlight by means of the photovoltaic effect.
- (5) *Primary use solar energy system* means a primary solar energy system is any solar energy system where the primary use of the land is for the solar array and its associated structures.
- (6) *Storage (solar)* means a system of components that can store energy for later use.

Special exception uses means principal and accessory uses as listed in this chapter for particular zoning districts that may be carried on within the district when authorized by the Planning Commission after considering the standards and requirements as listed for each such use, and in accordance with the provisions of article VII, conditional use purposes and standards, of this chapter. Building or other permits for such uses shall not be issued until such special exception use permits are granted by the Planning Commission. As used in this chapter, the terms "conditional use," "exceptional use," "special use," "special exception use," and "special land use" are synonymous.

Story means that part of a building, except a mezzanine as defined herein, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. A story thus defined shall not be counted as a story when more than 50 percent, by cubic content, is below the grade (ground elevation). (See illustration.)

Basic Structural Terms



Story, half, means an uppermost story lying under a sloping roof having an area of at least 200 square feet with a clear height of seven feet six inches. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between the floor and ceiling.

Street means any public or private road, avenue, boulevard, drive, lane, thoroughfare, highway, court or private easement not including an alley, which affords the principal means of access to and egress from the property abutting along its length.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having such location on the ground including but not limited to all buildings, independently supported decks, and satellite dishes; excepting anything lawfully in a public right-of-way including but not limited to utility poles, sewage pumping stations, utility manholes, fire hydrants, electric transformers, telephone boxes, and related public facilities and utilities as defined in essential services.

Temporary use or building means a use or building permitted by the Zoning Administrator to exist during periods of construction of the main building, or for special events.

Trailer coach means any vehicle designed, or constructed so as to permit its being regularly used as a conveyance upon the public streets or highways and constructed in such a manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

Tower means any ground or roof mounted pole, spire, structure or combination thereof taller than 15 feet, including support lines, cables, wires, braces, and masts intended primarily for the purpose of mounting antennas, meteorological devices, or similar devices above grade.

Use means the principal purpose for which land or a building is arranged, designated or intended, or for which land or a building is or may be occupied.

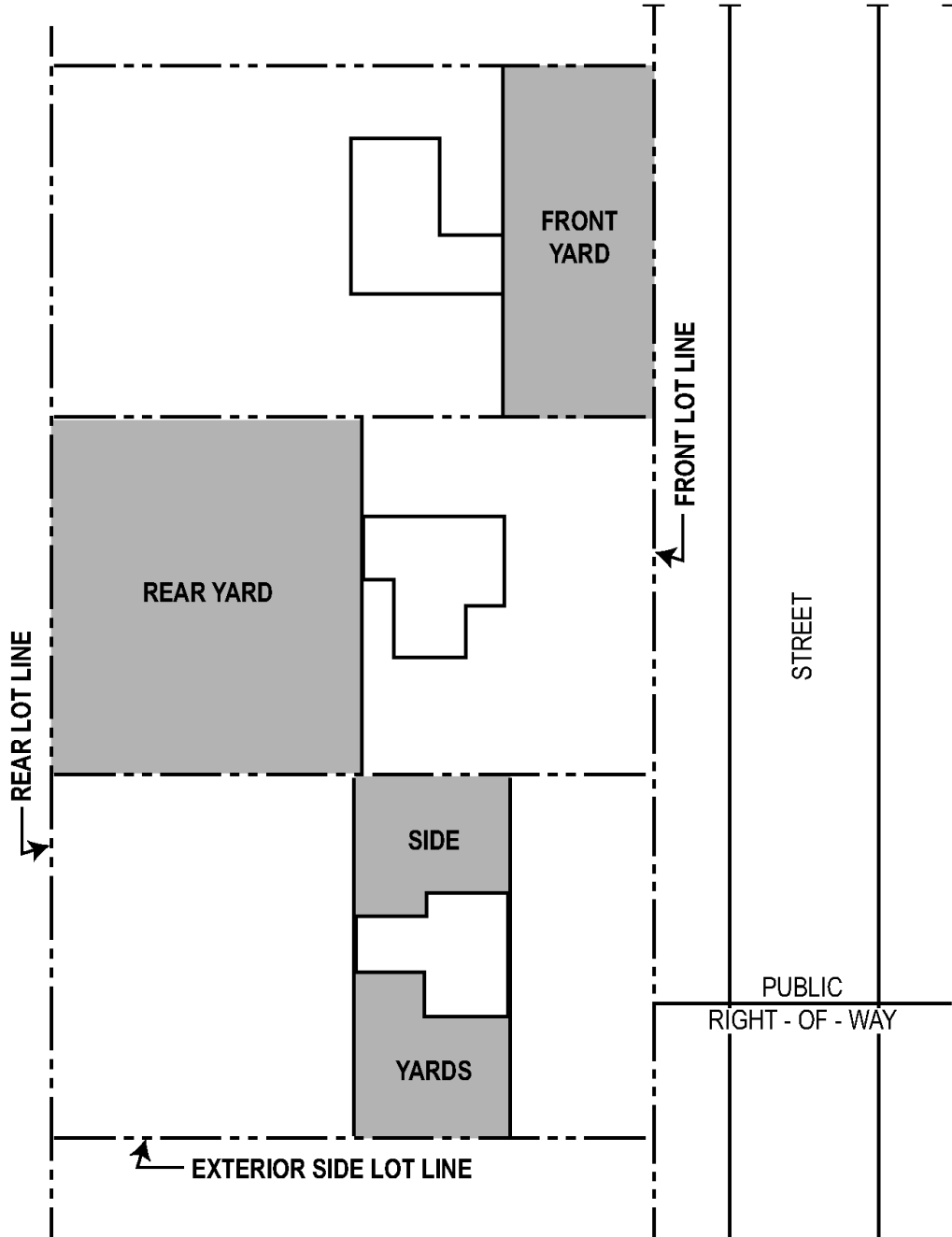
Variance. A variance may be granted from the strict application of the provisions of this chapter whereby by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property on December 13, 1977, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations would result in peculiar or exceptional practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the ordinance. In order for the Board of Appeals to grant a variance, the applicant must show that the problem is not self-created. In granting a variance, the Board of Appeals shall state the grounds upon which it justifies the granting of the variance and may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purposes of this chapter.

Wall, obscuring means a structure of definite height and location to serve as an obscuring screen in carrying out the requirements of this chapter.

Yard(s) means the area of each lot or parcel in which no building or structure shall be erected. The size of such area is determined by the distance from the front lot line and the side and rear property lines to the building lines.

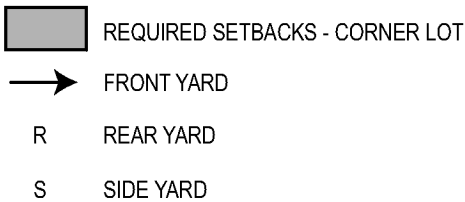
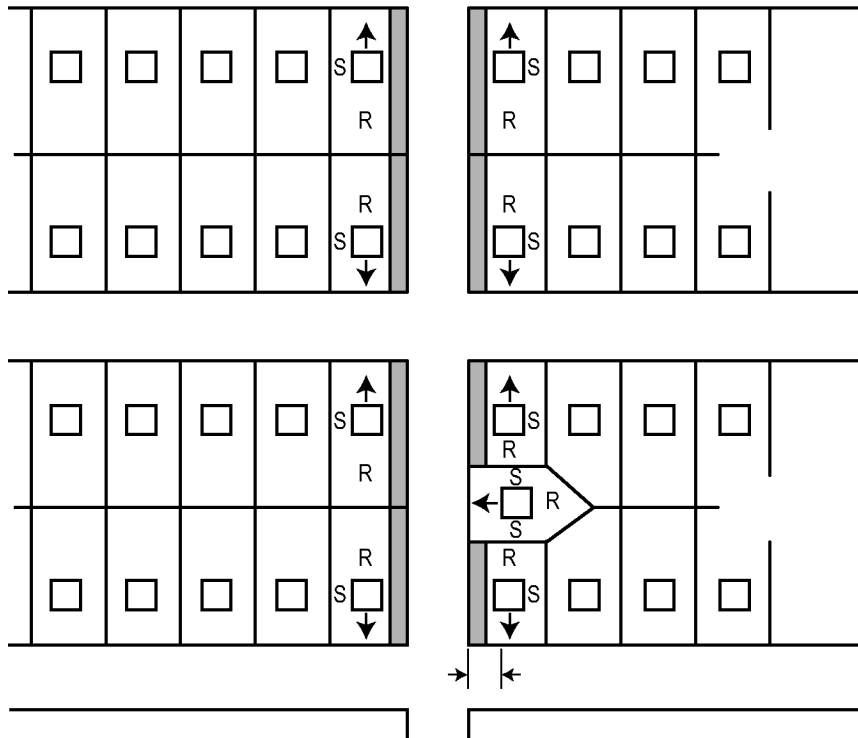
- (1) *Front yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building. (See illustration.) Also see lot line, front lot line, for special conditions in LR Lake Residential Districts, where the front yard is the lake or water side.
- (2) *Rear yard* means an open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. (See illustration.)
- (3) *Side yard* means an open space between a main building and the side lot line, extending between the front yard to the rear yard, the width of which is the horizontal distance from the nearest point on the side lot line to the nearest point of the main building. (See illustration.)

Yards



In the case of a rear yard abutting a side yard, the side yard abutting a street shall not be less than the minimum side yard of the district in which located. (See diagram.)

Side Yards Abutting Streets



(Zoning Ord. 1977, art. II, § 201; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 25, 10-1-1982; Ord. No. 52, 11-10-1993; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 72, 6-26-1999; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 112, 3-26-2006; Ord. No. 137, § 1, 2-8-2012; Ord. No. 142, § I, 9-10-2014; Ord. No. 144, § II, 8-12-2015; Ord. No. 154, § I(A—D), 1-9-2019; Ord. No. 163, § 3, 1-8-2020; Ord. No. 164, § I(A, B), 2-12-2020)

State Law reference— Definitions, MCL 125.3102.

Sec. 46-4. - Construction of language.

The following rules of construction apply to the text of this chapter:

- (1) The particular shall control the general.
- (2) In the case of any difference of meaning or implication between the text of this chapter and any caption or illustration, the text shall control.

- (3) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural shall include the singular, unless the context clearly indicates the contrary.
- (4) A building or structure includes any part thereof.
- (5) The term "used for" includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

(Zoning Ord. 1977, art. II, § 200; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-5. - Interpretation.

In the interpretation and application, the provisions of this chapter shall be held to be minimum requirements adopted for the promotion of the public health, morals, safety, comfort, convenience, or general welfare. It is not intended by this chapter to repeal, abrogate, annul, or in any way to impair or interfere with any existing provision of law or ordinance, or with any rules, regulations or permits previously adopted or issued or which shall be issued or adopted pursuant to the law relating to the use of buildings or premises.

(Zoning Ord. 1977, art. XVIII; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

State Law reference— Conflicts between zoning and other ordinances, MCL 125.3210.

Sec. 46-6. - Vested rights.

Nothing in this chapter should be interpreted or construed to give rise to any permanent vested rights in the continuation of any particular use, district, zoning classification or any permissible activities therein; and, they are hereby declared to be subject to subsequent amendment, change or modification as may be necessary to the preservation or protection of the public health, safety and welfare.

(Zoning Ord. 1977, art. XIX; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-7. - Violations, penalties, and other remedies.

(a) *Infractions and fines.*

- (1) Any person, firm, or corporation or other entity who violates, disobeys, omits, neglects, or refuses to comply with any of the provisions of this chapter shall be responsible for a municipal civil infraction and shall pay a fine according to the following schedule:

First offense	\$ 75.00
Second offense within 3 years	150.00
Third offense within 3 years	325.00
Fourth offense within 3 years	500.00

- (2) If a determination of responsibility is made by the court, the court may impose costs as provided for by law in addition to the fines called for above.
- (3) The foregoing penalties shall not prohibit the Township from seeking injunctive relief against a violator or such other appropriate relief as may be provided by law.

State Law reference— Authority to make ordinance violation a municipal civil infraction, MCL 125.3407; municipal civil infractions, MCL 600.8701 et seq.

- (b) *Public nuisance per se.* Any building or structure which is erected, altered or converted, or any use of premises or land which is begun or changed subsequent to the time of passage of the ordinance from which this chapter is derived (December 13, 1977) and in violation of any of the provisions thereof is hereby declared to be a public nuisance per se, and may be abated by order of any court or competent jurisdiction.

State Law reference— Similar provisions, MCL 125.3407.

- (c) *Owner's responsibility.* The owner of any building, structure or premises or part thereof, where any condition in violation of this chapter shall exist or shall be created and who has assisted knowingly in the commission of such violation shall be guilty of a separate offense and upon conviction thereof shall be liable to the fines and imprisonment herein provided.
- (d) *Rights and remedies are cumulative.* The rights and remedies provided herein are cumulative and in addition to any other remedies provided by law.

(Zoning Ord. 1977, art. XXII, §§ 2200—2204; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-8. - Changes and amendments.

The Township Board may, from time to time, on recommendation from the Planning Commission, amend, supplement, or change the district boundaries or the regulations herein, or subsequently established herein pursuant to the authority and procedure established in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.).

(Zoning Ord. 1977, art. XX; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

State Law reference— Amendments, MCL 125.3401 et seq.

Sec. 46-9. - Reserved.

Editor's note— Ord. No. 144, § 1, adopted Aug. 12, 2015, repealed former § 46-9, in its entirety which pertained to general exceptions to the regulations of this chapter and derived from Zoning Ord. 1977, art. XV, § 1500; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997

Secs. 46-10—46-44. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

DIVISION 1. - GENERALLY

Sec. 46-45. - Enforcement officers designated.

The provisions of this article shall be administered and enforced by the Zoning Administrator or by such deputies of this department as the Zoning Administrator may delegate to enforce the provisions of this article.

(Zoning Ord. 1977, art. XVI, § 1600; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-46. - Duties of Zoning Administrator.

- (a) The Zoning Administrator shall have the power to grant zoning compliance and occupancy permits, to make inspections of buildings or premises necessary to carry out his or her duties in the enforcement of this article. It shall be unlawful for the Zoning Administrator to approve any plans or issue any permits or certificates of occupancy for any excavation or construction until he or she has inspected such plans in detail and found them to conform with this article.
- (b) Under no circumstances is the Zoning Administrator permitted to make changes to this article nor to vary the terms of this article in carrying out his or her duties as Zoning Administrator.
- (c) The Zoning Administrator shall not refuse to issue a permit when conditions imposed by this article are complied with by the applicant despite violations of contracts, such as covenants or private agreements, which may occur upon the granting of said permit.
- (d) In cases where the determination of a particular property line and/or monument is not readily discernable or where an exact measurement is required, the Zoning Administrator shall have the right and ability to require an official survey to be provided by the applicant.
- (e) In any situation where the dimensions, area, or size are disputed or are contradictory from multiple sources a survey conducted by a registered professional surveyor shall govern above all other sources of information including tax records.

(Zoning Ord. 1977, art. XVI, § 1601; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 144, § IV, 8-12-2015; Ord. No. 154, § II, 1-9-2019)

Sec. 46-47. - Nonconforming lots, structures, and uses; repairs and maintenance; and changes of tenancy or ownership.

- (a) *Intent.* It is the intent of this article to permit legal nonconforming lots, structures, or uses to continue until they are removed but not to encourage their survival.
- (1) It is recognized that there exist within the districts established by this article and subsequent amendments, lots, structures and uses of land and structures which were lawful before this article was passed or amended which would be prohibited, regulated, or restricted under the terms of this article or future amendments. Such uses are declared by this article to be incompatible with permitted uses in the districts involved. It is further the intent of this article that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.
- (2) A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this article by attachment on a building or premises of additional signs intended to be seen from off the premises, or by addition of other uses of a nature which would not be permitted generally in the district involved.
- (3) To avoid undue hardship, nothing in this article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this article and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the demolition or removal of the building involved and the subsequent rebuilding.
- (b) *Nonconforming lots and parcels.*
- (1) *Nonconforming lots.* In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this article, a single-family dwelling and customary accessory building(s) may be erected on any single lot of record at the effective date of adoption or amendment of this article. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district,

provided that yard dimensions and other requirements not involving area or width, or both of the lot shall conform to the regulations for the district in which such lot is located. Yard requirement variances may be obtained through approval of the Board of Appeals.

- (2) *Nonconforming parcels.* Any existing parcel as of the effective date of the ordinance from which this chapter is derived (December 13, 1977) may be used for any principal use in the zoning district in which it is located whether or not such lot complies with the lot area requirements. Such use may be made, provided that all other requirements other than parcel area are complied with, and provided that no more than one dwelling unit shall occupy any such parcel.
- (c) *Nonconforming uses of land.* Where, at the effective date of the adoption or amendment of the ordinance from which this article is derived, lawful use of land exists that is made no longer permissible under the terms of this article as enacted and amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption or amendment of this article; the Zoning Board of Appeals shall have the right to grant variances from the foregoing in specific hardship situations.
 - (2) No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of the adoption or amendment of this article.
 - (3) If such nonconforming use of land ceases for any reason for a period of more than six months, any subsequent use of the land shall conform to the regulations specified by this article for the district in which such land is located.
- (d) *Nonconforming structures.* Where a lawful structure exists at the effective date of the adoption or amendment of the ordinance from which this article is derived that could not be built under the terms of this article by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No such structure may be enlarged or altered in a way which increases its nonconformity. Such structure may be enlarged or altered in a way which does not increase its nonconformity. The Zoning Board of Appeals shall have the right to grant variances from the foregoing in specific hardship situations.
 - (2) A lawfully nonconforming structure which is damaged or destroyed by Acts of God out of the control of the owner such as wind storm, natural disaster, tornado or earthquake may be reconstructed on the same footprint and/or size foundation as it previously existed prior to the destruction.
 - (3) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
- (e) *Nonconforming uses of structures and land.* If a lawful use of a structure and land in combination exists at the effective date of the adoption or amendment of the ordinance from which this article is derived that would not be permitted in the district under the terms of this article, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:
 - (1) No existing structure devoted to a use not permitted by this article in the district in which it is located shall be enlarged, extended, constructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
 - (2) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use, and which existed at the time of adoption or amendment of this article, but no such use shall be extended to occupy any land outside such building.
 - (3) If no structural alterations are made, any nonconforming use of a structure, or structure and land in combination, may be changed to another nonconforming use of the same or more restricted classification provided that the Zoning Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more

appropriate to the district than the existing nonconforming use. In permitting such change, the Zoning Board of Appeals may require conditions and safeguards in accord with the purpose and intent of this article. Where a nonconforming use of a structure, land, or structure and land in combination is hereafter changed to a more conforming use, it shall not thereafter be changed to a less conforming use.

- (4) Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.
- (5) When a nonconforming use of a structure, or structures and land in combination, is discontinued or ceases to exist for six consecutive months, or for 18 months during any three-year period, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Structures occupied by seasonal use shall be excepted from this provision.
- (6) Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.
- (f) *Repairs and maintenance.* On any building devoted in whole or in part to any nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 50 percent of the assessed value of the building, provided that the cubic content of the building as it existed at the time of passage or amendment of this article shall not be increased. The foregoing 50 percent limitation shall not be construed to pertain to buildings destroyed by fire or other calamities. Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.
- (g) *Reserved for expansion.*
- (h) *Change of tenancy or ownership.* There may be a change of tenancy, ownership or management of any existing uses of land, structures, or land and structures in combination.

(Zoning Ord. 1977, art. XIV, § 1405; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 144, §§ III, IV, 8-12-2015)

State Law reference— Nonconforming uses and structures, MCL 125.3208.

Secs. 46-48—46-67. - Reserved.

DIVISION 2. - SITE PLAN REVIEW^[2]

Footnotes:

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State Law reference— Site plans, MCL 125.3501.

Sec. 46-68. - Intent.

The intent of this division is to provide for consultation and cooperation between land owners/developers and the Township so that developers may accomplish their objectives in land utilization within the provisions of this chapter and with minimum adverse effect on the use of adjacent streets and highways and on existing and future uses in the immediate area and vicinity.

(Zoning Ord. 1977, art. XIII, § 1300; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-69. - General policies and requirements.

- (a) *Building permits.* Except as hereinafter set forth, the Township shall not issue a building permit for construction or enlargement of any buildings, structures or uses until a site plan, submitted in accordance with this division, shall have been reviewed and approved by the Planning Commission.
- (b) *Exceptions.* Site plans and site plan review shall be required for all uses except the following:
 - (1) Single- and two-family dwellings under separate ownership on an individual and separate lot for each home including driveways serving them.
 - (2) Residential and agricultural accessory buildings.
 - (3) Projects involving expansion, remodeling, or enlargement of existing buildings which comply fully with all requirements of this article and involve no new or additional means of access from adjoining public streets, roads, or highways.

(Zoning Ord. 1977, art. XIII, § 1301; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

Sec. 46-70. - Effective period.

An approved site plan shall be effective for a period of one year or the life of a building permit obtained pursuant to the approved site plan, whichever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless an extension has been approved by the Planning Commission, providing that there is compliance with all applicable site plan requirements that are in effect at the time the extension is granted.

(Zoning Ord. 1977, art. XIII, § 1302; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

Sec. 46-71. - Procedures.

- (a) *Optional sketch plan review.* In order that developers may be better informed regarding the conformity and acceptability of their proposed plans prior to incurring extensive design, engineering, and other costs involved in preparing a final site plan, preliminary sketches of the proposed site and development plans may be submitted to the Planning Commission for preliminary review and discussion. Any preliminary guidance given by the Planning Commission at this stage is intended to be helpful to the applicant, but views expressed by commissioners at this stage are not to be construed as approvals binding on the Planning Commission. Such sketch plans should include, as a minimum, the following:
 - (1) Names and addresses of the applicants and/or developers, including the appropriate officers of a corporation or members of a partnership, if applicable.
 - (2) A legal description of the property, its property number as used in the tax rolls, and its street address location.
 - (3) Sketch drawing showing proposed site and development plans, including planned dimensions, setbacks, etc.
- (b) *Site plan review application procedure.* Requests for site plan review shall be made by filing with the Township Zoning Administrator, at least 15 days prior to the meeting of the Planning Commission at which the site plan will be reviewed, the following:

- (1) Ten copies of a completed site plan review application form obtainable from the Township Zoning Administrator, which provides for the furnishing of the following information: names and addresses of applicants, street address, property number, and legal description of the land or property involved; area of the land in acres, or in square feet if less than two acres; present zoning classification of the land; current ownership status; and a general description of the proposed development in specific terms.
- (2) A site plan review fee according to the current schedule of fees as determined by the Township Board.
- (3) Ten copies of the proposed site plan containing the following information, except that for special uses on residential lots with a principal single-family building, one or more of the required items in subsections (b)(4)a through m of this section may be waived. Such waivers may be made by the Planning Commission by prior consultation, such as during the optional sketch plan review.
- (4) *Site plan requirements.* Unless approved as a minimum requirement plan by the Planning Commission in accordance with subsection (b)(4)d of this section, all site plans submitted for approval shall show:
 - a. An appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual and firm which prepared the plan. For property of three acres or less, scale shall be no smaller than one inch equals 20 feet; for property of more than three acres, scale shall be no smaller than one inch equals 50 feet.
 - b. All lot and/or property lines, properly dimensioned, including building set back lines and existing easements and rights-of-way, if any.
 - c. The location and height of all existing and proposed structures on the property and on adjacent properties within 100 feet of the property line, to include dimensions of proposed buildings as well as gross and usable floor space in square feet for each.
 - d. The locations and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking areas, (including a typical parking space) unloading areas, and recreation areas. (Parking provisions shall be in accordance with sections 46-685 through 46-687.) Evidence of approval for curb openings and drives on a state highway or county road from the appropriate commission shall also be provided.
 - e. The location of both pavement and right-of-way widths of all abutting roads, streets, and alleys.
 - f. The name, address, and telephone number of the property owner(s) and/or applicant.
 - g. The location and size of all existing and proposed utilities.
 - h. The location, size, and capacity of all surface drainage facilities.
 - i. Existing and proposed contours at a minimum interval of two feet, unless otherwise prescribed by the Planning Commission.
 - j. The location and type of all planned landscaping, green belts, or other required screening; location, height, and type of proposed fences and/or walls; location of all rubbish receptacles. (See section 46-654, plant materials, and section 46-656, walls.)
 - k. For those buildings, uses, or facilities which will be used or be available to the public for the purposes of education, employment, housing (other than privately owned one or two-family dwellings) transportation, or recreation; or for the sale, purchase, rental, or acquisition of goods and services, the name and address of the professional individual responsible for preparing the site plan, together with the imprint of his or her professional seal.
 - l. For multiple family developments, typical elevation views of the front and side of each type of proposed building, as well as dimensioned typical floor plans for each type.
 - m. If applicable, a summary schedule which gives the following information:

1. The number of dwelling units proposed, to include the number, size, and location (by legend, if necessary) of one-bedroom units, two-bedroom units, mobile home sites, etc.
 2. The residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas.
- (c) *Minimum requirements.* If approved by the Planning Commission, site plans satisfying the requirements of subsections (b)(4)a, b, c and f of this section.
- (d) *Site plan review.* In addition to review by its members, the Planning Commission shall routinely have proposed site plans reviewed by the Township Attorney, Fire Chief, Zoning Administrator, and Building Inspector. In cases where the Planning Commission deems it appropriate, it may engage the services of a suitably qualified professional engineer or engineering firm to review and comment upon the site plan, the expenses of such review to be borne by the applicant.
- (e) *Site plan approval.* The Planning Commission shall have the function, duty, and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, site plans in accordance with the purposes, intent, and provisions of this chapter.
- (1) *Public hearing may be required.* The Planning Commission shall also have the discretion to determine during its initial review, whether the nature of the proposed development warrants the holding of a public hearing. If such a hearing is required, the applicant shall be required to submit an additional fee, as listed in the schedule of fees approved by the Township Board.
- (2) *Processing times.* Normally, the decision of the Planning Commission will be made within 60 days of the receipt of the application by the Township Zoning Administrator, or within 30 days of the closing of the public hearing, if required.

(Zoning Ord. 1977, art. XIII, § 1303; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-72. - Standards for site plan review.

In reviewing the application and site plan, and in approving, disapproving, or modifying the same, the Planning Commission shall be governed by the following standards:

- (1) That there is a proper relationship between the existing streets and highways in the vicinity of the proposed deceleration lanes, (if any) service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of both pedestrian and vehicular traffic;
- (2) That the buildings, structures, and entry-ways thereto proposed for the premises are situated so as to minimize the adverse effects upon owners and occupants of adjacent properties and the neighborhood in general;
- (3) That as many natural features of the landscape as possible are retained where they furnish a barrier or buffer between the proposed development and any adjoining properties used for dissimilar purposes and/or where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharges of stormwaters;
- (4) That any adverse effects of the proposed development and future resulting activities upon adjoining residents or owners shall be minimized by appropriate screening, fencing, landscaping, setbacks, and location of buildings, structures, and their entryways;
- (5) That all provisions of this chapter are complied with, unless an appropriate variance has been granted by the Zoning Board of Appeals;
- (6) That all buildings and structures are accessible to emergency vehicles;
- (7) That the site plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of land in accordance

with its character and adaptability; to avoid overcrowding of population; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for systems of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous use of land, resources, and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building, and population development.

(Zoning Ord. 1977, art. XIII, § 1304; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-73. - Modifications and revisions.

- (a) *Modification.* Any modifications of a submitted site plan desired by the Planning Commission shall be stated in writing to the applicant. Site plan approval may be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Planning Commission. If any part of a site plan is in conflict with any section of this chapter in terms of area and bulk regulations, setbacks, parking, maneuvering lanes, etc., a variance must be obtained from the Zoning Board of Appeals before the Planning Commission can approve the site plan.
- (b) *Incomplete or repeatedly revised plans.* Applicants who submit incomplete plans or revise them repeatedly after submission will be charged an additional review fee if their actions require the Board to have more than two meetings to review and approve their site plans. The optional sketch plan review procedure outlined in section 46-71(a), does not count as one of the two meetings.

(Zoning Ord. 1977, art. XIII, § 1305; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-74. - Recording and filing.

Copies of the approved site plan, with modifications, if any, shall be signed by the chairperson of the Planning Commission, and, if variances have been granted, by the chairperson of the Zoning Board of Appeals. Copies of the approved site plan will be distributed and/or filed as follows:

Applicant	3
Township Clerk	1
Planning Commission	2
Board of Appeals	1
Zoning Administrator	1
Building Inspector	1

(Zoning Ord. 1977, art. XIII, § 1306; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-75. - Amending a site plan.

A proposed amendment, modification, alteration, or other change to a previously approved site plan shall be submitted via the Zoning Administrator to the Planning Commission for review and approval in the same manner as the original application. Such proposed revisions shall be clearly identified, numbered, dated, and referenced to site plans and revisions previously approved by the Planning Commission.

(Zoning Ord. 1977, art. XIII, § 1307; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-76. - Performance bond.

The Planning Commission shall have the right and authority to require a developer to file with the Township, at the time of application for a building permit, a performance bond or bank letter of credit in such amount as may be determined by said Board to ensure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in the face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources and/or the health, safety and welfare of the residents of the Township and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

(Zoning Ord. 1977, art. XIII, § 1308; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Sec. 46-77. - Appeals and questions of interpretation.

Any persons considering themselves aggrieved by the decision of the Planning Commission in granting or denying site plan approval shall have the right to appeal said decision to the Township Zoning Board of Appeals. The appeal must be filed with the Township Clerk within 15 days of the decision of the Planning Commission.

(Zoning Ord. 1977, art. XIII, § 1309; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 59, 7-20-1996; Ord. No. 65, 9-30-1997)

State Law reference— Site plans, MCL 125.3501.

Secs. 46-78—46-97. - Reserved.

DIVISION 3. - BOARD OF APPEALS; APPEALS AND VARIANCES^[3]

Footnotes:

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State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-98. - Creation and membership.

There is hereby established a Zoning Board of Appeals, hereinafter in this chapter called the "Board," which shall perform its duties and exercise its powers as provided in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.) and in such a way that the objectives of this division shall be observed, public safety and welfare secured, and substantial justice done. The Board shall be composed of the five members identified in subsections (1) through (3) of this section:

- (1) The first member shall be a member of the Township Planning Commission appointed by the Township Board.
- (2) The second member may be a member of the Township Board, appointed by the Township Board.
- (3) The remaining members shall be appointed by the Township Board and shall be representative of the population distribution and of the various interests present in the Township.
- (4) An elected officer of the Township shall not serve as chairperson of the Board of Appeals and no employee or contractor of the Township Board shall be a member or an employee of said Board of Appeals.
- (5) The Township Board may appoint to the Zoning Board of Appeals not more than two alternative members for the same terms as regular members. An alternate member may be called to serve if a regular member is absent or unable to attend one or more meetings. An alternate may also be called to serve for the purpose of reaching a decision on a case in which the regular member has abstained for reasons of conflict of interest. The alternate member shall serve in the case until a final decision is made.
- (6) All members shall be qualified electors in the Township. If a member is no longer a qualified elector in the Township, that member's position on the Zoning Board of Appeals is automatically vacated regardless of whether a written resignation is received from that member; and the Board shall notify the Supervisor that a vacancy exists and the Township Board shall fill the vacancy at the earliest possible date.
- (7) Members of the Board of Appeals may be removed by the Township Board for non-performance of duties or misconduct in office upon written charges and after a public hearing.
- (8) A member shall disqualify him or her self from a vote on any issue in which he or she has a conflict of interest. Failure of a member to so disqualify himself shall constitute misconduct in office.
- (9) The term of each member shall be three years. A successor shall be appointed by the Township Board not more than one month after the term of the preceding member has expired. The Township Board member shall complete his or her term on the Board of Appeals with the termination of his or her membership on the Township Board, unless he or she resigns or is otherwise disqualified to serve.

(Zoning Ord. 1977, art. XVII, § 1700; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-99. - Meetings.

All meetings of the Board of Appeals shall be held at the call of the chairperson and at such times as the Board may determine. All hearings conducted by said Board shall be open to the public. The Board

shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact; and shall also keep records of its hearings and other official actions.

(Zoning Ord. 1977, art. XVII, § 1701; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-100. - Appeals.

- (a) An appeal may be taken to the Board of Appeals by any person, firm, or corporation, or by an officer, department, board, or Bureau affected by a decision of the Zoning Administrator. Appeals shall be taken within such time as prescribed by the Board of Appeals its general rules, by filing with the Zoning Administrator and with the Board of Appeals a notice of appeal specifying the grounds thereof. The Zoning Administrator shall transmit to the Board of Appeals all papers constituting the record upon which an action is being appealed. An appeal shall stay all proceedings in furtherance of an action unless the Zoning Administrator certifies to the Board of Appeals after the notice of appeal has been filed that a stay would, in his or her opinion, cause imminent peril to life or property, in which case said appeal shall not stay compliance unless there is a restraining order entered by a court of competent jurisdiction.
- (b) The Board of Appeals shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the appellants and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing, either in person or by duly authorized agent or attorney.

(Zoning Ord. 1977, art. XVII, § 1702; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-101. - Fees.

The Township Board may from time to time prescribe and amend by resolution a reasonable schedule of fees to be charged to applicants for appeals to the Zoning Board of Appeals. At the time the notice for appeal is filed, said fee shall be paid to the Zoning Administrator, which the Zoning Administrator shall forthwith pay over to the Township Treasurer to the credit of the general revenue fund of the Township.

(Zoning Ord. 1977, art. XVII, § 1703; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-102. - General powers.

The Zoning Board of Appeals shall not have the power to alter or change the zoning district classification of any property, nor to make any changes in the terms of this chapter, but does have power to act on those matters where this chapter provides for an administrative review or interpretation, and to authorize a variance as defined in this section and laws of the state. Said powers include:

- (1) *Administrative review.* To hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Zoning Administrator or any other administrative official in carrying out or enforcing any provisions of this chapter.
- (2) *Variance.* A variance may be granted from the strict application of the provisions of this chapter whereby by reason of exceptional narrowness, shallowness, shape or area of a specific piece of property on December 13, 1977, or by reason of exceptional topographic conditions or other extraordinary or exceptional conditions of such property, the strict application of the regulations enacted would result in peculiar or exceptional practical difficulties to the owner of such property provided such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of this article. In order for the Board of Appeals to grant a variance, the applicant must show that the problem is not self-created. In granting a

variance, the Board shall state the grounds upon which it justifies the granting of the variance and may attach thereto such conditions regarding the location, character, and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this chapter. For any variance involving a setback, lot lines must be able to be established using official monuments or certified corner stakes and any other point as deemed necessary. These points must be present and observable. The Zoning Board of Appeals has the authority to require a new or additional survey at ZBA discretion.

- (3) *Interpretations.* To hear and decide in accordance with the provisions of this chapter requests for interpretations of the Zoning Map and for decisions on which this chapter specifically authorizes the Board to pass.
- (4) *Determinations.* In consideration of all appeals and all proposed variations to this chapter, the Board shall, before making any variations from the article in a specific case, first determine that the proposed variation will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the danger of fire or endanger the public safety, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals or welfare of the inhabitants of the Township. The concurring vote of the majority of the members of the Board shall be necessary to reverse any order, requirements, decision or determination of the Zoning Administrator, or to decide in favor of the applicant any matter upon which it is authorized by this chapter to render a decision. Nothing herein contained shall be construed to give or grant to the Board the power or authority to alter or change this chapter or the Zoning Map, such power and authority being reserved to the Township Board, in the manner provided by law.

(Zoning Ord. 1977, art. XVII, § 1704; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 144, § IX, 8-12-2015)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-103. - Orders.

In exercising its powers, the Board may reverse or affirm wholly or partly, or may modify the orders, requirements, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator from whom the appeal is taken.

(Zoning Ord. 1977, art. XVII, § 1705; Ord. No. 15, 12-15-1997; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-104. - Notices.

When the Board of Appeals shall consider any variance, notice shall be given to owners of all abutting properties contiguous to the premises personally or by first class mail, at the address listed in the last assessment roll. Notices shall be mailed not less than 15 days prior to the hearing. In all other matters considered by the Board, notices do not have to be given unless the matter being considered may have an impact on the surrounding properties.

(Zoning Ord. 1977, art. XVII, § 1706; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-105. - Time limitations.

- (a) No order of the Board permitting the erection of a building shall be valid for a period longer than one year, unless a zoning compliance permit for such erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.
- (b) No order of the Board permitting a use of a building or premises shall be valid for a period longer than one year unless such use is established within such period; provided, however, that where such use permitted is dependent upon the erection or alteration of a building such order shall continue in force and effect if a zoning compliance permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

(Zoning Ord. 1977, art. XVII, § 1707; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-106. - Rejection or denial of application.

In the event an application to the Zoning Board of Appeals is rejected or denied, the reasons for such action shall be reduced to writing and shall be provided to the applicant on the same day that the Board reaches such decision.

(Zoning Ord. 1977, art. XVII, § 1708; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Sec. 46-107. - Appeal of Board of Appeals decision.

As provided in the Michigan Zoning Enabling Act (MCL 125.3101 et seq.), the decision of the Board of Appeals shall be final. However, any person having an interest affected by the decision may appeal to the circuit court within 30 days of certification of the decision in writing. The chairperson of the Board of Appeals will provide the applicant and any other interested parties a written certification of the final decision on the same day that the Board reaches such a decision. The court may affirm, reverse, or modify the decision.

(Zoning Ord. 1977, art. XVII, § 1709; Ord. No. 15, 12-15-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006; Ord. No. 123, 7-1-2007)

State Law reference— Zoning Board of Appeals, MCL 125.3601 et seq.

Secs. 46-108—46-127. - Reserved.

DIVISION 4. - PERMITS, PLANS, CERTIFICATES OF OCCUPANCY, ETC.

Sec. 46-128. - Plot plan.

The Zoning Administrator shall require that all applications for zoning compliance permits shall be accompanied by site plan review and approval by the Planning Commission, or if not required, plans and specifications, including a plot plan, in triplicate, drawn to scale, showing the following:

- (1) The actual location, area, shape, and dimensions of the lot or parcel.
- (2) The location, shape, and dimensions, to include height, of all buildings or other structures to be erected, altered, or moved and of any buildings or other structures already on the lot or parcel.

- (3) The existing and intended use of the lot and of all such structures upon it, including, in residential areas, the number of dwelling units the building is intended to accommodate.
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this article are being observed.

(Zoning Ord. 1977, art. XVI, § 1602; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-129. - Permits.

The following shall apply in the issuance of any permit:

- (1) *Permits not to be issued.* No zoning compliance permit shall be issued for the erection, alteration, or use of any building or structure or part thereof, or for the use of land which is not in accordance with all provisions of this article, to include site plan review and approval under division 2 of article II of this chapter, if required.
- (2) *Permits for new use of land or buildings.* No land or building or structure, or part thereof, shall be changed to or occupied by a use of a different class or type unless a certificate of occupancy is first obtained for the new or different use.
- (3) *Permits issuance.* No building or structure, or part thereof, shall be hereafter erected, altered, moved, or repaired unless a building permit shall have been first issued for such work. The terms "altered" and "repaired" shall be limited to only such changes which will affect the provisions contained in this article. A copy of the building permit shall be kept on the site of operations, open to public inspection until completion of the work, as required by the state building code. The Zoning Administrator shall furnish a special colored placard indicating "Fabius Township Building Permit No. (3)" which shall be posted in a transparent weatherproof cover in a conspicuous position clearly visible from the road. Such permit shall be posted at the time that any excavation or other construction work commences and remain so posted until project completion

(Zoning Ord. 1977, art. XVI, § 1603; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 73, § 1, 8-25-1999)

Sec. 46-130. - Final inspection.

The holder of every zoning compliance permit for the construction, erection, alteration, repair, or moving of any building, structure, or part thereof, shall notify the Zoning Administrator immediately upon the completion of the work authorized by such permit, for a final inspection, which must be accomplished prior to application for a certificate of occupancy or compliance.

(Zoning Ord. 1977, art. XVI, § 1604; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-131. - Required certificates of occupancy.

No land, building, or part thereof, shall be occupied by or for any use other than existing uses unless and until a certificate of occupancy shall have been issued for such use. The following shall apply in the issuance of any certificate:

- (1) *Application for certificates.* Application for certificates of occupancy shall be made in writing to the Zoning Administrator on forms furnished by the Township, and such certificates shall be issued within five days after receipt of such application if it is found that the building or structure or part thereof; or the use of land is in accordance with the provisions of this article. If such certificate is refused for cause, the applicant shall be notified of such refusal and cause thereof, within the aforesaid five-day period.

- (2) *Certificates required.* No building or structure, or parts thereof, which is hereafter erected, or altered, shall be occupied or used or the same caused to be done, unless and until a certificate of occupancy shall have been issued for such building or structure.
- (3) *Certificates not to be issued.* No certificate of occupancy shall be issued for any building, structure or part thereof, or for the use of any land, which is not in accordance with all provisions of this article.
- (4) *Buildings accessory to dwellings.* Buildings or structures 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.
- (5) *Record of certificates.* A record of all certificates issued shall be kept on file in the office of the Township Clerk and copies shall be furnished upon request to any person or agency having an official, proprietary or tenancy interest in the property involved.

(Zoning Ord. 1977, art. XVI, § 1605; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-132. - Fees.

Fees for inspection and the issuance of permits or certificates or copies thereof required or issued under the provisions of this article may be collected by the Zoning Administrator in advance of issuance. The amount of such fees shall be established by resolution of the Township Board and shall cover the cost of inspection and supervision resulting from enforcement of this article.

(Zoning Ord. 1977, art. XVI, § 1606; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-133. - Performance bond.

- (a) To ensure compliance with the Zoning Ordinance and any conditions, limitations, or requirements imposed by the Planning Commission or the Zoning Board of Appeals deemed necessary to protect the natural resources, or the health, safety, and welfare of the residents or property owners of the Township, the Planning Commission, or the Zoning Board of Appeals, may require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond covering a reasonable estimate of the cost required to ensure faithful completion of a particular construction, improvement, limitation, or requirement. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity.
- (b) Where the improvement required will take more than six months to be completed, the Commission or Board which required the deposit, may, as the work progresses, authorize a rebate of any cash deposit in reasonable proportion to the estimated cost of the ratio of the work completed.

(Zoning Ord. 1977, art. XVI, § 1607; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

State Law reference— Performance guarantee authorized, MCL 125.3505.

Secs. 46-134—46-164. - Reserved.

ARTICLE III. - ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 46-165. - Districts established.

For the purpose of this article, the Township is hereby divided into the following districts:

Agricultural Districts	AG Agricultural District
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Residential Districts	R-1 Rural Residential District
>	R-2 Medium Density Residential District
>	R-3 Low Density Residential District
>	LR Lake Residential District
>	MH Mobile Home Residential District
	RM-1 Multiple-Family Residential District
> Nonresidential Districts	B Business Districts
>	RB Resort Business Districts
>	SSB Small Special Business Districts
>	SC Shopping Center Districts
	I-1 Light Industrial Districts

(Zoning Ord. 1977, art. III, § 300; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 81, § I 10-31-2000; Ord. No. 102, 2 9-30-2004)

State Law reference— Zoning districts authorized, MCL 125.3201.

Sec. 46-166. - District boundaries and Zoning Map.

The boundaries of these districts are hereby established as shown on the Zoning Map, Township of Fabius Zoning Ordinance, and which map with all notations, references and other information shown thereon shall be as much a part of this article as if fully described herein.

(Zoning Ord. 1977, art. III, § 301; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Editor's note— The map has been amended by Ord. Nos. 16, 18, 23, 24, 26, 27, 28, 29, 31, 32, 33, 35, 36, 39, 40, 46, 51, 53, 54, 55, 57, 60, and 64. A new map was adopted as a part of Ord. No. 65, effective Sept., 1997. Later changes to map are shown on the map.

Sec. 46-167. - District boundaries interpreted.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:

- (1) Boundaries indicated as approximately following the center lines of streets, highways, or alleys, shall be construed to follow such lines.

- (2) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (3) Boundaries indicated as approximately following county boundaries shall be construed as following county boundaries.
- (4) Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- (5) Boundaries indicated as following shorelines, shall be construed to follow such shore lines and in the event of change in the shore line shall be construed as moving with the actual shore line, actual shoreline being that based on the legal level of the lake; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- (6) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through (5) of this section shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- (7) Where physical or natural features existing on the ground are at variance with those shown on the official Zoning Map, or in other circumstances not covered by subsections (1) through (6) of this section, the Board of Appeals shall interpret the district boundaries.
- (8) Insofar as some or all of the various districts may be indicated on the Zoning Map by patterns or colors which, for the sake of map clarity do not cover public rights-of-way, it is intended that such district boundaries do extend to the center of any public right-of-way.
- (9) *Properties zoned SSB.* Because the location and size of small parcels zoned SSB Small Special Business does not permit clear designation on the Zoning Map, the following descriptions are hereby set forth:
 - a. *Long Lake Food Store.* Property known as Long Lake Food & Book Shop, 10249 Lucas Road on the north shore of Long Lake (as of June 2, 1975, updated July 1996, revised September, 1997).

(Zoning Ord. 1977, art. III, § 302; Ord. No. 15, 12-13-1977; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-168. - Zoning of vacated areas.

Whenever any street, alley or other public way, within the unincorporated area of the Township shall be vacated, such street, alley, or other public way or portion thereof, shall automatically be classified in the same zoning district as the property to which it attaches.

(Zoning Ord. 1977, art. III, § 303; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-169—46-189. - Reserved.

ARTICLE IV. - DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 46-190. - District requirements.

All buildings and uses in any district shall be subject to the provisions of article VII of this chapter, Supplemental District Regulations and article I of this chapter, in general, and the appropriate district regulations contained here in article IV.

(Zoning Ord. 1977, art. III, § 304; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 164, § II(A), 2-12-2020)

Sec. 46-191. - Uses not otherwise included within a specific use district.

(a) *Intent.*

- (1) The uses identified in this section possess special characteristics making it impractical to include them in a specific use district classification. They may be permitted by the Planning Commission using the procedures outlined for conditional or special exception use permits in article VI of this chapter. However, the uses identified in this article are also subject to the conditions and requirements specified for them in this article. Uses identified in this article shall be specifically prohibited from any residential district unless otherwise specified herein.
- (2) Generally, these uses require special consideration since they service large areas and most require sizable land areas and can create problems of incompatibility with other nearby uses.

(b) *Identified uses not included within a specific use district.*

- (1) *Extraction or mining of sand, gravel, topsoil and minerals.* The removal of sand, gravel, topsoil, earth, limestone or similar materials by excavation, stripping, mining or otherwise taking, and including on-site preparations associated with the taking, to include crushing, grinding, washing, grading, sorting, and/or stockpiling and loading and hauling operations shall be permitted.

- a. All extraction from new pits begun subsequent to the effective date of the ordinance from which this article is derived shall be washed, graded and further processed and/or stored within the limits of the property in question, and no natural resource extracted outside the limits of the property in question shall be brought in for washing, grading, or further processing except in the event of a public emergency as declared by the Township Board requiring the use of said natural resource.
- b. Resource related industries including, but not limited to: concrete batching plants and asphalt mixing plants shall not be permitted as a use under these provisions, unless the Planning Commission is satisfied the same do not constitute a nuisance by reason of dust, noise, odor, smoke, light, traffic congestion or movement.
- c. Any change in the natural contour of the land during the foregoing mining or excavation operations and at the cessation of the same shall be maintained in a safe condition for any person who may be upon the premises with or without the permission of the owner of the land or the mining operator or excavator.
- d. No slope resulting from a mining or excavating operation shall exceed an angle of 45 degrees with the horizontal for a period in excess of one month.
- e. No mining or excavating operation shall be located closer than 200 feet to the nearest adjacent residence, nor closer than 100 feet to any public street right-of-way line, nor closer than 500 feet to any existing lake, stream, or other body of water.
- f. All areas disturbed by a mining or excavating operation shall be reclaimed and rehabilitated progressively as they are mined or excavated as well as upon termination of such operations to a safe and inconspicuous condition which blends in with the general surrounding contours and vegetation so that the affected area is returned to a reasonably natural condition. All slopes and banks shall be smoothly graded and planted or otherwise treated to prevent erosion or further deterioration.
- g. All equipment or other installations or temporary structures involved in the operation shall be maintained in a neat, orderly, and nuisance free condition in order to prevent injury to any person or property, or to the community in general.
- h. Excavation, washing, and stockpiling of extracted material shall not be conducted closer than 50 feet from the outer boundary of any property line. Such setback area shall not be used for any

use in conjunction with the mining or excavating operation except for access roads, fencing, landscaping, or public notice signs identifying the operation.

- i. Greenbelt plantings and landscaping shall be provided within the setback areas as shall be required by the Planning Commission where they appear to be necessary for the protection of property values, and the general welfare of the community.
- j. All means of access to a mining or excavating operation shall be from major or secondary thoroughfares and shall not be through streets substantially developed with residences.
- k. All private access or entrance roads to sand and gravel mining, asphalt plants, and similar operations shall be surfaced with concrete or asphalt paving for a distance of not less than 300 feet from any public access road where such public road is paved or similarly treated so as to create a dust-free surface and to prevent tracking of mud. Width shall be a minimum of 12 feet and paving thickness to be sufficient to not collapse under heavy loading. The paved hard surface access/entrance road shall be preceded by a roadway of at least 200 feet of three-inch stone. The paved hard surface must be cleaned and maintained so as not to create tracking on county roads. Appropriate culverts and sediment sumps shall be installed in accordance with standards of the St. Joseph County Conservation District for stabilized construction access.
- l. The use of any explosives shall be done in compliance with the Regulations for Storage and Handling of Explosives as published by the Michigan State Police, Fire Marshal Division, East Lansing, Michigan.
- m. All uses proposed under these provisions shall be preceded by a site plan submitted for review and approval by the Planning Commission in accordance with division 2 of article II of this chapter. Site plan shall include plans for reclamation and rehabilitation of the area mined or excavated. Such plan will also indicate how the requirements outlined in the preceding subsections (b)(1)c through (b)(1)l of this section are to be complied with by the applicant.

(2) *Campgrounds and retreats, public or private.*

- a. Any proposed campground, public or private, whether modern, primitive, or temporary as defined by Rule 325.1551 of the Michigan Department of Public Health, Division of Environmental Health, is subject to site plan review and approval in accordance with the provisions of division 2 of article II of this chapter.
- b. All campgrounds in the Township must comply with all applicable provisions of Rules 325.1551 through 325.1585, and additional related rules as may be issued by the Michigan Department of Public Health under the authority of Section 12511 of the Public Health Code (MCL 325.12511). The Planning Commission shall review provisions to ensure compliance with all current and applicable such rules as part of site plan review and approval.
- c. Portable dwellings, such as, but not limited to travel trailers, motor homes, tents, etc., located in campgrounds shall be used only on a seasonal basis and shall not be used for yearround residence.
- d. No uses permitted under this section shall be located closer than 50 feet to the right-of-way line of a major thoroughfare nor closer than 50 feet to any property line.
- e. A wall or solid fence at least seven feet in height or a green belt 20 feet in width with evergreen trees or evergreen shrubs at least seven feet in height shall be maintained at the periphery of any campground to provide a year-round obscuring screen.
- f. Site conditions, including soil type, groundwater level, slope, drainage, and vegetation shall not create hazards to adjoining properties or the health and safety of occupants. The site shall not be subject to unpredictable or sudden flooding, sedimentation, or erosion and shall not be exposed to objectionable smoke, noise, odors or other adverse influences.

- g. As provided by the Department of Public Health rules, campsites shall not have less than 15 feet of road frontage width and 1,200 square feet of area. Permanent structures may not be located on a campsite except those constructed before January 1, 1986.
- h. Services buildings or other structures erected or altered in a campground or recreation grounds shall not exceed one story and 15 feet in height.
- i. Accessory uses. Management headquarters, toilets, showers, laundry facilities, and other uses and structures customarily incidental to campgrounds are permitted as accessory uses. In addition, stores, restaurants, and other convenience establishments are permitted as accessory uses subject to the following conditions:
 - 1. Such establishments shall be restricted in their use to occupants of the campgrounds and shall present no visible evidence as to their commercial character which would attract customers other than occupants of the campground.
 - 2. Such establishments and the parking areas primarily related to their operations shall not occupy more than ten percent of the total area or grounds.

(Zoning Ord. 1977, art. X, §§ 1000, 1001; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 154, § III, 1-9-2019)

Secs. 46-192—46-220. - Reserved.

DIVISION 2. - AG AGRICULTURAL DISTRICT

Sec. 46-221. - Intent.

The provisions of this division apply to the AG Agricultural District. The AG Agricultural District is designed to provide and preserve areas of not less than 40 acres each for agricultural and farming operations and uses incidental or related thereto as described in more detail in the following sections.

(Zoning Ord. 1977, art. IV, § 400; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-222. - Description and purpose.

The AG district is established to provide areas in which farming operations and other customary agricultural activities may be carried on with minimum conflict with residential and other permitted secondary uses. Lot size requirements for the AG district are designed to retain as much land as possible in agricultural use. Where any provisions of this section conflict with the Michigan Right to Farm Act (MCL 286.471 et seq.) and/or the generally accepted agricultural management practices (GAAMPs) as adopted by the Michigan Commission on Agriculture, the Right to Farm Act and the GAAMPs shall govern.

(Zoning Ord. 1977, art. IV, § 401(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001)

Sec. 46-223. - Permitted uses.

In the AG district, no building shall be erected or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this article:

- (1) Farm dwellings, barns, stables, silos, housing for farm labor, and accessory buildings, structures, and uses customarily incidental to any of the foregoing uses unless otherwise specifically provided in this article.
- (2) Agricultural, horticultural, viticultural, dairy farming, farm forestry and similar bona fide farming or agricultural enterprises, excluding, however, rendering plants, commercial fertilizer production,

or garbage feeding or disposal operations. The raising of livestock and poultry when incidental to general farming is permitted; however, specialized operations on a scale meeting the definition of intensive livestock operations are permitted only by special use permits authorized by the Planning Commission. See section 46-3, definitions, and section 46-224(8).

- (3) Greenhouses or nurseries.
- (4) Markets for sale of products grown or produced upon the premises together with incidental products related thereto not grown or produced upon the premises but which are an insubstantial part of said business. An advertising sign not more than 18 square feet in area advertising such products. (Also see section 46-655, signs.)
- (5) Animal feed lots from 50 to 299 animal units, subject to the following standards and requirements:
 - a. Minimum farm size of 20 acres.
 - b. Feed lots situated at least 100 feet from property lines and any rights-of-way.
 - c. Use shall be conducted so as not to cause water pollution problems.
 - d. Disposal of waste by spray irrigation is prohibited. Animal waste shall be managed in accordance with Interim Generally Accepted and Recommended Good Livestock Waste Management Practices, published by Michigan State University, June 1, 1988, with subsequent revisions.
 - e. Emission of obnoxious odors shall be controlled and minimized so as not to adversely affect nearby residential areas.
 - f. Insects and dust shall be controlled so as not to be a health hazard or a nuisance to nearby residential areas.
- (6) Home occupations as defined in section 46-3.
- (7) Essential services as defined in section 46-3.
- (8) Single- or two-family homes and accessory buildings, structures and uses customarily incident thereto.
- (9) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. IV, § 401(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 88, 3-29-2002; Ord. No. 163, § IV, 1-8-2020)

Sec. 46-224. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings, or structures in the AG district may be used for the following:

- (1) Public utility and service buildings.
- (2) Nursing homes, convalescent homes, or senior citizen housing.
 - a. *Conditions.* The foregoing uses may each be located on a site of not less than five acres having a front-to-depth ratio of not more than one to four and no single boundary side dimension of less than 250 feet.
- (3) Wildlife reserves and refuges.

- (4) Hunting preserves.
- (5) Churches, parish houses, public and private schools and educational institutions, and other municipal buildings, structures, or uses. The Planning Commission shall consider the following standards:
 - a. The size, character, and nature of the proposed activity, structure, and use;
 - b. The proximity of the proposed activity, structure, and use to adjoining properties;
 - c. The off-street parking to be provided;
 - d. The traffic congestion and hazards likely to result from the proposed activity or use; and
 - e. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
- (6) Community buildings, public recreational areas, parks, cemeteries, health and fitness facilities, or golf courses, when authorized by the Planning Commission as a special exception use. The Planning Commission shall consider the following standards:
 - a. The necessity for such use for the community and the surrounding neighborhood;
 - b. The proximity of the proposed use to adjoining properties, including occupied buildings, and farming activities and the effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - c. The size, nature, and character of the proposed use;
 - d. Potential traffic congestion and hazards which might result from the proposed use; and
 - e. Parking facilities to be provided.
- (7) *Private landing fields*. The Planning Commission shall consider the standards listed in subsections (6)(a) through (e) of this section.
- (8) *Intensive livestock operations*. Based on the definitions of "intensive livestock operations" and "animal unit" contained in section 46-3, this subsection applies to the raising of livestock in concentrations of 300 or more horses or cattle; 600 or more swine, sheep, or goats; 7,500 or more turkeys or ducks; or 15,000 or more poultry or fowl. (See definitions, section 46-3.)
 - a. *Site/facilities locational requirements*. The applicant for a special exception use permit for an intensive livestock operation shall submit with the application a detailed site plan showing that the property upon which the operation is proposed to be sited and the buildings, structures and enclosures thereon, including animal waste storage areas, structures, and excavations, fully complies with the following locational requirements:
 - 1. The property shall be zoned AG agricultural pursuant to the Township Zoning Ordinance/Zoning Map.
 - 2. The property shall have a minimum lot area of 40 contiguous acres under single ownership.
 - 3. The property shall have a minimum lot frontage of 330 feet.
 - 4. All nonresidential buildings, structures, enclosed areas (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures, and excavations, shall be situated at least 100 feet from any property boundary line.
 - 5. All buildings, structures, enclosed areas, (including land used for pasture or feedlot purposes), and equipment associated with the conducting of an intensive livestock operation, including animal shelter and waste storage areas, structures, and excavations, shall be situated at least 2,640 feet (½ mile straight line measurement) from:
 - (i) Any property zoned other than AG agricultural, at the time the application for the special exception permit is made.

- (ii) The nearest boundary of any other intensive livestock operation, including any such operation outside the boundaries of the Township.
- (iii) Any property situated within the City of Three Rivers.
- b. *Governmental permits, facility design and management requirements.*
 - 1. Unless expressly waived by the appropriate governmental agency, an approved intensive livestock operation shall at all times comply with the requirements of all applicable permits, the provisions of this article, and the practices outlined in the reference publications cited below.
 - 2. Animal waste shall be stored and treated in accordance with the construction and design standards and specifications found in Midwest Plan Service Publication, Livestock Waste Facilities Handbook, MWPS—18, and/or in the U.S. Department of Agriculture, Soil Conservation Service field office technical guides.
 - 3. Animal waste shall be managed in accordance with Interim Generally Accepted and Recommended Good Livestock Waste Management Practices as published by Michigan State University June 1, 1988, and in accordance with subsequent revisions thereto developed under the auspices of the State Agriculture Commission, and in accordance with such additional rules, regulations and guidelines as may be established by the Agriculture Commission or other appropriate state agency in accordance with 1981 Public Act 93, as amended. Where differences exist between any such state rules, regulations or guidelines and the requirements of this article.
 - 4. Liquid or semi-liquid animal waste shall only be transported upon public roads in completely enclosed, water-tight tanks or trucks. Solid waste shall only be transported upon the public roads in vehicles which are maintained in good condition and which are constructed and operated in such a manner as to ensure that waste material is not spilled during transport.
 - 5. Animal waste shall only be applied to tillable crop land, and only for the purpose of soil nutrition at an agronomically appropriate rate, and in accordance with the specifications referenced in subsection (8)b3 of this section. Liquid animal waste shall be applied only by subsurface injection or spreader method, and shall in no event be applied through a spray irrigation system.
 - 6. Animal waste shall not be applied to the soil within 1,000 feet from the boundary of any existing plat or subdivision, or within 800 feet from any home or private well, except a home or private well on the parcel on which the intensive livestock operation is situated, or within 800 feet from any commercial building, or within 500 feet from any surface water, or within 2,000 feet from any municipal well, or within 2,640 feet from any hospital building or nursing home facility licensed by the State Department of Public Health. In addition, any waste applied to the soil within 5,280 feet from any hospital building or licensed nursing home facility shall be by the subsurface injection method only. (All distances to be measured by straight line.)
 - 7. The holder of a special exception use permit for an intensive livestock operation shall maintain and provide to the Township at not less than six-month intervals (due each January 15 and July 15) a regularly updated list of all sites where waste from the intensive livestock operation was spread during the preceding six-month period, the dates and times that the spreading took place, the methods and rates of spreading used, and the average monthly number of animals and the maximum number of animals on the premises during the period reported.
 - 8. The owner and operator of an intensive livestock operation shall at all times use acceptable larvicide measures approved or recommended by Michigan State University, the State Department of Agriculture, the St. Joseph County Cooperative Extension Service, or any other appropriate governmental agency.

9. An approved intensive livestock operation shall at all times be conducted in compliance with all applicable state and local laws and regulations, including the provisions of this article.
 - c. *Maximum animal unit limitations.* No intensive livestock operation shall have more than 2,500 animal units.
 - d. *Groundwater discharge permit and quality/flow evaluations.*
 1. As a final condition for the issuance of a special exception use permit for an intensive livestock operation, the applicant shall obtain a groundwater discharge permit pursuant to part 31 of the Natural Resources and Environmental Protection Act (MCL 325.3101 et seq.).
 2. In addition, the owner or operator of the proposed intensive livestock operation shall install from one to four two-inch diameter groundwater monitoring wells within 100 feet of each animal waste storage structure, area, or excavation, the number and location of such monitoring wells to be prescribed by the Planning Commission to facilitate the purposes of the water sampling requirements set forth in this subsection. Prior to approval of the permit, the owner or operator shall cause a sample of water from the upper groundwater aquifer to be extracted from each monitoring well and be tested by a governmental agency or certified independent private laboratory for background organic and inorganic chemical or bacteriological contamination, and shall provide the results of such testing to the Township. In addition, as a condition of approval of a special exception use permit, the owner or operator of an intensive livestock operation shall submit to further appropriate groundwater sampling and testing from the monitoring wells at the request of the Township at reasonable intervals.
 3. In accordance with the pre-approval water sampling set forth above, and to enable the Planning Commission to properly evaluate the suitability of a specific site for intensive livestock operation purposes, the Planning Commission shall, in the course of reviewing an application for same, obtain a report from the District Board of Health or other qualified experts disclosing the flow of groundwater beneath the proposed site based on existing available hydrological data compiled by governmental agencies, educational institutions, or other public entities. In addition, the applicant shall submit to the Planning Commission any hydrological studies and supporting data obtained by the applicant, or prepared on behalf of the applicant, for the proposed site.
 - e. *Compliance with additional requirements.* The applicant shall, prior to approval of a special exception use permit, demonstrate the capability to comply fully with all additional regulations and/or conditions which the Planning Commission may, in its reasonable discretion, determine to impose in order to avoid or prevent the degradation of the soil, water, or air quality in the Township and surrounding areas.
 - f. *Registration of pre-existing intensive livestock operations.* The owner or operator of a farm operation meeting the definition of an intensive livestock operation as provided in this article but in existence prior to the effective date of such provisions of this article, shall, within 60 days of its promulgation, notify the Township of the maximum number and types of animals involved with the operation during the preceding year, for the purpose of determining and recording the status of the operation as a pre-existing nonconforming use as set forth in this article.
- (9) *Kennels.*
- a. All kennel facilities, including animal run areas, shall be situated at least 200 feet from all property lines. Each kennel facility shall provide sufficient space for each animal boarded, bred, or trained on the property, in accordance with applicable state laws and the recommendations of the American Kennel Club. All kennel facilities shall have waste disposal systems adequate to handle all animal waste generated from the kennel facilities.
 - b. Noise, odor, or other objectionable characteristics incident to the facility shall not be discernible beyond the boundaries of the premises.

- c. All kennel facilities shall be designed, constructed, operated, and maintained in such a manner as to provide humane and sanitary conditions for each animal kept, boarded, bred, or trained upon the premises.
- (10) *Shooting ranges.* Shooting ranges, as defined in section 46-3 are subject to the article VI "Conditional and Special Exception Uses"; article VII "Supplemental District Regulations" (to the extent not modified by special exception use requirements); article II, division 2, "Site Plan Review"; article IV, division 7, "Schedule of Regulations"; and the following particular standards:
- a. *Location requirements.* Shooting ranges, indoor or outdoor, (rifle, skeet, trap, pistol and archery) are permitted by a special exception use permit in the I-1 Industrial Districts and AG Agricultural Districts.
 - 1. The site shall be located on, or shall have principal access from, a major thoroughfare or county road.
 - 2. Outdoor shooting ranges shall have a minimum parcel size of 40 acres approved by the Planning Commission with a minimum width of 1,320 feet.
 - 3. Indoor shooting ranges shall have a minimum parcel size of two acres with a minimum lot width of 150 feet.
 - b. *Buffering requirements.* Minimum front, side, and rear yard setbacks shall be 450 feet. Minimum setbacks may be increased by the Planning Commission or if so warranted by the design standards of the National Rifle Association.
 - c. Performance standards:
 - 1. General.
 - (i) All federal, state and county codes and ordinances in regard to firearms shall be strictly adhered to and special exception use permit standards in section 46-191.
 - (ii) A site plan for the range, whether indoor or outdoor, shall be submitted to the Planning Commission. The site plan shall clearly demonstrate that all applicable National Rifle Association Range Design Standards and Guidelines have been met. The design of the facility shall clearly show that safety of persons on and off the site is ensured.
 - (iii) The Township Planning Commission may have the County Sheriff review and comment on the site plan prior to submitting it to the Township Planning Commission.
 - (iv) The intensity level of sounds if requested by the Planning Commission shall not exceed 75 decibels (dab) at the lot line of I-1 Industrial District uses, and 55 decibels at the common lot line when adjacent to residential uses and residential districts. The sound levels shall be measured with a type of audio output meter approved by the United States Bureau of Standards.
 - (v) Off-street parking shall be provided in the ratio of one space for each three users at capacity. Parking areas shall be permitted within required setbacks.
 - (vi) All parking areas shall be screened from view of an adjoining residential district or residential use by a greenbelt, obscuring fence, or a masonry wall, whichever is determined by the Planning Commission to be the most appropriate and effective.
 - 2. Additional requirements for indoor and outdoor shooting ranges:
 - (i) The operator shall submit with a site plan an environmental stewardship plan that outlines the measures that will be implemented to limit potential lead contamination of soil and water.
 - (ii) A fence, if required by the Planning Commission, shall be provided around the perimeter of the shooting range. The type of fence will be at the Planning Commission's

discretion. The fence shall have warning signs posted at intervals to be determined by the Planning Commission.

- (iii) The outside hours when shooting is permitted at a shooting range shall be limited to between the hours of 9:00 a.m. to dusk Monday through Saturday, and 10:00 a.m. to 6:00 p.m. or dusk on Sundays. The Planning Commission may apply more restrictive hours where protection for adjoining residents is necessary.
- (iv) Central loudspeakers/paging systems are prohibited.
- (v) There shall be no guns sold on site unless the owner of the property is selling and has a Federal Firearms License by the federal law.
- (vi) Driveways, signs, exterior lighting, parking areas shall be in accordance with article VII of this chapter.
- (vii) A copy of all firearm licenses and permits, federal, state, county and insurance policies shall be provided to the Planning Commission for its files.
- (11) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
 - a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.
 - f. *Code compliance.* The Special Exception Use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
 - g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback.
 - h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.
 - i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control
 - j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
 - k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line

- l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
- m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.
- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township Board. If required by the Planning Commission, the applicant shall set up an escrow account with the Township to cover all reasonable fees and expenses incurred by the Township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by Township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a Township official during the fifth-year report mentioned above.
- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflects all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicant's cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. IV, § 401(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 88, 3-29-2002; Ord. No. 137, § 2, 2-8-2012; Ord. No. 150, § I, 1-10-2018; Ord. No. 163, § V, 1-8-2020)

Sec. 46-225. - Area and bulk regulations.

In the AG district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: five acres (217,800 square feet).
- (2) Minimum lot width: 250 feet. Irregular shaped parcels shall not have less than 66 feet at any location on the parcel.
- (3) Minimum street frontage: 200 feet in one location. Any secondary locations of street frontage must maintain a minimum width of 66 feet wide.

- (4) Minimum yard setbacks. Single-family residential:
 - a. Front: 40 feet.
 - b. Each side: 20 feet.
 - c. Rear: 40 feet.
 - d. All other uses: front, side, and rear yard setbacks shall conform with this subsection (4) of this section or the requirements of subsection (6) of this section, or the height of the main building, whichever are greatest.
- (5) Dwelling dimension and area minimums:
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of structures:
 - a. Residential: 2½ stories and 35 feet.
 - b. Agricultural: 125 feet.
 - c. Special exception uses: buildings may be permitted to exceed 35 feet if approved by the Planning Commission, provided front, side, and rear yards are all increased above the minimum required by one foot for each foot that the building height exceeds 35 feet. Freestanding towers shall be situated no closer than 1½ times the height of the tower measured from the tower base to all property lines.
- (7) Maximum percentage of lot area covered by all buildings:
 - a. Residential: 25 percent.
 - b. Agricultural: not applicable.

(Zoning Ord. 1977, art. IV, § 401(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 144, § X, 8-12-2015; Ord. No. 154, § VII(A, B), 1-9-2019; Ord. No. 163, § XVIII, 1-8-2020)

Secs. 46-226—46-243. - Reserved.

DIVISION 3. - SINGLE-FAMILY RESIDENTIAL DISTRICTS

Subdivision I. - In General

Sec. 46-244. - Intent.

The R-1, R-2, LR, and MH residential districts are designed to be the most restrictive of the residential districts. The intent is to provide for an environment of predominantly low-density, single-family detached dwellings along with other residentially related facilities which serve the residents in the districts.

(Zoning Ord. 1977, art. V, § 500; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Secs. 46-245—46-266. - Reserved.

Subdivision II. - R-1 Rural Residential District

Sec. 46-267. - Description and purposes.

The provisions of this subdivision apply to the R-1 Rural Residential District. The R-1 zoning district is intended for large rural residential estates and general farming.

(Zoning Ord. 1977, art. V, § 501(1); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-268. - Permitted uses.

Land, buildings, or structures in the R-1 district may be used for the following purposes only:

- (1) Farms for general farming, together with farm dwellings, barns, and accessory buildings, structures, and uses customarily incidental to general farming and other installations necessary to such farms. The raising of livestock and poultry, when incidental to general farming, is permitted; however, specialized farming to include dairy farms, poultry farms, animal feedlots, piggeries, and intensive livestock operations are permitted only in the AG Agricultural District. Temporary housing for migratory workers is prohibited in the R-1 district.
- (2) Greenhouses, nurseries, orchards, vineyards, or fruit farms.
- (3) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (4) Real estate signs, identifying signs, name plates in conformance with the requirements of section 46-655, signs.
- (5) Accessory buildings, structures, and uses customarily incident to any of the above permitted uses.
- (6) Essential services as defined in section 46-3.
- (7) Private stables for the housing of equine animals use on any lot of five acres or more subject to the following conditions:
 - a. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting out buildings.
 - b. No animal shall be pastured closer than 50 feet from any adjacent dwelling, excepting out buildings.
 - c. There shall be no more than two animals per 40,000 square feet of lot or land, if unplatted.
 - d. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.
- (8) Home occupations as defined in section 46-3 subject to the following requirements:
 - a. No home occupation shall be permitted to be established or continued when the same is objectionable as determined by the Planning Commission due to noise, dust, smoke, odor, traffic congestion, reduction of the living environment, or other causes detrimental to the neighborhood in which located.
 - b. No home occupation shall be permitted which uses equipment or machinery that is industrial or commercial in nature, as determined by the Planning Commission.
 - c. There shall be no alteration in the residential character or function of the premises in connection with the home occupation, nor any external indication or evidence of the home occupation other than the permitted identifying sign.
 - d. Home occupation shall not exceed 30 percent of the gross first floor living area of the residential structure.
 - e. An identifying sign not exceeding two square feet in area may be located on the exterior of the building or in the yard area.

- f. Home occupation shall not involve retail or wholesale trade, nor have a showroom on the premises.
- g. Not more than one assistant or employee shall be employed in connection with a home occupation, provided that family members, as defined in section 46-3, shall not be counted as employees.

(9) Accessory use solar energy systems.

- a. *Free standing.* Any accessory use solar energy system that is free standing (Not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
- b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 501(2); Ord. No. 21, 8-3-1979; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 163, § VI, 1-8-2020; Ord. No. 164, § II(B), 2-12-2020)

Sec. 46-269. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-1 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the following standards:
 - a. The size, nature, and character of the proposed use;
 - b. The proximity of the proposed use to adjoining facilities and effect of the proposed use on adjoining properties and the surrounding neighborhood;
 - c. The parking facilities provided for the proposed use;
 - d. Traffic congestion or hazards resulting from the proposed use; and
 - e. How well the proposed use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.
- (3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the following standards:
 - a. The necessity for such proposed use for the community and the surrounding neighborhood;
 - b. The proximity of the proposed use to adjoining properties and occupied dwellings;
 - c. The size, nature and character of the proposed use and its effect on adjoining properties and the surrounding neighborhood;
 - d. Potential traffic congestion or hazards which might result from the proposed use; and
 - e. Parking facilities to be provided for the proposed use.
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the following standards:
 - a. The size, character and nature of the proposed building;
 - b. The proximity of the proposed building to adjoining properties;
 - c. The off street parking to be provided for the proposed use;

- d. The potential traffic congestion and hazards which might result from the proposed use;
 - e. The degree to which the proposed building and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood; and
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood.
- (5) Kennels. The Planning Commission shall require compliance with the requirements of section 46-224(9) and the following additional standards:
- a. The size, nature, and character of the proposed kennel;
 - b. The proximity of the proposed kennel to adjoining properties;
 - c. The possibility of noise or other disturbance to adjoining properties and the surrounding neighborhood due to the operation of the proposed kennel;
 - d. Potential traffic congestion on account of the proposed kennel; and
 - e. The nature and character of the buildings and structures to be used for the proposed kennel operation.
- (6) Public recreation areas or golf courses when authorized by the Planning Commission as a special exception use after considering the standards outlined in section 46-224(6).
- (7) Freestanding towers.
- (Zoning Ord. 1977, art. V, § 501(3); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XII, 8-12-2015)

Sec. 46-270. - Area and bulk regulations.

In the R-1 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: five acres (217,800 square feet).
- (2) Minimum lot width: 330 feet. Irregular shaped parcels shall not have less than 66 feet at any location on the parcel.
- (3) Minimum street frontage: 300 feet in one location. Any secondary locations of street frontage must maintain a minimum width of 66 feet wide.
- (4) Minimum yard set backs.
 - a. Single-family residential:
 - 1. Front: 40 feet.
 - 2. Each side: 40 feet.
 - 3. Rear: 40 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section or the requirements of subsection (6)c of this section, or equal the height of the main building, whichever are greatest.
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. "Elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms,

projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.

(6) Maximum height.

a. Residential: 2½ stories and 35 feet.

b. Agricultural: 100 feet.

(7) Maximum percentage of lot area covered by all buildings: ten percent

(Zoning Ord. 1977, art. V, § 501(4); Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999; Ord. No. 84, 3-29-2001; Ord. No. 144, § XII, 8-12-2015; Ord. No. 154, § VIII(A, B), 1-9-2019; Ord. No. 163, § VII, 1-8-2020)

Secs. 46-271—46-288. - Reserved.

Subdivision III. - R-2 Medium Density Residential District

Sec. 46-289. - Description and purpose.

The provisions of this subdivision apply to the R-2 Medium Density Residential District. The R-2 zoning district is intended for medium density, single-family residential uses together with necessary supporting recreational, religious, and educational facilities.

(Zoning Ord. 1977, art. V, § 502(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-290. - Permitted uses.

Land, buildings, or structures in the R-2 zoning district may be used for the following purposes only:

(1) Single-family dwellings.

a. Each lot or parcel shall be limited to one principle dwelling.

b. Habitable living space shall not be permitted in any accessory building.

(2) Two-family dwellings.

a. Each lot or parcel shall be limited to one principle dwelling.

b. Habitable living space shall not be permitted in any accessory building.

(3) Accessory buildings and uses customarily incident to the above permitted uses. (See section 46-653, accessory buildings.)

(4) Real estate sign, identifying sign, name plate in conformance with requirements of section 46-655.

(5) Essential services as defined in section 46-3.

(6) Private stables for the housing of equine animals subject to the following restrictions:

a. Permitted only where an owner has property with a minimum total area of 40,000 square feet, regardless of shape.

b. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting outbuildings.

c. No animal shall be pastured closer than 50 feet from any adjacent building, excepting out buildings.

d. There shall be no more than two animals per 40,000 square feet of lot, or land if unplatted.

e. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.

(7) Home occupations in a single-family dwelling subject to the requirements of section 46-268(8).

(8) Accessory use solar energy systems.

a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.

b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 502(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 163, § I, 1-8-2020; Ord. No. 164, § II(C, D), 2-12-2020)

Sec. 46-291. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-2 district may be used for the following:

(1) Public utility and service buildings.

(2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-224(5).

(3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-224(6).

(4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-224(5).

(5) Freestanding towers.

(6) Raising chickens and other small animals for domestic use. The planning commission shall consider the following standards:

a. The size, character, and nature of the proposed activity, structure, and use.

b. The proximity of the proposed activity, structure, and use to adjoining properties.

c. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood.

(Zoning Ord. 1977, art. V, § 502(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XI, 8-12-2015; Ord. No. 84, 3-29-2001; Ord. No. 163, § II, 1-8-2020)

Sec. 46-292. - Area and bulk regulations.

In the R-2 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

(1) Minimum lot size: 20,000 square feet.

(2) Minimum lot width: 100 feet.

- (3) Minimum street frontage: 75 feet.
- (4) Minimum yard setbacks.
 - a. Single-family residential:
 - 1. Front: 40 feet.
 - 2. Each side: ten feet.
 - 3. Rear: 35 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section, or the requirements of subsection (6) of this section, or equal the height of the main building, whichever are greatest.
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure.
 - a. Residential: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: 25 percent.

(Zoning Ord. 1977, art. V, § 502(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 144, § XI, 8-12-2015)

Secs. 46-293—46-317. - Reserved.

Subdivision IV. - R-3 Low Density Residential District

Sec. 46-318. - Description and purpose.

The provisions of this subdivision apply to the R-3 Low Density Residential District. The R-3 zoning district is intended for low density, single-family residential uses together with necessary supporting recreational, religious, and educational facilities.

(Zoning Ord. 1977, art. V, § 503(1); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000)

Sec. 46-319. - Permitted uses.

Land, buildings, or structures in the R-3 zoning district may be used for the following purposes only:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (2) Two-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.

- (3) Accessory buildings and uses customarily incident to the above permitted uses. (See section 46-653.)
- (4) Real estate sign, identifying sign, name plate in conformance with the requirements of section 46-655.
- (5) Essential services as defined in section 46-3.
- (6) Private stables for the housing of equine animals subject to the following restrictions:
 - a. Permitted only where an owner has property with a minimum total area of 40,000 square feet, regardless of shape.
 - b. No stable shall be constructed closer than 100 feet from any adjacent dwelling, excepting outbuildings.
 - c. No animal shall be pastured closer than 50 feet from any adjacent building, excepting out buildings.
 - d. There shall be no more than two animals per 40,000 square feet of lot, or land if unplatted.
 - e. No stable shall be constructed or allowed in the front yard of any lot, or in the case of corner lots, either front yard, irrespective of the area.
- (7) Home occupations in a single-family dwelling subject to the requirements of section 46-268(8).
- (8) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (Not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 503(2); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 163, § VIII, 1-8-2020; Ord. No. 164, § II(E, F), 2-12-2020)

Sec. 46-320. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article XI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the R-3 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses, when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-224(5).
- (3) Parks, playgrounds, cemeteries, community centers, governmental, administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-224(6).
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-224(5).
- (5) Public recreational areas, or golf courses when authorized by the Planning Commission as a special exception use after considering the standards outlined in section 46-224(6).
- (6) Freestanding towers.
- (7) Raising chickens and other small animals for domestic use. The planning commission shall consider the following standards:
 - a. The size, character, and nature of the proposed activity, structure, and use.

- b. The proximity of the proposed activity, structure, and use to adjoining properties.
- c. The degree to which the proposed activity, structure, and use harmonizes, blends with, and enhances adjoining properties in the surrounding neighborhood."

(Zoning Ord. 1977, art. V, § 503(3); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 144, § XIII, 8-12-2015; Ord. No. 163, § IX, 1-8-2020)

Sec. 46-321. - Area and bulk regulations.

In the R-3 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setback, height, living area, and lot coverage requirements:

- (1) Minimum lot size: 65,000 square feet (1.49 acres).
- (2) Minimum lot width: 165 feet.
- (3) Minimum street frontage: 100 feet.
- (4) Minimum yard setbacks.
 - a. Single-family residential:
 - 1. Front: 40 feet.
 - 2. Each side: ten feet.
 - 3. Rear: 35 feet.
 - b. All other uses: Front, side, and rear yard setbacks shall conform with subsection (4)a of this section, or the requirements of subsection (6)b of this section, or equal the height of the main building, whichever is greatest.
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure.
 - a. Residential: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: ten percent.

(Zoning Ord. 1977, art. V, § 503(4); Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 84, 3-29-2001; Ord. No. 144, § XIII, 8-12-2015)

Secs. 46-322—46-345. - Reserved.

Subdivision V. - LR Lake Residential Districts

Sec. 46-346. - Description and purpose.

The provisions of this subdivision apply to the LR Lake Residential Districts. LR zoning districts are intended to provide suitable regulations for residential development occurring adjacent to lake waterfronts within the Township; to recognize the value and desirability of existing lakefront lots and the desire of owners of such lots to maintain and make improvements to existing structures; and to control new

development in an orderly manner to avoid degradation of the surface water quality and associated natural lake environment. LR districts, as shown on the Zoning Map, are intended to apply to properties with water frontage on the following lakes in Fabius Township: Boot, Clear, Corey, Little Pleasant, Long, Kaiser, Mohney, Mud, and Pleasant.

(Zoning Ord. 1977, art. V, § 504(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-347. - Permitted uses.

Use of land contiguous to a lake or pond is subject to section 46-659, riparian lot use regulations, in addition to the provisions of this section, land, buildings, or structures in the LR zoning district may be used for the following purposes only:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (2) Accessory buildings and uses customarily incident to the above permitted use, except that any accessory structure, such as a deck, storage shed, stairway, dish antenna situated in the front yard between the principal dwelling and the lake shore line may be constructed only with a special exception use permit authorized by the Planning Commission. (See section 46-348(5), accessory buildings on waterfront lots, and section 46-653, accessory buildings.)
- (3) Essential services as defined in section 46-3.
- (4) Home occupations as defined in section 46-3, subject to the requirements of section 46-268(8).
- (5) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 504(2); Ord. No. 15, 12-13-1977; Ord. No. 36, 2-17-1988; Ord. No. 65, 9-30-1997; Ord. No. 59, 7-10-1996; Ord. No. 84, 3-29-2001; Ord. No. 163, § XI, 1-8-2020; Ord. No. 164, § II(G), 2-12-2020)

Sec. 46-348. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings or structures in the LR district may be used for the following:

- (1) Public utility and service buildings.
- (2) *Public or private outdoor recreation use such as parks, playgrounds, golf courses, athletic fields.* The Planning Commission shall consider the same standards as provided by section 46-224(6).
- (3) *Children's camps.* Residential, day, troop, or travel camps for more than four school-age children for five or more days within a 14-day period. These are facilities licensed by the Michigan Family Independence Agency (formerly Department of Social Services) and include Camps Eberhart, Tavor, Wakeshma, and Latvian Center Garezers, and similar camps operated by non-profit service, religious, or educational organizations. The Planning Commission shall consider the following standards:
 - a. The size, character, and nature of the proposed building(s) and use(s);

- b. The proximity of the proposed building(s) to adjoining properties;
 - c. The parking to be provided and the potential traffic congestion and related hazards which might result from the proposed use(s);
 - d. The degree to which the proposed building(s) and use(s) harmonize, blend with, and enhance the surrounding neighborhood; and
 - e. The effect of the proposed building(s) and use(s) on adjoining properties and the surrounding neighborhood.
- (4) *Marinas providing for the berthing, mooring, launching, servicing, repairing, and storing of recreational boats and watercraft.* Marinas also include boat fueling stations, engine and hull repair shops, retail sales of boats, motors, boat accessories, boat trailers, water sports equipment, boat lifts, piers, and similar items. Marinas may also include boat rental, and sales of fishing equipment, bait, groceries, or beverages. Piers, wharves, moorings or launching ramps provided by a marina must be situated within boundaries formed by the side lot lines of the property so used, extended toward the center of the lake. The Planning Commission shall consider the standards of subsection (3)c of this section and the following requirements:
- a. Site plan review and approval in accordance with division 2 of article II of this chapter.
 - b. Off-street parking in accordance with sections 46-685 and 46-686, and paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
 - c. Measures to protect ground and surface water from pollution by any activity related to the marina.
 - d. Adequate water supply, sewerage or septic disposal, and solid waste disposal, subject to the approval of the District Board of Health. No less than one toilet shall be provided for each 50 boat spaces or less within not less than 1,000 feet of walking distance of each boat space.
 - e. Adequate access for firefighting equipment, ambulances, and other emergency vehicles.
 - f. All lighting for external illumination of the parking area, buildings, piers, docks, boat slips, grounds, or water areas shall be directed away from and shielded from adjacent residential uses.
- (5) *Accessory buildings on waterfront lots.* Any accessory structure, regardless of size, type of construction, or portability, including, but not limited to decks, storage sheds, stairways and landings, dish antennas, etc, may be constructed or positioned in the front yard (between the principal dwelling and shoreline of the lake or stream) only if a special exception use permit is authorized by the Planning Commission. This requirement does not apply to replacements, reconstructions, seasonal docks, piers, boat lifts, and pump houses not exceeding six square feet in floor area and three feet in height. In granting a special exception use permit the Planning Commission shall consider the following standards and requirements:
- a. That the proposed structure will not conflict with the requirement for an open unobstructed yard as provided in section 46-350(1).
 - b. That there is a difference in elevation between the lowest floor level of the principal building and the grade level of the proposed site of the storage shed of at least 15 feet.
 - c. That storage sheds shall not exceed 80 square feet in floor area nor eight feet in height.
 - d. That the size, character, nature, location and use of the proposed structure is appropriate for the neighborhood and does not adversely affect adjoining properties nor the water quality of the lake or stream.

(Zoning Ord. 1977, art. V, § 504(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 97, 4-29-2004; Ord. No. 164, § II(H), 2-12-2020)

Sec. 46-349. - Area and bulk regulations.

In the LR district, no residential building or structure, nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, living area, building coverage, and other requirements:

- (1) Minimum lot size: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum road frontage: 50 feet.
- (4) Minimum yard setbacks.
 - a. Front (lake side): 50 feet or the average setback distance of three nearest existing residential structures on each side (total of six), which ever is greater.
 - b. Each side: ten feet. In the case of a rear yard abutting a side yard, the side yard abutting a street shall be a minimum of 35 feet. In the case of existing non-conforming width lots, the Zoning Board of Appeals may approve a variance of up to five feet from the required side-yard setback of ten feet on one side so long as 15 feet remains between any existing or proposed structures on that side.
 - c. Rear (road side): 35 feet. A minimum setback of ten feet for accessory building only, from the right-of-way or street side property line is met, is subject to section 46-653(7).
- (5) Dwelling dimensions and area minimums.
 - a. Minimum living area of 1,000 square feet.
 - b. Minimum width along each exterior front, side or rear elevation of the structure of 20 feet. The term "elevation" means the total length of the structure when viewed separately from the front, side or back. Individual exterior walls on any elevation may be shorter than 20 feet on individual rooms, projections, setbacks, indentations, or other structural configurations so long as the sum for each elevation is at least 20 feet.
- (6) Maximum height of main structure: 2½ stories and 35 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: 25 percent.

(Zoning Ord. 1977, art. V, § 504(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 84, 3-29-2001; Ord. No. 123, 7-1-2007)

Sec. 46-350. - Special requirements.

- (1) Residential lots or parcels having water frontage and abutting a street shall maintain the yard on the water side as an open unobstructed yard. Accessory structures shall be permitted in the yard between the abutting street right-of-way and the main building (rear yard) providing a minimum set back of 35 feet from the street right of way or street side property line is met. Setback for accessory building only, is subject to section 46-660.5.
- (2) Any principal building abutting lakes, rivers, or streams shall be set back from the shore line of the legally established lake level as required by section 46-660. Separate structures, such as freestanding decks, storage buildings, stairways, dish antennas, or similar structures may be constructed in the front yard only after a special exception use permit has been authorized by the Planning Commission in accordance with the requirements of section 46-660 and article VI of this chapter.
- (3) Off-street parking shall be permitted to occupy a portion of the street side/rear yard.
- (4) *Projections into yards.* Architectural features, not including vertical projections, may extend or project into a required side yard not more than two inches for each one foot of width of such side yard, and may extend or project into a required front yard or rear yard not more than three (3) feet.

(Zoning Ord. 1977, art. V, § 504(5); Ord. No. 15, 12-13-1977; Ord. No. 36, 2-17-1988; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 97, 4-29-2004; Ord. No. 128, § II, 11-18-2008; Ord. No. 144, § V, 8-12-2015; Ord. No. 154, § VI, 1-9-2019)

Secs. 46-351—46-373. - Reserved.

Subdivision VI. - MH Mobile Home Residential District^[4]

Footnotes:

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State Law reference— Local regulation of mobile homes, MCL 125.2307.

Sec. 46-374. - Description and purposes.

The provisions of this subdivision apply to the MH Mobile Home Residential District. The MH zoning district is intended to recognize the growing trend toward mobile homes and manufactured homes and to provide for well located and properly developed areas to accommodate this form of housing.

(Zoning Ord. 1977, art. V, § 505(1); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-375. - Permitted uses.

Land, buildings or structures in the MH zoning district may be used for the following purposes only:

- (1) Mobile home parks.
- (2) Essential services.
- (3) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. V, § 505(2); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 163, § XII, 1-8-2020)

Sec. 46-376. - Special requirements.

Mobile home parks, including residences for mobile home park owners or managers and their families, and accessory buildings and uses, are subject to this chapter generally and the following requirements, conditions, standards, and limitations:

- (1) *Site plan review.* To ensure compliance with the requirements of this division and all applicable state statutes and regulations, preliminary plans for all new mobile home parks or expansions to existing mobile home parks must be submitted to and approved by the Planning Commission in accordance with the provisions of division 2 of article II, site plan review, as modified by the requirements in this section, before construction may commence. The site plan must include, but is not limited to the following:

- a. The number and size of individual mobile home sites.
 - b. The source and location of the water supply and proposed fire hydrants.
 - c. The proposed location and method of sewage disposal and/or treatment with appropriate supporting data.
 - d. The location, sizes, and designs of all signs proposed to be placed upon the site.
 - e. The location and general description of all natural trees and vegetation to be retained as screening for the site, and/or plant materials to be planted for required greenbelts, or alternative proposed screening.
- (2) *The Mobile Home Commission Act.* All mobile home parks shall comply with the requirements imposed by The Mobile Home Commission Act (MCL 125.2301 et seq.), and with any and all regulations promulgated thereunder by the Michigan Mobile Home Commission and the Michigan Department of Public Health, except as said act and regulations may be modified by the provision of this article.
- (3) *Landscaping and screening.* All mobile home parks shall be landscaped as follows:
- a. If the mobile home park abuts an existing residential development, the park shall be required to provide screening along the park boundary abutting the development.
 - b. If the park abuts a nonresidential development, the park need not provide screening.
 - c. In all cases, however, a park shall provide screening along the park boundary abutting a public right-of-way.
 - d. The landscaping shall consist of evergreen trees or shrubs of minimum three feet in height which are spaced so they provide a continuous obscuring screen at maturity. Alternative devices may be utilized if they conceal the mobile home park as effectively as the landscaping described above.
- (4) *Access from major streets.* Each mobile home park shall have a paved access street that enters from a state trunk line, county primary road, or county local road as designated by the St. Joseph County Road Commission as shown on the current road system certification map for Fabius Township. Such access street shall be configured as a boulevard ingress/egress access and shall provide a continuous route of travel throughout the park. Mobile home parks containing 200 or more sites, shall have a minimum of two access streets entering from a state, county, or local road as defined above.
- (5) *Mobile home sales limitations.* The business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home park is a business use not permitted in a residential district. However, new or used mobile homes situated on lots within the mobile home park to be used and occupied within the park may be sold by the owner or operator of the park, by a licensed dealer or broker, provided no more than five are offered for sale at any one time. This shall not prohibit the sale of a new or used mobile home by a resident owner, provided the park management permits such sales.
- (6) *Area requirements for sites.* Mobile home parks shall be developed with sites averaging 5,500 square feet per mobile home unit. This 5,500 square feet for any one site may be reduced by 20 percent, giving a minimum of 4,400 square feet for an individual site, provided that for each square foot of reduced area below 5,500 square feet, at least an equal area of land shall be dedicated as open space; but, in no case shall the open space and distance requirements be less than that required under R125.1946, R125.1941 and R125.1944 of the Michigan Administrative Code (Mich. Admin. Code R125.1941, R125.1944, R125.1946).
- (7) *Street requirements.* Minimum street widths shall be as follows:

	Two-way;eo;(feet)	One-way (feet)
If no parking is permitted along street	21	13
Parallel parking permitted along one side of street	31	23
Parallel parking permitted along both sides of street	41	33

- (8) *Signs.* A maximum of two separate, two-sided identification signs are allowed at each access point to a mobile home park. If two separate signs are used, each shall not exceed 16 square feet on each face. If a single two-sided sign is used, such sign shall not exceed 32 square feet in area on each face. Illumination shall be only by a continuous white light directed toward the sign and shielded in such a way that the light does not shine toward approaching vehicles or pedestrians.
- (9) *Underground utilities.* All public and private utilities shall be installed underground.
- (10) *Site improvements.* All mobile homes shall be installed so as to meet requirements of the Michigan Mobile Home Commission rules and the installation requirements of the mobile home manufacturer. Skirting shall be installed along the base perimeter of each mobile home sufficient to hide the undercarriage and supports from view.
- (11) *Paving requirements.* All streets and parking areas in a mobile home park shall be a hard paved surface of either asphalt or concrete in accordance with standards of the American Association of State Highway and Transportation Officials (AASHTO).
- (12) *Ground cover.* All exposed ground surfaces in the mobile home park shall be sodded, seeded, or covered with ornamental stone. One shade tree at least ten feet high when planted shall be provided for each two mobile home sites. Trees shall be of a type suggested in section 46-654.
- (13) *Refuse disposal.* Each mobile home park shall provide an effective system of garbage and rubbish storage, collection and disposal. Storage areas shall be screened from public view and shall meet requirements of the Department of Environmental Quality's garbage and rubbish storage and disposal requirements.
- (14) *Vehicle storage/parking.* If boats, boat trailers, utility trailers, or similar vehicles are permitted to be parked within the mobile home park, adequate parking spaces shall be provided in a central or collective parking/storage area. This area shall be in addition to the two automobile parking spaces required for each mobile home by the table in section 46-685 and shall be adequately fenced, locked, and permanently screened by a greenbelt or approved alternate.
- (15) *Building and occupancy permits.* Building permits and certificates of occupancy shall be required on all mobile homes. Mobile home park management shall notify the Township Zoning Administrator of any mobile home being moved into the park and any site improvements planned.
 - a. The Township Building Inspector shall inspect the installation of the pad and the utilities on the site prior to the placing of a mobile home on the pad.
 - b. The Township Building Inspector shall inspect the final placement of the mobile home with utilities connected, prior to installation of skirting, before issuing an occupancy certificate.

(Zoning Ord. 1977, art. V, § 505(3); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-377. - Area and bulk regulations.

In the MH district, the following apply:

- (1) Minimum lot size: 5,500 square feet unless reduced to an absolute minimum of 4,400 square feet under the conditions outlined in section 46-376(6).
- (2) Minimum lot width: Determined by side setbacks and width of mobile home.
- (3) Minimum yard setbacks: As prescribed by the Mobile Home Commission, principally in Michigan Administrative Code R 125.1941 and R 125.1944 (Mich. Admin. Code R125.1941, R125.1944).
- (4) Minimum living area: Not applicable.
- (5) Maximum height: 25 feet.

(Zoning Ord. 1977, art. V, § 505(4); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Sec. 46-378. - Performance bond requirement.

The Planning Commission shall have the right and authority to require a mobile home park developer to file with the Township Clerk at the time of Planning Commission approval of the site plan for a new park or expansion of an existing park, a performance bond or bank letter of credit in such amounts as may be determined by the Planning Commission necessary for insuring the completion of work involving public amenities and for the protection of natural resources and/or the health, safety, and welfare of the residents of the Township and adjacent residents and property owners.

(Zoning Ord. 1977, art. V, § 505(5); Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997)

Secs. 46-379—46-399. - Reserved.

DIVISION 4. - RM-1 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

Sec. 46-400. - Intent.

The provisions of this subdivision apply to the RM-1 Multiple-Family Residential District. The RM-1 Multiple-Family Residential District is designed to provide sites for multiple-family dwelling structures, and related uses, which will generally serve as zones of transition between the nonresidential districts and lower density single-family districts.

(Zoning Ord. 1977, art. VI, § 600; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-401. - Description and purpose.

Multiple-family residential districts are provided to serve the limited needs for the apartment type of unit in an otherwise low and medium density single-family community. Site plan review and approval is required for all multifamily development. (See division 2 of article II.)

(Zoning Ord. 1977, art. VI, § 601(1); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-402. - Permitted uses.

In a multiple-family residential district, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article:

- (1) Multiple-family dwellings.

- (2) Accessory buildings and uses customarily incident to the above permitted uses.
- (3) Real estate sign, identifying sign, name plate in conformance with requirements of section 46-655.
- (4) Essential services as defined in section 46-3.
- (5) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. VI, § 601(2); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 163, § XIII, 1-8-2020)

Sec. 46-403. - Special exception uses.

When authorized as a special use by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this section, land, buildings, or structures in the RM-1 district may be used for the following:

- (1) Public utility and service buildings.
- (2) Private and public schools, libraries, museums, art galleries, and similar uses when owned and operated by a governmental agency or non-profit organization. The Planning Commission shall consider the same standards as provided in section 46-269(2).
- (3) Parks, playgrounds, community centers, governmental administration, or service buildings which are owned and operated by governmental agencies or non-profit organizations. The Planning Commission shall consider the same standards as provided by section 46-269(3).
- (4) Churches, parish houses, temples, or similar buildings for religious uses. The Planning Commission shall consider the same standards as provided in section 46-269(4).
- (5) Housing for the elderly when the Planning Commission determines that the following conditions are met:
 - a. All housing for the elderly shall be provided as a planned unit development and may provide for the following:
 - 1. Cottage-type dwellings and/or apartment type dwelling units and/or townhouse-type dwelling units, and/or condominiums.
 - 2. Common services containing but not limited to: central dining rooms, recreational rooms, lounges, workshops, laundry rooms, swimming pools.
 - b. All dwellings shall consist of at least 350 square feet per unit, not including kitchen and sanitary facilities.
- (6) Convalescent homes, nursing homes, hospices, and orphanages when the Planning Commission determines that the following conditions are met:
 - a. No buildings shall be closer than 40 feet to any property line.
 - b. For each bed provided, there shall be on the site at least 1,500 square feet of open space to provide for landscaping, off-street parking, service drives, loading space, yards, and accessory uses, not including the area covered by main or accessory buildings.
- (7) Accessory buildings and uses customarily incident to any of the above special exception uses.

(Zoning Ord. 1977, art. VI, § 601(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-404. - Area and bulk regulations.

In the RM-1 district, no building or structure nor any enlargement thereof shall be erected except in conformance with the following rooms per dwelling unit, lot area, width, frontage, setback, height, living area, minimum separation distance, and lot coverage requirements:

- (1) Minimum rooms required per dwelling unit. All units shall have at least one living room and one bedroom, except that not more than ten percent of the dwelling units may be of a one-room efficiency apartment type.
- (2) Minimum living area per dwelling unit.
 - a. Efficiency apartment: 400 square feet.
 - b. One room apartment: 650 square feet.
- (3) Minimum lot size.
 - a. For developments not exceeding three dwelling units (six rooms): 20,000 square feet.
 - b. For developments of more than three dwelling units (six rooms): 20,000 square feet plus 3,000 square feet for each additional room exceeding six.
- (4) For the purpose of computing required lot size, kitchen, dining, storage, or sanitary facilities shall not be counted; however, the following room totals shall be used:
 - a. Efficiency apartment: 1 room.
 - b. One-bedroom apartment: 2 rooms.
 - c. Two-bedroom apartment: 3 rooms.
 - d. Three-bedroom apartment: 4 rooms.
 - e. Four-bedroom apartment: 5 rooms.
 - f. Dens, libraries, or other extra rooms shown on plans will be counted as bedrooms for the purpose of determining lot size requirements.
- (5) Minimum lot width: 100 feet.
- (6) Minimum street frontage: 100 feet.
- (7) Minimum yard setbacks.
 - a. Front: 50 feet.
 - b. Each side: 30 feet.
 - c. Rear: 30 feet.
- (8) Maximum building height: 2½ stories and 40 feet. (See section 46-3 for definition of building height.)
- (9) Minimum separation distance between buildings shall be the greater of 30 feet or the distance "S" determined by the length and height of such buildings based on the following formula:

S	=	$\frac{L_A + L_B + 2(H_A + H_B)}{6}$
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Where:

S = required minimum horizontal distance between any wall of Building A and any wall of Building B or the vertical prolongation of either.

L_A = total length of Building A

The total length of Building A is the length of that portion of a wall or walls of Building A from which, when viewed directly from above, lines drawn perpendicular to Building A will intersect any wall of Building B.

L_B = total length of Building B

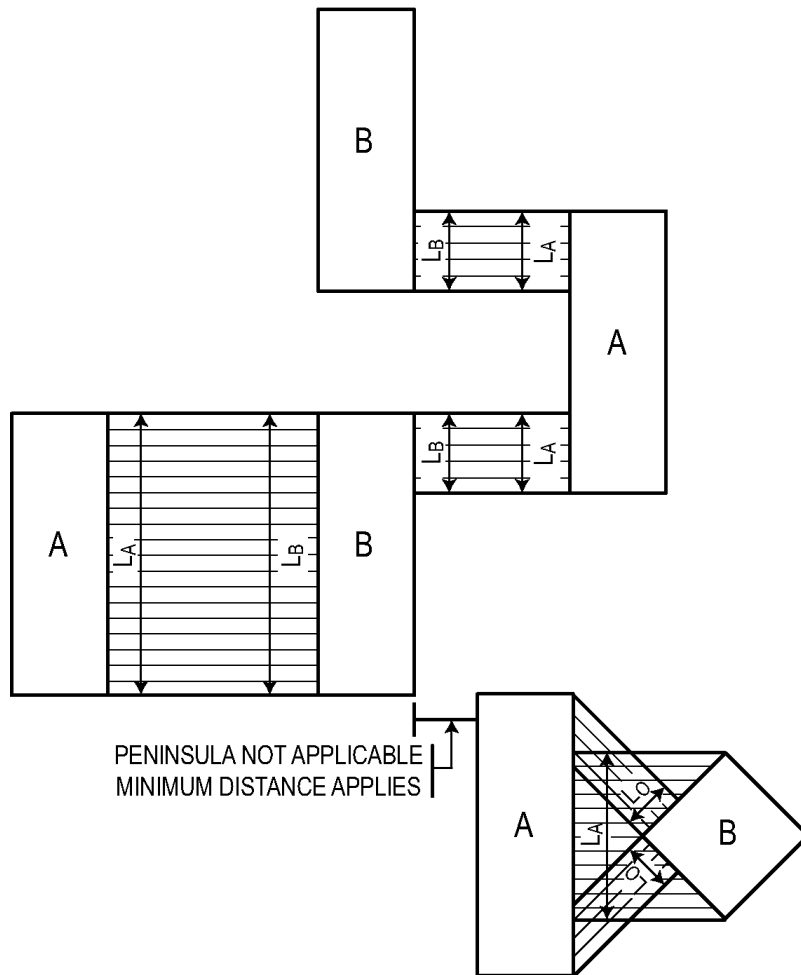
The total length of Building B is the length of that portion or portions of a wall or walls of Building B from which when viewed directly from above, the lines drawn perpendicular to Building B will intersect any wall of Building A.

H_A = height of building A

H_B = height of building B

- (10) Maximum percentage of lot area that may be covered by all buildings: 25 percent, not including that dedicated to access roads.
- (11) Off-street parking may be permitted within required side or rear yards but may not cover more than 30 percent of the area of such yards nor be within any required minimum separation distance between buildings. A minimum of two parking spaces per dwelling unit shall be provided.

Distance Spacing for Multiple Dwellings



$$\text{MINIMUM DISTANCE BETWEEN BUILDINGS} = \frac{L_A + L_B + 2(H_A + H_B)}{6}$$

(Zoning Ord. 1977, art. VI, § 601(4); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-405—46-421. - Reserved.

DIVISION 5. - BUSINESS DISTRICTS

Subdivision I. - In General

Sec. 46-422. - Intent.

This division provides for four types of business or commercial districts to provide for the orderly development of retail, service, and other non-industrial businesses. The primary business district is established along the U.S. 131 and M-60 highway corridors as a normal adjunct to and extension of commercial development in the adjacent city of Three Rivers. Fabius Township is primarily a residential

and agricultural community which does not need nor intend to develop extensive shopping and service facilities independent from Three Rivers. However, the division also provides for small special SSB business districts to meet special or local needs, RB resort business districts to serve primarily lake related needs, and provides guidelines for requesting a shopping center district in the event one is planned and can be justified.

(Zoning Ord. 1977, art. VIII, § 800; Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-423. - General requirements.

- (a) All proposed development in any business district requires site plan review and approval in accordance with division 2 of article II of this chapter.
- (b) All proposed development in any business district must provide off-street parking according to the requirements and standards of section 46-685, off street parking requirements, and section 46-686, off street parking space layout, standards, construction and maintenance. All driveways, access and service roads, and parking lots must be paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
- (c) All proposed development in any business district must provide off-street loading and unloading space in accordance with section 46-687, off-street loading and unloading, unless no receipt or distribution of vehicles, materials, or merchandise is involved.
- (d) All proposed development in any business district must provide measures to protect groundwater from pollution by any fluids or compounds used in or effluent discharged by the proposed use.
- (e) All proposed development in any business district must provide for adequate water supply, sewerage or septic disposal, and solid waste disposal. Where municipal water and sewer services are reasonably available as defined by section 12751 of the Public Health Code (MCL 333.12751), connection to these services is mandatory, unless otherwise waived by the Planning Commission as part of site plan review.
- (f) All proposed development in any business district must provide adequate access for fire fighting equipment, ambulances, and other emergency vehicles.

(Zoning Ord. 1977, art. VIII, § 801; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-424—46-444. - Reserved.

Subdivision II. - B Business District

Sec. 46-445. - Description and purpose.

The provisions of this subdivision apply to the B Business District. The B Business District is intended to provide for the orderly development of small and medium sized businesses primarily serving local needs.

(Zoning Ord. 1977, art. VIII, § 802(1); Ord. No. 65, 9-30-1997)

Sec. 46-446. - Permitted uses.

In the B district, no building shall be erected, or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this subdivision:

- (1) Offices or office buildings for any of the following occupations or professions: executive, administrative, accounting, architectural, consulting, clerical, dental, employment, engineering, governmental, insurance, investment, legal, medical, optical, physical therapy, real estate, or similar occupations and professions.

- (2) Retail shops and stores which supply commodities on the premises, such as, but not limited to: groceries, meats, dairy products, baked goods or other foods; drugs; dry goods; clothing; notions; hardware; sports equipment (but not vehicles or watercraft); antiques, collectibles; books, magazines; furniture, appliances; auto parts; jewelry; gifts; floral products; optical goods; photographic equipment; computers and other electronics; and similar consumer goods.
- (3) General service businesses which provide services such as, but not limited to: banks; savings and loan companies; loan companies; tool, equipment or furniture rental; video rental; printing, duplicating, copying; and other services similar to the foregoing.
- (4) Personal service businesses which provide services on the premises, such as, but not limited to: beauty parlors and barbershops; tanning studios; dietary advice; health and fitness studios; dressmakers, tailor shops; laundry or dry cleaning pick-up points; and other uses similar to the foregoing.
- (5) Artisan, tradesman, or repair work shop, studio, or office, such as, but not limited to: cabinet maker, electrician, decorator, painter, upholsterer, photographer, repair shops of various kinds such as watches, home appliances, electronics equipment, small engines, and other uses similar to the foregoing; but excluding automobile, truck and other vehicle repair shops, body shops, brake and muffler repair, auto tire sales and service shops.
- (6) Accessory structures and uses customarily incident to the above permitted uses.
- (7) Temporary uses and structures shall be permitted with the following restrictions:
 - a. Proof of liability insurance must be provided with the application.
 - b. Site must be returned to the same condition as it was prior to the temporary use.
 - c. Temporary use limited to 30 days maximum. Extensions of time may be granted by the zoning administrator at his/her discretion for reasonable cause.
 - d. Site should provide for adequate off-road parking for intended temporary use.
- (8) Essential services. (See section 46-3 for definition.)
- (9) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing house, garage, shed, or other structure has no restriction on quantity or lot coverage."

(Zoning Ord. 1977, art. VIII, § 802(2); Ord. No. 65, 9-30-1997; Ord. No. 154, § IV(A, B), 1-9-2019; Ord. No. 163, § XIV, 1-8-2020)

Sec. 46-447. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter, after considering the below listed general standards and any additional standards or conditions specifically applicable to the particular uses, land, buildings, or structures in the B Business District may be used for those uses listed beginning with subsection (2) of this section:

- (1) *General standards.* In authorizing a special exception use, the Planning Commission shall consider the following conditions and standards:
 - a. The size, character, and nature of the proposed building(s);
 - b. The proximity of the proposed building(s) to adjoining properties;
 - c. The adequacy of green area to be provided (see section 46-448(4));

- d. The location and dimensions of access and egress drives from adjoining public streets or highways and the adequacy of off street parking to be provided for the proposed use (see section 46-685, off street parking requirements and section 46-686, off-street parking space layout, standards, construction, and maintenance);
 - e. The proposed traffic patterns and the potential traffic congestion and hazards which might result from the proposed use; and
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood, to include signage, lighting, and screening (see sections 46-655, signs; 46-650, exterior lighting; and 46-656, walls).
- (2) Public utility and service buildings.
 - (3) Gasoline service stations, with or without auto repair, automobile and other vehicle repair shops; major auto repair, engine rebuilding, auto body repair facilities, brake and muffler repair shops, quick oil change and lubrication shops, tire sales and service shops, and similar uses. The Planning Commission shall consider the following additional conditions and standards:
 - a. The adequacy of storage or parking area provided for vehicles awaiting repair as well as the security and screening provided for vehicles and supplies used in the operation.
 - b. The adequacy of space provided for vehicles waiting in line for service.
 - (4) Car wash facility, automatic, or self-service, fully or partially enclosed. The Planning Commission shall consider the adequacy of space provided for vehicles waiting in line for service.
 - (5) Restaurants and other food service establishments, with or without drive-up service. The Planning Commission shall consider the adequacy of space provided for vehicles waiting in line for service.
 - (6) Sales of new or used automobiles, trucks, boats, farm equipment, mobile homes, house trailers, recreational vehicles and similar items involving both indoor and outdoor display.
 - (7) Sales of lumber, building materials, farm or garden supplies, nursery stock and plant materials and similar products normally requiring large storage structures and some open storage.
 - (8) Commercial recreation facilities such as a bowling alley, billiard hall, video game emporium, health club, gymnasium, indoor archery range, indoor tennis, indoor skating rink, and similar commercial recreation.
 - (9) Motel, hotel, bed and breakfast, or similar overnight lodging for the travelling public.
 - (10) Public storage, mini-storage facilities.
 - (11) Building or excavating contractor equipment yard, storage and repair sheds.
 - (12) Self-service laundry and dry cleaning facilities (laundromats) and consumer oriented laundry and dry cleaning establishments.
 - (13) Mortuary establishments, with or without crematoria.
 - (14) Veterinary clinics, animal hospitals, kennels. The Planning Commission shall consider the additional standards listed in section 46-224(9), and section 46-269(5).
 - (15) Churches, parish houses, temples, or similar buildings for religious use.
 - (16) Private clubs, fraternal organizations, and lodge halls.
 - (17) Residential dwelling units for resident owners, managers, caretakers, or similar residential use, subject to the following additional standards and conditions:
 - a. Dwelling units must be designed to constitute a well planned part of the proposed commercial development, whether separate, attached, or located on an upper floor.
 - b. Provisions must be made for safe and adequate green space and play area for children.

- c. The Planning Commission may impose any required setbacks and/or performance standards so as to ensure public health, safety, and general welfare.
- (18) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
- a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.
 - f. *Code compliance.* The special exception use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
 - g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback.
 - h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.
 - i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control.
 - j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
 - k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line.
 - l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
 - m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.

- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township board. If required by the Planning Commission the applicant shall set up an escrow account with the township to cover all reasonable fees and expenses incurred by the township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a township official during the fifth-year report mentioned above.
- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflect all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicant's cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 802(3); Ord. No. 65, 9-30-1997; Ord. No. 163, § XV, 1-8-2020)

Sec. 46-448. - Area and bulk regulations.

In the B district, no building or structure, nor any enlargement thereof shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, building coverage, and other requirements:

- (1) Minimum lot size: Determined by minimum lot width, setbacks, and proposed building size.
- (2) Minimum lot width: 66 feet.
- (3) Minimum road frontage: 66 feet.
- (4) Minimum green belt: A green belt of at least 25 feet in depth must be provided in the front yard beginning at the street right-of-way.
- (5) Minimum setbacks.
 - a. Front: 50 feet.
 - b. Side: 20 feet.
 - c. Rear: 25 feet.
- (6) Maximum height of main structure: Three stories, 40 feet.
- (7) Maximum percentage of lot area that may be covered by all buildings: Not applicable.

(Zoning Ord. 1977, art. VIII, § 802(4); Ord. No. 65, 9-30-1997)

Secs. 46-449—46-479. - Reserved.

Subdivision III. - SSB Small Special Business District

Sec. 46-480. - Description and purpose.

The provisions of this subdivision apply to the SSB Small Special Business Districts. The SSB districts are intended to provide for small business enterprises that exist or may be established outside the primary B district to meet local or neighborhood convenience shopping or service needs. These are enterprises that have more customer traffic than would be permitted for a home occupation or a cottage industry, but because of their nature would not be feasible nor appropriate to locate in the primary B district.

(Zoning Ord. 1977, art. VIII, § 803(1); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-481. - Requirements.

- (a) The provisions of section 46-423 also apply to this section.
- (b) Structures being considered for construction or conversion for small business use:
 - (1) Shall be situated on a lot not exceeding two acres that has frontage on and is served by a hard surfaced road;
 - (2) Shall not exceed 1,500 square feet in total floor area;
 - (3) Shall have the appearance of a residential structure and be compatible with the surrounding neighborhood;
 - (4) Shall be intended for the following uses:
 - a. Retail convenience, such as groceries, beverages, bait, tackle, books and magazines, video rental.
 - b. Small professional offices, such as accounting, architectural, consulting, electrical, engineering, insurance, investment, legal, physical therapy, real estate, tax advisory, or similar occupations and professions not involving heavy client traffic.
 - c. Personal service businesses such as beauty shops, barbershops, tanning studios, dietary advice, dress maker/tailor shops and other similar uses.
 - d. Artisan, tradesman, or repair workshop such as cabinet maker, decorator, upholsterer, photographer, electronic or home appliance repair, but excluding repair of internal combustion engines or vehicles.

(Zoning Ord. 1977, art. VIII, § 803(2); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-482. - Parallel application procedure.

The owner or owners of a tract of land may submit simultaneously to the Planning Commission separate but related requests for:

- (1) An amendment to the Zoning Map which would establish a small special business district;
- (2) A request for a special exception use. The requests shall include a full explanation of the type of business use proposed and its justification by reasons of community need, market potential, and location. The special exception use request shall be accompanied by a sketch site plan in accordance with division 2 of article II of this chapter.

(Zoning Ord. 1977, art. VIII, § 803(3); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-483. - Review and approval.

- (a) As a convenience to applicants, the Planning Commission shall review the requests simultaneously as a request to amend the Zoning Map and as a special exception use. Applicants must be aware, however, that a request to amend the Zoning Map, if favorably recommended by the Planning

Commission, must be reviewed by the County Planning Commission approved and enacted by the Township Board. The Planning Commission is empowered to give approval only for the special exception use, which, if granted, is contingent on amendment of the Zoning Map by the Township Board.

- (b) Regarding the special exception use, the Planning Commission shall consider the following standards:
 - (1) The size, character and nature of the proposed building and its proposed use;
 - (2) The proximity of the proposed building to adjoining properties;
 - (3) The off-street parking to be provided for the proposed use;
 - (4) The potential traffic congestion and hazards which might result from the proposed use;
 - (5) The degree to which the proposed building and use harmonizes, blends with, and enhances adjoining properties and the surrounding neighborhood;
 - (6) The benefits which the proposed building and use are expected to bring to the community; and
 - (7) The effect of the proposed building and use on the adjoining properties and the surrounding neighborhood.
- a. If the Planning Commission determines that the proposed development would reasonably meet legitimate actual or projected neighborhood or community needs for shopping or services without detriment to the surrounding neighborhood, the Planning Commission shall hold a public hearing on the application for a Zoning Map amendment in accordance with section 202 of the Michigan Zoning Enabling Act (MCL 125.3202). Upon completion of these procedures, the Planning Commission shall recommend to the Township Board either approval or disapproval of the application for a Zoning Map change.
- b. The Township Board is the only authority empowered to approve or disapprove a Zoning Map change.
- c. A special exception use approved by the Planning Commission for a special small business district may not be changed except with the approval of the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 803(4); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Sec. 46-484. - Area and bulk regulations.

The area and bulk regulations of the SSB district shall be the same as those of the abutting district.

(Zoning Ord. 1977, art. VIII, § 803(5); Ord. No. 65, 9-30-1997; Ord. No. 72, 6-26-1999)

Secs. 46-485—46-506. - Reserved.

Subdivision IV. - SC Shopping Center District

Sec. 46-507. - Description and purpose.

- (a) The provisions of this subdivision apply to the SC Shopping Center District. The SC Shopping Center District is intended to provide for the orderly development of grouped retail sales and service establishments at logical and sound locations within the Township. Typically, such planned centers are located on a single, unified site and are designed and constructed as an integrated unit for shopping and other business activity. The group of store and other business units which make up such a center may range from the relatively small neighborhood shopping center to medium to large scale shopping centers intended to serve the shopping needs of a multi-community region.
- (b) The unique and changing characteristics of this type of business activity calls for standards and procedures which are intended to promote safe and convenient access to shopping and business

facilities while avoiding and minimizing undue traffic congestion or other adverse effects upon property within adjacent zoning districts.

(Zoning Ord. 1977, art. VIII, § 804(1); Ord. No. 65, 9-30-1997)

Sec. 46-508. - Application procedure.

The owner or owners of a tract of land which totals five acres or more may submit to the Planning Commission a request for an amendment to the Zoning Map which would establish a planned shopping center district. The site requested shall be on or near a major thoroughfare, U.S. Highway 131 or state highway M-60. Such request shall be accompanied by the following supporting documents, evidence, and data, without which an application shall not be accepted by the Planning Commission:

- (1) A market analysis by a recognized, reputable market analyst setting forth conclusively the economic justifications and needs for the establishment of a shopping center of the size and type proposed by the applicant. This analysis shall be based upon, but not limited to, such factors as: the trade area of the community and travel time from various parts thereof to the proposed site; general development trends and anticipated population changes; economic trends and disposable income characteristics; expected sales volumes as indicated by forecasted demands for various types of retail merchandise; existing or anticipated competing commercial facilities within a reasonable driving distance; and other data and analyses which relate to the need for, as well as the feasibility of the success and stability of, the proposed shopping center.
- (2) A site plan in accordance with the provisions of division 2 of article II of this chapter, site plan review. It is recommended that persons or corporations contemplating applying for a shopping center district utilize the optional sketch plan review procedure provided for in section 46-71(a).
- (3) A traffic survey prepared by qualified experts indicating the effects of the proposed shopping center on adjacent roadways and streets and also indicating the anticipated points of origin, direction, and amount of traffic flow to and from the proposed shopping center.
- (4) A list of proposed uses expected to be included in the proposed shopping center indicating the area to be devoted to retail space for each proposed use.
- (5) A statement of financial responsibility concerning the financing of the construction of the proposed shopping center to indicate the capability to complete construction in accordance with the site plan and the requirements of this article and the Planning Commission.

(Zoning Ord. 1977, art. VIII, § 804(2); Ord. No. 65, 9-30-1997)

Sec. 46-509. - Review and approval.

- (a) The Planning Commission shall review the evidence and supporting data outlined above and, if satisfied with the adequacy of the preliminary sketch site plan, shall hold a public hearing on the application for a Zoning Map amendment, in accordance with section 202 of the Michigan Zoning Enabling Act (MCL 125.3202). Upon completion of these procedures, the Planning Commission shall recommend to the Township Board either approval or disapproval of the application for a Zoning Map change.
- (b) If the Planning Commission recommends approval of the Zoning Map change, and the Township Board, following review by the St. Joseph County Planning Commission, approves and enacts the change, the applicant must then submit detailed engineered site plans in accordance with the requirements of division 2 of article II of this chapter, site plan review, and obtain Planning Commission approval of site plans before a building permit may be issued. The applicant for a building permit may be required to file a performance bond in accordance with section 46-621(g).
- (c) If the original submission of evidence and supporting data required by subsection (b) of this section, or any later submission required by this article or the Planning Commission, is more than three years old by the time final site plans are submitted to the Planning Commission, the applicant shall provide updated, current data. The Planning Commission shall determine whether the revised data is

sufficiently changed to warrant reconsideration of the application, and if so, shall conduct another public hearing to consider the evidence and supporting data and make findings as to whether they meet the standards and intent of the shopping center district, and shall make a recommendation to the Township Board on whether to rescind its previous amendment to the Zoning Map.

(Zoning Ord. 1977, art. VIII, § 804(3); Ord. No. 65, 9-30-1997)

Secs. 46-510—46-526. - Reserved.

Subdivision V. - RB Resort Business District

Sec. 46-527. - Description and purpose.

The provisions of this subdivision apply to the RB Resort Business District. The RB Resort Business District is intended to provide for limited business uses that may be needed and appropriate for selected areas bordering or near to inland lakes in the Township.

(Zoning Ord. 1977, art. VIII, § 805(1); Ord. No. 72, 6-26-1999)

Sec. 46-528. - Permitted uses.

In RB districts, no building shall be erected or land or building used except for one or more of the following specified uses, unless otherwise specifically provided in this article:

- (1) Single-family dwellings.
 - a. Each lot or parcel shall be limited to one principle dwelling.
 - b. Habitable living space shall not be permitted in any accessory building.
- (2) Accessory structures and uses customarily incident to the above permitted uses.
- (3) Essential services as defined in section 46-3.
- (4) Home occupations as defined in section 46-3, subject to the requirements of section 46-268(8).
- (5) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy system that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed, or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. VIII, § 805(2); Ord. No. 72, 6-26-1999; Ord. No. 84, 3-29-2001; Ord. No. 163, § XVI, 1-8-2020; Ord. No. 164, § II(I), 2-12-2020)

Sec. 46-529. - Special exception uses.

When authorized by the Planning Commission in accordance with article VI of this chapter and any conditions or standards provided in this chapter, land, buildings, or structures in RB districts may be used for the following, subject to the general conditions and standards to be considered by the Planning Commission as contained in section 46-447(1):

- (1) Motel, hotel, lodge, bed and breakfast or similar overnight lodging, not to exceed 20 units.
- (2) Restaurants and other food service establishments.
- (3) Retail convenience stores, such as groceries, beverages, bait, tackle, books and magazines, video rental.

- (4) Marinas providing for the berthing, mooring, launching, servicing, repairing, storing and rental of recreational boats and watercraft with requirements and standards as outlined in section 46-348(4).
- (5) Campgrounds, public or private, not to exceed 50 sites, subject to requirements contained in section 46-620(c).
- (6) Residential dwelling units for resident owners, managers, caretakers, or similar residential uses, subject to the standards outlined in section 46-447(17).

(Zoning Ord. 1977, art. VIII, § 805(3); Ord. No. 72, 6-26-1999)

Sec. 46-530. - Area and bulk requirements.

- (a) In RB districts having water frontage, the requirements of section 46-660, lake residential districts, apply.
- (b) In RB districts without water frontage, the requirements of section 46-660, apply.

(Zoning Ord. 1977, art. VIII, § 805(4); Ord. No. 72, 6-26-1999; Ord. No. 144, § VI, 8-12-2015)

Secs. 46-531—46-553. - Reserved.

DIVISION 6. - I-1 LIGHT INDUSTRIAL DISTRICT

Sec. 46-554. - Intent.

The provisions of this section apply to the I-1 Light Industrial District. The I-1 Light Industrial District is designed to provide for light manufacturing, wholesaling, warehousing, research and testing, and other industrial operations whose external physical effects are restricted to the area of the district and in no manner affect in a detrimental way any of the surrounding districts. The I-1 district is intended to permit, along with any specified uses, the manufacturing, compounding, processing, packaging, assembly and or treatment of finished or semi-finished products.

(Zoning Ord. 1977, art. IX, § 900; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-555. - Description and purpose.

The general goals of the I-1 Light Industrial District include the following specific purposes:

- (1) To provide sufficient space, in appropriate locations, to accommodate orderly development of light industrial uses in support of a diverse economy and tax base.
- (2) To accommodate manufacturing development which is free from the danger of fire, explosion, toxic and noxious materials, radiation, and other hazards, and from offensive noise, vibration, smoke, odor and other objectionable influences.
- (3) To protect abutting residential districts by separating them from industrial activities and by prohibiting the use of such designated industrial districts for new residential development.
- (4) To promote the most desirable use of land in accordance with a well considered plan. To protect the character and established patterns of development, and in each area to conserve the value of land and buildings and other structures and to protect the Township's agricultural and residential character.

(Zoning Ord. 1977, art. IX, § 901(1); Ord. No. 65, 9-30-1997)

Sec. 46-556. - General requirements.

- (a) All proposed development in any industrial district requires site plan review and approval in accordance with division 2 of article II of this chapter.
- (b) All proposed development in any industrial district must provide off-street parking according to the requirements and standards of section 46-685, off-street parking requirements, and section 46-686, off-street parking space layout, standards, construction and maintenance. All driveways, access and service roads, and parking lots must be paved with concrete, hot mix asphalt, or similar and substantially equivalent hard surfaces.
- (c) All proposed development in any industrial district must provide off-street loading and unloading space in accordance with section 46-687, off-street loading and unloading.
- (d) All proposed development in any industrial district must provide measures to protect groundwater from pollution by any fluids or compounds used in or effluent discharged by the proposed use.
- (e) All proposed development in any industrial district must provide for adequate water supply, sewerage or septic disposal, and solid waste disposal. Where municipal water and sewer services are reasonably available as defined by section 12751 of the Public Health Code (MCL 333.12751), connection to these services is mandatory.
- (f) All proposed development in any business district must provide adequate access for firefighting equipment, ambulances, and other emergency vehicles.

(Zoning Ord. 1977, art. IX, § 901(2); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-557. - Permitted uses.

In I-1 districts, no building or land shall be used and no building shall be erected except for one or more of the following specified uses, unless otherwise provided in this article.

- (1) Basic research, design, pilot or experimental development when conducted within a completely enclosed building.
- (2) Laboratories, experimental, film, or testing.
- (3) Warehousing, storage, and transfer with associated trucking facilities.
- (4) Wholesaling, with associated trucking facilities
- (5) Light manufacturing provided all material being used, semi-finished or raw commodities, and all finished products are stored within an enclosed building or screened in accordance with section 46-656, walls.
- (6) Central dry cleaning plants or laundries, provided such plants shall not deal directly with consumers at retail.
- (7) Public utilities, including buildings, necessary structures, storage yards, and other related uses.
- (8) Municipal uses, such as water treatment plants, storage tanks, other municipal buildings and uses, including outdoor storage, but not including sewage treatment plants.
- (9) Public or privately operated recycling facilities.
- (10) Essential services.
- (11) Storage facilities for building materials, sand, gravel, stone, lumber,
- (12) Storage of contractor's equipment and supplies
- (13) Greenhouses and plant nurseries.
- (14) Trade or industrial schools.
- (15) Freestanding nonaccessory signs, subject to the requirements of the Highway Advertising Act of 1972 (MCL 252.301 et seq.) and section 46-655, signs.

- (16) Other uses of a similar and no more objectionable character than the above uses.
- (17) Accessory buildings and uses customarily incident to any of the above permitted uses.
- (18) Existing dwelling units so used at the date of adoption of the ordinance from which this chapter is derived (December 1977).
- (19) Agriculture.
- (20) Accessory use solar energy systems.
 - a. *Free standing.* Any accessory use solar energy systems that is free standing (not attached to a building, house, garage, shed or other structure) is restricted in quantity and limited by the lot coverage requirement for this district as any other accessory structure would be.
 - b. *Structure mounted.* Any accessory use solar energy system that is attached to an existing building, house, garage, shed or other structure has no restriction on quantity or lot coverage.

(Zoning Ord. 1977, art. IX, § 901(3); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 163, § X, 1-8-2020)

Sec. 46-558. - Special exception uses.

When authorized as a special exception use by the Planning Commission in accordance with article VI of this chapter, after considering the below-listed general standards and any additional standards or conditions specifically applicable to the particular uses, land, buildings, or structures in the I-1 Light Industrial District may be used for those uses listed beginning with subsection (2) of this section:

- (1) *General standards.* In authorizing a special exception use, the Planning Commission shall consider the following conditions and standards:
 - a. The size, character, and nature of the proposed building;
 - b. The proximity of the proposed building to adjoining properties;
 - c. The adequacy of green area to be provided (see subsection (1)d of this section);
 - d. The location and dimensions of access and egress drives from adjoining public streets or highways and the adequacy of off-street parking to be provided for the proposed use (see section 46-685, off street parking requirements and section 46-686, off-street parking space layout, standards, construction, and maintenance);
 - e. The proposed traffic patterns and the potential traffic congestion and hazards which might result from the proposed use; or
 - f. The effect of the proposed building and use on adjoining properties and the surrounding neighborhood, to include signage, lighting, and screening (see sections 46-655, signs; 46-650, exterior lighting; and 46-656, walls.)
- (2) Auto engine, body repair and undercoating shops, when completely enclosed.
- (3) Scrap or salvage (junk) yards, provided they meet all applicable requirements of Public Act No. 219 of 1966 (MCL 252.201 et seq.).
- (4) Other uses of a similar character to the above uses, similarity to be determined by the Planning Commission.
- (5) Transmitting towers for commercial radio and television, commercial wireless telecommunications, and for public utility microwave or television, subject to the following conditions:
 - a. *Co-location.* To minimize the proliferation of towers within the Township, the following shall apply:
 - 1. Towers shall not be established unless the antenna cannot be accommodated on an existing or approved tower because the structural capacity would cause interference; existing

towers cannot accommodate the planned equipment at the height necessary; or for other unforeseen reasons.

2. Towers shall be designed and constructed to accommodate both the applicant's equipment and that of a minimum of two other users.
3. Antennas to be placed on roofs, walls, and existing towers must meet the requirements of this section, to include a site plan and a report of a qualified professional engineer.
- b. *Design standards.* All steel towers and antenna supporting structures shall be designed to meet the current structural standards of the Tele-communications Industry Association and Electronic Industries Association known as TIA/EIA-222 or its successor. Towers for cellular phone, wireless internet, or similar uses shall be of the unguyed solid monopole design.
- c. *Minimum setback distances.*
 1. Towers shall be set back from all property lines and street rights-of-way a minimum of the total height of the structure, to include any antenna projecting above the top of the tower. Required setback shall be measured from the outer perimeter of the base of the tower, not its center point, to property lines or rights-of-way. When a tower is to be mounted on another structure, the total height shall be the combined heights of the structure, tower, and projecting antennas.
 2. Anchorages for guyed towers must be on the same parcel of land as the tower and set back from property lines a minimum of 20 feet.
 3. Accessory buildings shall be set back in accordance with the requirements of subsection (5)d of this section.
- d. *Security fencing.* The tower base and any accessory buildings shall be enclosed by a security fence consisting of a six-foot tall chain link fence topped with three strands or barbed wire, or an eight-foot tall chain link fence.
- e. *Obscuring screen.* A seven-foot tall obscuring screen of evergreens and shrubs shall be established to screen the tower base and associated accessory buildings from any residential district or public property located within 500 feet of the tower.
- f. *Lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights or other warning lights unless specifically required by the Federal Aviation Administration, or other federal or state agency having authority over a particular tower.
- g. *Signs.* The use of any portion of the tower for signs other than the minimum required for warning or equipment information is prohibited.
- h. *Removal of unused or abandoned towers.* Towers or portions of towers and associated facilities that are no longer used or have been abandoned shall be removed within 12 months of the cessation of operations, unless an extension of the 12-month period has been approved by the Township Zoning Board of Appeals. At the time an application for construction of a tower is made, a copy of an agreement requiring the applicant to remove the tower and associated facilities upon cessation of operations shall be submitted along with other relative documents, such as a signed lease, deed, or land contract. In the event a tower is not removed within the time period stated above (or as extended by the ZBA), the tower and associated facilities shall be removed by the Township and the costs of the removal assessed against the real property.
- i. *Additional requirements.* In addition to the information required for site plan approval (division 2 of article II of this chapter) and special exception use (sections 46-556 and 46-558(1)) applications for towers shall include the following supplementary information:
 1. Tower plans and a report from a qualified licensed professional engineer which provide tower height and design, including cross-sections and elevations;

2. Mounting positions and maximum separation distances between antennas; capacity of tower; steps taken by the applicant to avoid interference;
 3. A professional engineer's stamp and registration number certifying compliance with FCC and FAA regulations, building and electrical codes, and other applicable Township ordinances, if any; and
 4. Other information necessary to evaluate the request.
- (6) *Shooting ranges.* Shooting ranges, as defined in section 46-3 are subject to the article VI "Conditional and Special Exception Uses"; article VII "Supplemental District Regulations" (to the extent not modified by special exception use requirements); article II, division 2, "Site Plan Review"; article IV, division 7, "Schedule of Regulations"; and the particular standards related to shooting ranges contained in section 46-224(10).
- (7) *Primary use solar energy systems.* The planning commission shall consider the following standards and may issue conditions for approval.
- a. *Land size and area.* The applicant should demonstrate, through the site plan of proposed conditions, that the size, shape, and area of the land are sufficient for the proposed use.
 - b. *Compatibility.* The proposed development should not be detrimental to the surrounding properties and neighborhood.
 - c. *Land/lot coverage.* Solar panels shall not apply to lot coverage calculations. Only the associated buildings and other structures shall be included in the lot coverage calculations.
 - d. *Height restriction.* All buildings and other structures shall be subject to the height restrictions of the district they are located within. Solar panel assemblies shall not exceed 16 feet in height.
 - e. *Safety and security.* Adequate fencing, signage, and safety measures shall guard the facility. Operator shall be required to accommodate access requirements of local fire, police, and ambulance services.
 - f. *Code compliance.* The special exception use permit shall be conditioned upon obtaining all necessary permits and approvals from all levels of government and maintaining compliance thereof.
 - g. *Setbacks.* All solar panels and associated buildings and structures shall be located at least 125 feet from any adjoining property line and be no less than 75 feet from any road, street, or highway right of way line. Fencing and other security measures shall not apply to the required setback
 - h. *Drainage infrastructure.* No part of the planned use, buildings, solar panels, or other structures shall impede, interfere with, or be placed upon any drainage features under the control of the county drain commissioner.
 - i. *Landscaping.* A vegetative buffer and screening shall be constructed around the perimeter of the facility. Naturally occurring existing woodland areas are acceptable as screening and buffering. The applicant shall include with the application a maintenance plan for the proposed development including snow removal, mowing, and weed control.
 - j. *Environmental impact.* Applicant shall meet all permits and requirements of the Fabius Township Wetlands protection ordinance along with all permits and requirements of the Department of Environmental Quality and the Department of Natural Resources of the State of Michigan.
 - k. *Noise.* At no time during the operation of the planned facility shall the noise exceed 50 decibels as measured at the property line.
 - l. *Glare.* Solar panels shall be located and placed so that the concentrated solar glare shall not be directed toward or onto nearby properties or roadways.
 - m. *Decommissioning.* The applicant shall submit a decommissioning plan to ensure the solar energy system components are properly removed and disposed of after their useful life. The plan

shall include provisions for the removal of all structures and foundations, restoration of the soil and vegetation to its original condition, timeframe for completion of the decommissioning, estimated costs, and a surety bond (or other security acceptable to the Planning Commission) to cover the cost of all decommissioning activities. The decommissioning cost estimate shall be prepared by the applicant's engineer. The decommissioning plan and the surety bond amount are subject to approval by the Planning Commission. The plan shall also include a self-conducted decommissioning cost review every five years to be submitted to the Planning Commission for approval, with the surety bond adjusted as needed to cover all costs.

- n. *Annual report.* The operator of the facility shall submit a brief written report to the Planning Commission each year the facility is in operation. The report shall indicate the amount of power generated each month of the reporting period in units of megawatt-hours. The annual report shall also list all complaints received and actions taken to mitigate those complaints. The report shall also list any violations from any governmental agency received during the reporting period and the actions taken to mitigate those violations. Each fifth-year annual report shall include the decommissioning cost review from paragraph "M" above.
- o. *Application fee.* The applicant shall remit the appropriate fee for the special exception use permit pursuant to the fee schedule approved by the Township board. If required by the Planning Commission the applicant shall set up an escrow account with the township to cover all reasonable fees and expenses incurred by the township relating to the application. At its sole discretion, the Planning Commission may require funds be deposited into the escrow account as needed.
- p. *Inspections.* The applicant shall make the facility available to inspections by township officials upon written notice and during normal business hours or at such day and time as mutually agreed upon by both parties. The Planning Commission may, at its discretion, require physical inspection by a township official during the fifth-year report mentioned above.
- q. *Site plan review.* The applicant shall submit an engineered site plan(s) that reflect all existing conditions and all proposed conditions. The site plan(s) shall be prepared at the applicants cost by a registered engineer and requires approval by the Planning Commission.
- r. *Deviations.* Any deviations from the approved plans shall require the submittal of a revised site plan(s) for approval by the Planning Commission.

(Zoning Ord. 1977, art. IX, § 901(4); Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998; Ord. No. 97, 4-29-2004; Ord. No. 137, § 3, 2-8-2012; Ord. No. 163, § XVII, 1-8-2020)

Sec. 46-559. - Area and bulk regulations.

In I-1 districts, no building or structure, nor any enlargement thereof, shall be erected except in conformance with the following lot area, width, frontage, setbacks, height, building coverage, and other requirements:

- (1) Minimum lot size: Determined by lot width, set backs and building size.
- (2) Minimum lot width: 66 feet.
- (3) Minimum road frontage: 66 feet.
- (4) Minimum setbacks.
 - a. Front: 40 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.
 - b. Side: 20 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.

- c. Rear: 20 feet, plus one additional foot for each foot that building height exceeds 40 feet. See note below.

Note: Where property line of the lot involved abuts a residential district, no building shall be closer than 60 feet from said property line.

- (5) Maximum height of main structure: 40 feet except when approved by the Planning Commission with increased setbacks as per subsection (4) of this section.

(Zoning Ord. 1977, art. IX, § 901(5); Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998)

Secs. 46-560—46-570. - Reserved.

DIVISION 7. - SCHEDULE OF REGULATIONS

Sec. 46-571. - Intent.

This division is intended to provide a summary of, and convenient reference to, the minimum required lot areas, widths, and frontages in the various zoning districts, together with the minimum required front, side and rear setbacks; the maximum permitted building heights; and the maximum percentage of lot area that may be covered by buildings. Authoritative requirements may be found in the area and bulk regulations applicable to each zoning district and should be consulted.

(Zoning Ord. 1977, art. XII, § 1200; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-572. - Schedule by districts.

The schedule of regulations by districts is as follows:

Zoning District	Min. Lot Area	Min. Lot Width	Min. Rd. Frontage	Front Setback	Side Setbacks	Rear Setback	Maximum Height	Max. Lot Coverage
AG Agricultural	5 acres	250 feet	200 feet	40 feet ¹	20 feet ¹	40 feet ¹	2.5 stories and 35 ft. ¹	25% ¹
R-1 Rural Residential	5 acres	330 feet	300 feet	40 feet ²	40 feet ²	40 feet ²	2.5 stories and 35 ft. ²	10%
R-2 Medium Density Residential	20,000 sq. ft.	100 feet	75 feet	40 feet ³	10 feet ³	35 feet ³	2.5 stories and 35 ft. ³	25%
R-3 Low Density Residential	65,000 sq. ft.	165 feet	100 feet					

LR Lake Residential	20,000 sq. ft.	100 feet	50 feet	min. 50 ft. avg.	10 feet ⁴	35 feet ⁴	2.5 stories and 35 ft.	25%
MH Mobile Home Residential	5,500 sq. ft. ⁵	See note ⁵		10 feet	15 ft./ 5 ft ⁵	5 feet	1 story and 14 ft.	
RM-1 Multiple-Family Residential ⁶	20,000 sq. ft. ⁶	100 feet	100 feet	50 feet	30 feet	30 feet	2.5 stories and 40 ft.	
B Business	note ⁷	66 feet	66 feet	50 feet	20 feet	25 feet	3 stories and 40 ft.	
SSB Small Special Business	note ⁸	note ⁸	note ⁸	note ⁸	note ⁸	note ⁸	note ⁸	
SC Shopping Center	note ⁹						See section 46-448	
I-1 Light Industrial	note ⁷	66 feet	66 feet	40 feet	20 feet	20 feet		

Notes

¹ Limits are for residential uses. For agricultural, other uses, see section 46-225.

² Limits are for residential uses. For agricultural, other uses, see section 46-270.

³ Limits are for residential uses. For special exception uses, see section 46-292.

⁴ In the LR district, front yards are on the lake side, rear yards on the road side. See sections 46-349 and 46-350. Setback from the lake is greater of 50 feet or average of three existing houses on each side, total six.

⁵ See section 46-377 for lot size of 4,400 sq. ft., lot width, and other requirements.

⁶ For three units only, see article IV, division 4 of this chapter for added space requirements, minimum separation of buildings and other requirements.

⁷ Lot area determined by lot width, building size and setbacks. See section 46-448.

⁸ To correspond with surrounding district in which situated and limitations of article IV, division 5, subdivision III of this chapter.

⁹ As approved by the Planning Commission during site plan review. See article IV, division 5, subdivision IV of this chapter.

(Zoning Ord. 1977, art. XII, § 1201; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Secs. 46-573—46-581. - Reserved.

ARTICLE V. - OPEN SPACE RESIDENTIAL PROJECTS AND OPEN SPACE PRESERVATION⁽⁵⁾

Footnotes:

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State Law reference— Open space preservation, MCL 125.3506; planned unit development, MCL 125.3503.

Sec. 46-582. - Intent.

This article applies to open space residential projects land open space preservation. The intent of this article is to provide, in accordance with sections 503 and 506 of the Michigan Zoning Enabling Act (MCL 125.3503 and 125.3506), for flexibility in the regulation of land development; to encourage innovation in land use; to provide for a harmonious variety of housing choices with the integration of community and recreational facilities, as appropriate; to promote the conservation of natural features and wildlife habitat; and to encourage aesthetic and desirable preservation and use of open space consistent with the character of the Township.

(Zoning Ord. 1977, art. VII, § 700; Ord. No. 79, 3-24-2000)

Sec. 46-583. - Scope.

An open space residential project pursuant to section 503 of the Michigan Zoning Enabling Act (MCL 125.3503) is a form of development often referred to as a planned unit development. Such projects shall be recognized as a special exception use and controlled by the guidelines of this article (except section 702) as well as article VI, conditional and special exception uses, and division 2 of article II, site plan review, of this chapter. Such developments may be permitted as a special exception use in the AG, R-1, R-2, R-3 and RM-1 districts. In zones which provide densities of two or fewer dwellings per acre or if the land is served by public sewer, three or fewer dwellings per acre, then open space projects may be developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) as provided in section 46-584. An open space residential project may be created through a land division, platted subdivision, or condominium subdivision. In addition to this chapter, land divisions, plats, and/or site condominiums are subject to the State Land Division Act, (MCL 560.101 et seq.), the Condominium Act (MCL 559.101 et seq.); the Township land division ordinance; and the Township subdivision control and site condominium ordinance.

(Zoning Ord. 1977, art. VII, § 701; Ord. No. 79, 3-24-2000)

Sec. 46-584. - Development of open space residential projects.

- (a) Open space residential projects developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) are permitted in residential districts with densities of two or fewer dwellings per acre, or, if served by a public sewer system, three or fewer dwellings per acre.
- (b) Properties zoned according to the preceding densities may be developed at the option of the landowner with the same number of dwelling units on a portion of the land, but not less than 50 percent of the original property shall remain perpetually in an undeveloped state by means of a conservation easement, plat dedication, restricted covenant, or any other legal means that runs with the land. The number of dwelling units permitted shall be determined by dividing the area of the parcel, excluding all wetlands, by the minimum lot size of the zoning district in which the property is situated. The area to be left in an undeveloped state shall include not less than 50 percent of the

area used to determine the number of dwellings, plus all wetlands as identified in the Township Wetlands Inventory Atlas.

- (c) Development permitted under this section is not dependent upon the extension of a public sewer or public water supply system. Development is subject to other applicable laws and ordinances, including rules relating to the suitability of groundwater for on-site water supply and suitability of soils for on site sewage disposal.
- (d) Land may be developed according to this option only if the option to develop in this or a similar manner has not been previously exercised with respect to that land.

(Zoning Ord. 1977, art. VII, § 702; Ord. No. 94, 11-28-2002)

Sec. 46-585. - Minimum size and use of open space residential projects.

This article provides for open space residential projects (sometimes known as planned unit developments) developed pursuant to section 506 of the Michigan Zoning Enabling Act (MCL 125.2506) subject to the requirements and standards of these sections and with certain incentive bonuses as explained therein.

- (1) *Minimum size.* The minimum size of an open space residential project shall be ten acres of contiguous land.
- (2) *Uses.* Open space residential projects are restricted to one or more of the following uses regardless of the zoning district in which the development is located as well as those specified in section 46-586:
 - a. One-family, two-family, and multiple-family dwellings, including uses and buildings accessory thereto, including home occupations.
 - b. Nonresidential use of an educational, cultural, recreational character, including uses and buildings accessory thereto, provided such uses are an integral part of a residential development logically oriented to and coordinated with the open space residential project.

(Zoning Ord. 1977, art. VII, § 703; Ord. No. 79, 3-24-2000)

Sec. 46-586. - Density determination.

Permitted project density shall be determined based upon the submittal of a yield plan.

- (1) *Yield plan.* The yield plan shall depict a conventional lot and road layout that conforms to applicable local requirements, including the zoning district in which located. Lots must be sized based on soil suitability to accommodate individual septic systems if municipal sewer is not available. primary conservation areas (see definitions section) shall be depicted on the yield plan and excluded from the layout of conventional lots. Land occupied by permanent easements that restrict construction, such as utility transmission, road access, drainage, shall also be excluded from the buildable area. The maximum number of permitted dwelling units shall be based upon the number of conventional units depicted on the yield plan.
- (2) *Incentive bonuses.* To encourage use of the residential open space project provisions in development, the Planning Commission shall have the option of awarding increases of dwelling unit densities of up to 20 percent when the developer compensates for the increased density by employing exceptional site planning and landscaping designs, and/or preserving substantial areas of natural assets and satisfies to a high degree the review criteria listed in section 46-592.
 - a. *Design.* A density increase bonus of up to ten percent may be awarded when design factors make a substantial contribution to the review criteria and objectives of this article. Factors to be considered include, architectural styles, harmonious use of materials, varied housing types, parking areas broken by landscape features, use of existing physical features, circulation pattern, variation in building set-backs and building groups (clusters), pedestrian-way

treatments, landscaping of recreational areas, single-loaded streets, boulevards, roundabouts, village greens.

- b. *Preserving open space and natural areas.* A density bonus increase of up to ten percent may be awarded when the provision of open space and the preservation of natural areas make a substantial contribution toward meeting the review criteria and objectives of this article. Factors to be considered include reservation of open space, preservation of natural assets such as wooded areas, buffer areas for lakes, streams, wetlands or other water courses, lot layout and street design giving a majority of lots frontage and ingress/egress on single loaded streets.
- c. *Rounding.* When a bonus percentage increase is awarded, any fraction of a dwelling unit above 25 percent will be rounded to the next higher whole number.

(Zoning Ord. 1977, art. VII, § 704; Ord. No. 79, 3-24-2000)

Sec. 46-587. - Minimum open space requirements.

- (a) *Required open space designation.* Open space shall be comprised of primary and secondary conservation areas. (See section 46-3 for definitions of these terms.) Primary conservation areas are predetermined by the location of unbuildable land such as wetlands. Secondary conservation areas shall be based on natural features and open space or recreation elements of the project site plan. The entire open space area shall be protected from development through a conservation easement held by a unit of government or a recognized land conservancy or trust.
 - (1) Deducting the primary conservation areas from the gross parcel area yields the adjusted parcel area. A minimum of 50 percent of the adjusted parcel area shall be designated as secondary conservation area, as defined in section 46-3, definitions, and explained below.
 - (2) Secondary conservation areas shall provide an upland buffer of natural native species of at least 100 feet adjacent to wetlands and surface waters, including ponds and natural drainageways.
 - (3) Open space shall be directly accessible to the largest practical number of lots within the development.
 - (4) Where open space is held in noncontiguous parcels, no open space shall consist of less than two acres or have a length to width ratio of greater than 4:1. Exceptions to this requirement shall include areas specifically designated as trail links, wetland and water body buffers, active recreational facilities or formal community spaces, such as village greens
 - (5) Open space may be used for active recreation purposes, such as golf courses, athletic fields, tennis courts, fitness courses, picnic grounds, and similar recreational purposes involving minimal or no structures, but no campgrounds. No more than 75 percent of open space shall be utilized for active recreation purposes.
- (b) *Pedestrian access to open space.* Safe and convenient pedestrian access to the open space from lots not adjoining it shall be provided. (Conserved farmland may be exempted from this requirement to protect crops from damage.) All roadside footpaths should connect with off-road trails, which in turn should link to open space areas on adjoining parcels.
- (c) *Other permitted uses.* Open space may be used for the following other purposes:
 - (1) Underground drainage fields for individual or community septic systems. Mound systems and aerated sewage treatment ponds shall occupy no more than ten percent of the open space area.
 - (2) Stormwater management/detention ponds may be included and/or constructed with the open space area.

(Zoning Ord. 1977, art. VII, § 705; Ord. No. 79, 3-24-2000)

Sec. 46-588. - Layout of lots and streets.

- (a) *Minimum lot areas and widths.* The minimum lot areas and widths prescribed in the area and bulk regulations of the various zoning districts only apply when density is being determined in accordance with section 46-586. An open space residential project is not subject to these minimums for actual lot layout. The Planning Commission shall determine the approvable areas and widths of lots as proposed by the developer in a preliminary plan prepared in accordance with section 46-592(2), and the degree to which the review criteria of section 46-592 are met.
- (b) *Lot layout.* Residential lots shall be designed around both the primary and secondary conservation areas and may adjoin those areas. The majority of lots shall abut open space in order to provide views and access.
 - (1) Dwelling units should generally not be located closer than 100 feet to a primary conservation area or closer than 50 feet to a secondary conservation area.
 - (2) The designated building footprint may be changed in any direction by no more than 50 feet without requiring any additional review or approval.
 - (3) Dwellings located within open fields or pastures shall be sited on the least important agricultural soils or in locations at the far edge of a field, as seen from existing public road rights-of-way.
- (c) *Street layout.* The creation of single-loaded residential access streets is encouraged to maximize the number of homes that may enjoy views of open space. The street layout should facilitate circulation with the development and provide connections to adjacent residential developments. It should minimize the number of cul-de-sacs created to facilitate access within the development and outside the development.
 - (1) Wetland crossings and streets traversing slopes of 15 percent grade or greater shall be discouraged.
 - (2) Street layout should minimize the number of cul-de-sacs. Where required, cul-de-sacs shall be designed with a central island planted with native trees and shrubs.
- (d) *Streets.*
 - (1) *Interior system.* All open space residential projects shall be serviced by an interior street system. No use within the project shall front or gain direct access from an off-site road network.
 - (2) *Accessibility.* All interior streets shall have widths, gradients, and curvatures sufficient to provide access for emergency vehicles and moving vans.
 - (3) *Paving and width requirements.* Private roads may be utilized for the interior street system of an open space residential project and must be constructed to conform with the requirements of section 46-662, private road construction and maintenance standards and requirements, of this article. Such private roads require a 36-foot wide right-of-way, a paved surface 22 feet wide for a two-way road and 15 feet wide for a single lane road, both having a gravel or grass shoulder two feet wide on each side.
 - (4) *Parking.* All dwelling units shall be provided with parking space adequate for at least four automobiles in addition to any garage space.
 - (5) *Connecting links.* The primary access road(s) of, as well as any other interior roads that serve as connecting links to other public roads, or other major sections of an open space residential project, either currently or in the future, shall be constructed in accordance with the public road specifications of the St. Joseph County Road Commission and be located upon a right-of-way of not less than 66 feet in width.

(Zoning Ord. 1977, art. VII, § 706; Ord. No. 79, 3-24-2000)

Sec. 46-589. - Utilities and drainage.

- (a) *Utilities.* Open space residential projects shall be designed to provide for future public sanitary sewer facilities. All utilities, including electric power, gas, telephone, and cable television shall be placed under ground.
- (b) *Stormwater drainage.* Storm drainage facilities shall be designed and provided separately from any future sanitary sewer. Storm drainage shall be designed to minimize potential soil erosion and adverse impact on existing streams, lakes, and wetlands.

(Zoning Ord. 1977, art. VII, § 707; Ord. No. 79, 3-24-2000)

Sec. 46-590. - Screening; lighting; signage.

(a) *Screening.*

- (1) Screening may be required along the development perimeters if deemed necessary by the Planning Commission to minimize any adverse effects upon or from adjoining properties that are not part of the open space residential project.
 - (2) Screening shall be accomplished by the siting of land uses, by maximizing the use of existing natural screens, and/or providing new natural screens and/or open space buffers where appropriate.
- (b) *Exterior lighting.* All outdoor lighting shall be in accordance with section 46-650, exterior lighting.
- (c) *Signage.* All exterior signage shall be in accordance with section 46-655, signs, and specifically approved by the Planning Commission as part of detailed site plan review and approval.

(Zoning Ord. 1977, art. VII, § 708; Ord. No. 79, 3-24-2000)

Sec. 46-591. - Plan review requirements.

In addition to a final site plan as required by division 2 of article II of this chapter, the following plans shall be prepared and submitted to the Planning Commission for review:

- (1) Site analysis plan, depicting the following information as a minimum:
 - a. Topography based on U.S. Geological Service data (ten feet or five-meter contour intervals).
 - b. Location of wetlands, inundated lakes (lakes, ponds, natural drainageways) 100-year floodplains, and steep slopes in excess of 18 percent grade.
 - c. Locations of rights-of-way and permanent easements (utilities, access, drainage).
 - d. Soil boundaries and descriptions of types of soils based on soil conservation service maps.
 - e. Location of woodlands, tree lines, open fields, meadows, and scenic views from roadways.
- (2) Open space residential plan. A preliminary plan shall be prepared using the four-step design process below:
 - a. Designate open space by outlining the primary and secondary conservation areas.
 - b. Layout dwelling unit sites: Designate tentative location of potential dwelling unit sites.
 - c. Layout streets: Align proposed streets to provide vehicular access to each dwelling unit site in a manner that minimizes impacts on primary and secondary conservation areas.
 - d. Layout lot lines: Divide the dwelling unit sites into lots.

(Zoning Ord. 1977, art. VII, § 709; Ord. No. 79, 3-24-2000)

Sec. 46-592. - Review criteria.

An open space residential project is subject to the following review criteria by the Planning Commission to determine if the proposed development:

- (1) Is consistent with the residential development and environmental conservation goals, objectives, and policies of the Township master land use plan.
- (2) Protects all floodplains, wetlands, and steep slopes from clearing, grading, filling, or construction except as approved for essential services or recreation amenities.
- (3) Preserves and maintains mature woodlands, fields, pastures, meadows, orchards and creates sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- (4) Is designed around existing hedgerows and tree lines between fields or meadows and minimizes impacts on woodlands of five acres or more.
- (5) Leaves scenic views and vistas unblocked or uninterrupted, particularly as seen from public roads rights-of-way.
- (6) Avoids, where appropriate, new construction on prominent hilltops or ridges by taking advantage of lower topographic features.
- (7) Protects wildlife habitat area of species listed as endangered, threatened, or of special concern by the federal or state government.
- (8) Is designed around sites of historic, archaeological, or cultural value and their environs.
- (9) Protects the rural roadside character by establishing buffer zones along scenic corridors and improves the public safety and vehicular carrying capacity by avoiding development that fronts directly on existing streets and roadways.
- (10) Provides for landscaping of common areas, cul-de-sac islands, and both sides of new roads with native species of shade trees and flowering shrubs with high wildlife conservation value.
- (11) Provides active recreation areas in suitable locations that offer convenient access by residents and adequate screening from nearby dwelling units.
- (12) Includes a pedestrian circulation system designed to ensure that pedestrians can walk safely and easily throughout the site.
- (13) Provides that individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of environmental site features.
- (14) Provides open space that is reasonably contiguous and configured in accordance with guidelines of the National Land Trust design handbook.

(Zoning Ord. 1977, art. VII, § 710; Ord. No. 79, 3-24-2000)

Sec. 46-593. - Application, review, and approval processing procedures.

- (a) Procedures for processing the application, review and approval of an open space residential project are generally the same as for a site plan review as outlined in section 46-71. Because of the nature of such projects, it is expected that several preliminary conferences between the developer and the Planning Commission will be required.
- (b) When an open space residential project is being developed as a subdivision or a site condominium, processing will also be in accordance with the provisions of article II of chapter 34, the Township subdivision control and site condominium ordinance.

(Zoning Ord. 1977, art. VII, § 711; Ord. No. 79, 3-24-2000)

Secs. 46-594—46-619. - Reserved.

ARTICLE VI. - CONDITIONAL AND SPECIAL EXCEPTION USES^[6]

Footnotes:

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State Law reference— Special land uses, MCL 125.3502.

Sec. 46-620. - Purposes and standards.

- (a) To make this article a flexible zoning control and still afford protection of property values and provide for orderly and compatible development within the Township, the Planning Commission is authorized to approve the establishment of certain uses designated as conditional or special exception uses within the various zoning classifications set forth in this article, including section 46-191, uses not otherwise included within a specific use district.
- (b) Such uses have been identified because of their special characteristics which might cause them to be incompatible with or detrimental to the other uses permitted in a particular zoning district, unless proper controls and limitations are imposed.
- (c) Accordingly, conditional or special exception uses are not permitted in a particular zoning district in which they are listed, or to which they may be assigned under section 46-191, unless and until the Planning Commission, in its absolute discretion, is satisfied that such uses, under the conditions, controls, limitations, circumstances, and safeguards imposed by the Commission, meet the following criteria:
 - (1) That such uses are compatible with the other uses expressly permitted within the district, the natural environment, and the capacities of public services and facilities affected by the land use;
 - (2) That such uses would not, in any manner, be detrimental or injurious to the use or development of adjacent properties, to the occupants thereof, or to the general neighborhood;
 - (3) That such uses would promote the public health, safety, morals and general welfare of the community; would encourage the use of lands in accordance with their character and adaptability; would promote the conservation of natural resources and energy; and would promote the use of land in a socially and economically desirable manner; and,
 - (4) That the conditions, standards, and limitations imposed by the Planning Commission in permitting such conditional or special exception use can and will, in the judgment of the Commission, be met at all times by the applicant.
- (d) The burden of proof of facts which might lead to the granting of a conditional or special exception use permit under the foregoing requirements and standards shall be upon the applicant.

(Zoning Ord. 1977, art. XI, § 1100; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-30-1979; Ord. No. 65, 9-30-1997)

Sec. 46-621. - Permit procedures.

- (a) All applications for conditional or special exception use permits shall be filed with the Township Zoning Administrator utilizing the application form available for this purpose, and shall include all pertinent plans, specifications, and other data upon which the applicant intends to rely for such use permit.
- (b) The Planning Commission, upon receipt of an application in proper form shall schedule and hold a public hearing upon the request in accordance with notification and other procedures as required by the Michigan Zoning Enabling Act (MCL 125.3101 et seq.). All notices shall describe the nature of the conditional or special exception use requested, indicate the property which is the subject of such

request, state when and where such request will be considered, and indicate when and where written communications will be received concerning the request.

- (c) Following such hearing, the Planning Commission shall either grant or deny a permit for such use and shall state its reasons for its decision in the matter. All conditions, limitations, and requirements upon which any such permit is granted shall be specified in detail by the Commission in its decision and shall be filed with the zoning enforcement officer of the Township. Any conditions, limitations or requirements upon which approval is based shall be reasonable and designed to protect natural resources, the health, safety and welfare and the social and economic well being of the owners and occupants of the land in question, of the area adjacent thereto, and of the community as a whole; constitute a valid exercise of the police power and be related to the purposes which are affected by the proposed use or activity; be consistent with the intent and purpose of this chapter; designed to ensure compatibility with adjacent uses of land and the natural environment; and designed to ensure that public services and facilities affected by a proposed land use or activity will be capable of accommodating increased service and facility loads caused by the land use or activity.
- (d) The Planning Commission shall have the right to limit the duration of such uses where the same are of a temporary nature and may reserve the right of annual review of compliance with the conditions and limitations imposed upon such use. Any use failing to comply with such requirements may be terminated by action of the Planning Commission after a hearing upon application of any aggrieved party.
- (e) The plot plan and specifications and all conditions, limitations and requirements imposed by the Planning Commission shall be recorded with the Township and shall be incorporated as part of the conditional or special exceptional use permit. Violations of any of these at any time shall cause revocation of said permit and said use shall cease to be a lawful use.
- (f) Any property which is the subject of a conditional or special exception use permit which has not been used for a period of six months (without just cause being shown which is beyond the control of the owner and which is acceptable to the Planning Commission) for the purposes for which such conditional or special exception use was granted shall thereafter be required to be used for only permissible uses set forth in the particular zoning district within which the property is located and the permit for such conditional or special exception use shall thereupon terminate.
- (g) To ensure compliance with the this chapter and any conditions, limitations, or requirements imposed by the Planning Commission as necessary to protect natural resources or the health, safety and welfare of the residents of the Township and future users or inhabitants of the proposed project or project area, the Planning Commission may require a cash deposit, certified check, or irrevocable bank letter of credit or surety bond covering the estimated cost of furnishing such conditions, limitations, or requirements and conditioned upon the faithful completion of the required improvement. Such security shall be deposited with the Township Clerk at the time of the issuance of the permit authorizing the commencement of such construction or activity. Where the improvement required will take more than six months to be completed, the Planning Commission may authorize a rebate of any cash deposit in reasonable proportion to the ratio of the work completed as the work progresses.
- (h) No appeal regarding conditional or special exception use permits may be taken from any decision of the Planning Commission to the Zoning Board of Appeals and the remedy of any aggrieved party shall be in circuit court.

(Zoning Ord. 1977, art. XI, § 1101; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-30-1979; Ord. No. 65, 9-30-1997; Ord. No. 119, 9-30-2006)

Secs. 46-622—46-645. - Reserved.

ARTICLE VII. - SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1. - GENERALLY

Sec. 46-646. - Intent.

It is the intent of this article to assemble for convenient reference to the zoning provisions that apply generally throughout the Township or are operative in several zoning districts as indicated.

(Zoning Ord. 1977, art. XIV, § 1400; Ord. No. 65, 9-30-1997)

Sec. 46-647. - Scope.

No building or structure, or part thereof, shall hereafter be erected, constructed or altered and maintained and no new use or change shall be made or maintained of any building, structure or land, or part thereof, except in conformity with the provisions of this chapter.

(Zoning Ord. 1977, art. XIV, § 1402; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-648. - Splitting or dividing of existing lots.

No lot existing on the effective date of this section shall be further split or subdivided where the act of splitting or subdividing of the same would violate any state statute or regulation, including those pertaining to the subdivision of land, or of any applicable Township ordinance. Additionally, no such lot shall be split or subdivided where such act will result in the creation of a lot which does not meet the minimum size, area, or other applicable requirements of the zoning chapter. After the construction, erection or placement of any use permitted by the terms of this article upon a lot and at all times thereafter, such lot shall not be split or subdivided in any manner which would result in the creation of a lot which does not meet the applicable portions of this article, including all applicable setback provisions. Nothing contained in this section, however, shall prevent the splitting or subdividing of existing lots, including nonconforming lots of record, where the act of such splitting or subdividing results in the creation of larger adjacent or contiguous lots providing that the act of splitting or subdividing does not violate any state statutes and regulations or any Township ordinance pertaining to the subdivision of land.

(Zoning Ord. 1977, art. XIV, § 1403; Ord. No. 15, 12-13-1977; Ord. No. 26, 5-6-1983; Ord. No. 65, 9-30-1997)

Sec. 46-649. - Frontage on a street.

- (a) No zoning lot shall be used for any purpose permitted by this chapter unless said lot abuts a street as defined in section 46-3 or a special exception use permit has been granted by the Planning Commission for an easement providing access from a street.
- (b) In granting a special exception use permit, the Planning Commission shall consider the following:
 - (1) That a written easement agreement running with the land has been or will be duly recorded with the St. Joseph County Registrar of Deeds; and such agreement shall contain an easement for public utilities and provisions for maintenance and snow removal, to include methods for apportioning costs, consent for the Township to assess owners in a proportionate manner if repairs or maintenance are not accomplished, and non-interference provisions such that owners of properties using the driveway shall not prohibit, restrict, or limit in any manner the normal ingress and egress and use by any other owners, their family, guests, or tradesmen needing legitimate use of the driveway.
 - (2) That a site plan has been submitted and approved showing that the easement providing access will contain a driveway of well graded gravel or crushed stone at least six inches deep, at least ten feet in width, cleared to a width of at least 12 feet, that in the judgment of the Planning Commission has grades, curves, length, and location providing adequate access for ambulance, fire, police, and other emergency vehicles, and moving vans.
 - (3) That such driveway will not exceed a length of 1,350 feet, measured along the centerline from the street sideline to each dwelling served.

(4) That any such driveway serving two or more dwellings shall have a passing turnout six additional feet in width for a total width of 16 feet and 25 feet long, at the driveway connection to the street and may be required to have additional turnouts as determined by the Planning Commission based on such factors as slopes and terrain, sight distances, and other safety considerations.

(5) That such approved easements and driveways may be shared by no more than five dwellings.

(Zoning Ord. 1977, art. XIV, § 1404; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 68, 2-27-1998)

Sec. 46-650. - Exterior lighting.

(a) All outdoor lighting in all districts used to light the general area of a specific site shall be shielded to reduce glare and shall be so arranged as to direct light away from all adjacent residential districts or nearby residences.

(b) All outdoor lighting in all districts shall be directed toward and confined to the ground areas of lawns or parking lots.

(c) All lighting in nonresidential districts used for the external illumination of buildings, so as to feature said buildings, shall be placed, directed, and shielded so as not to interfere with the vision of drivers on adjacent highways or persons on adjacent properties.

(d) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of drivers on adjacent highways or persons on adjacent properties.

(e) All illumination of signs and any other outdoor feature shall not be of a flashing, moving or intermittent type. Artificial light shall be maintained stationary and constant in intensity and color at all times when in use.

(Zoning Ord. 1977, art. XIV, § 1406; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-651. - Corner clearance.

No fence, wall shrubbery, sign, or other obstruction to vision above a height of two feet from the established street grade shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from the point of intersection.

(Zoning Ord. 1977, art. XIV, § 1407; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-652. - Residential entryway.

In all residential districts, so-called entranceway structures including, but not limited to walls, columns and gates marking entrances to single-family subdivisions or multiple-family housing projects may be permitted and may be located in a required yard, except as provided in section 46-651, corner clearance, above, provided that such entryway structures shall comply with all codes of the Township and shall be approved by the building official and a permit for same issued.

(Zoning Ord. 1977, art. XIV, § 1408; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-653. - Accessory buildings.

Accessory buildings, except as otherwise permitted in this article, shall be subject to the following regulations; accessory structures in the front yards of waterfront lots are governed by subdivision V of division 3 of article IV of this chapter, LR Lake Residential Districts and section 46-660:

(1) In residential districts garages and similar structures attached to a main building and used for such purposes as storage of vehicles, home workshops, and household storage, but not as a living

area, are not considered accessory buildings for the purpose of this article; however, the floor area for such accessory uses shall not exceed 750 square feet and the height of such structures shall not exceed that of the main building. The floor area of such accessory uses shall be included as part of the main building floor area for purposes of determining the maximum permitted ground floor area of a detached accessory building in subsections (3) and (4) of this section. Such attached structures are subject to the same height and other regulations applicable to main buildings.

- (2) Unless a special exception use permit has been granted, unattached accessory buildings, and other accessory structures, on any lot of five acres or less in residential districts, or on any lot of five acres or less having residential uses in agricultural districts, shall not be erected in any required yard, except a rear yard, or side yard. No detached accessory building in a residential district shall be built on a parcel unless there is a residential structure on the lot. However, the Zoning Administrator may grant permission to construct an accessory building not to exceed the ground floor area of a residence provided the vacant parcel is adjacent to or directly across the street from a parcel with a residence owned by the applicant, if one of the following has taken place:
 - a. The properties will be combined together by the Township Assessor; or
 - b. The property owner must prepare a recordable document, approved by the Township Attorney, to be filed with the County Register of Deeds office that provides that the residential parcel and the vacant parcel will be sold together unless or until the second parcel has a residential structure or a building permit is in effect for a residential structure and construction is in process.
- (3) No detached accessory building in any residential district on a lot or parcel of two acres or less shall exceed the ground floor area of the main building, or 15 feet in height, or have side walls of more than nine feet in height.
- (4) No detached accessory building in an R-2, R-3, LR, MH, or RM-1 residential district on a lot or parcel of more than two acres shall exceed the ground floor area of the main building, nor 18 feet in height, nor have sidewalls exceeding 12 feet.
- (5) In residential districts, the number of detached accessory buildings is limited as follows:
 - a. On lots or parcels up to two acres: one.
 - b. On lots or parcels of two acres or more: one, with additional accessory buildings which may be approved by the Planning Commission as a special exception use. The Planning Commission shall consider the following standards:
 1. The size, character and nature of the proposed additional accessory building and its proposed uses;
 2. The proximity of the proposed building to adjoining properties with residential structures;
 3. The degree to which the proposed building and use harmonize, blend with, and enhance the surrounding neighborhood; and
 4. The effect of the proposed building and use on adjoining properties and the neighborhood.
- (6) Portable storage sheds and similar structures not affixed to permanent foundations and not exceeding 80 square feet are not considered accessory buildings, but must be sited in conformance with all setbacks. Only one such storage shed is permitted for a dwelling, regardless of the number of lots or parcels on which the dwelling is situated, but such sheds may be in addition to the number of accessory buildings permitted by subsection (5) of this section. Such structures must have a minimum width of six feet. Such structures planned to be sited in the front yards of waterfront properties require special exception use permits in accordance with section 46-348 or section 46-660(b).
- (7) No detached accessory building shall be located closer than ten feet to any main building nor shall it be located closer than ten feet to any side or rear lot line. In those instances where the rear lot line is coterminous with any alley right-of-way, the accessory building shall not be closer than

one foot to such rear lot line. In no instance shall an accessory building be located within a dedicated easement or right-of-way.

- (8) When an accessory building is located on a corner lot, the side lot line of which is substantially a continuation of the front lot line of the lot to its rear, said building shall not project beyond the front yard setback required on the lot in rear of such corner lot.
- (9) All trailer coaches, motor homes, recreational vehicles or camping trailers parked or stored other than in established mobile home parks or licensed campgrounds shall not be occupied for more than 14 days per year. Tent camping on any lot with or without a permanent dwelling situated thereon shall not exceed 14 days per calendar year, except in licensed campgrounds or licensed children's camps.
- (10) Where a trailer coach or mobile home is intended to be occupied as a temporary residence while construction of a permanent residential building is in process, or where an existing residence has been damaged or destroyed by fire, windstorm, or other such disaster, the Zoning Administrator may approve issuance of a temporary permit for a period not to exceed one year, provided valid permits from the Board of Health for sewage or septic disposal for such use are presented by the applicant. Said permit may be renewed for a maximum of one additional year only if a building permit for the permanent residence has been obtained and actual building construction is being diligently carried on. Such mobile home or trailer coach is exempt from the minimum living area requirements but must be sited in accordance with required setbacks unless a variance has been granted by the Zoning Board of Appeals.
- (11) The use of semi-trailers, former house trailers, or previously used manufactured homes as temporary storage units is permitted only in B Business Districts and I-1 Light Industrial Districts for periods not exceeding 60 days, unless otherwise approved by the Zoning Board of Appeals. Trailers and semi-trailers may be used as temporary offices and/or tool storage facilities on construction or building sites in any district only as long as the building permit for the project is valid.

(Zoning Ord. 1977, art. XIV, § 1410; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 73, § 1, 8-25-1999; Ord. No. 79, 3-24-2000; Ord. No. 88, 3-29-2001; Ord. No. 95, 5-1-2003; Ord. No. 97, 4-29-2004; Ord. No. 104, 3-25-2005; Ord. No. 110, 8-2-2005; Ord. No. 136, § I, 2-8-2012; Ord. No. 136, § 1, 2-8-2012; Ord. No. 154, § V(A, B), 1-9-2019; Ord. No. 164, § II(J), 2-12-2020)

Sec. 46-654. - Plant materials.

- (a) Whenever in this article a greenbelt or planting is required, it shall be planted within six months from the date of issuance of a conditional or special exception use permit or, in the case of a commercial or residential structure, issuance of a certificate of occupancy, and shall thereafter be reasonably maintained with permanent plant materials to provide a screen to abutting properties or adjacent public streets or rights-of-way. Suitable plant materials equivalent to the plant material listed in subsection (c) of this section, with the required spacing indicated in subsection (b) of this section, shall be used.
- (b) Plant material spacing.
 - (1) Plant materials shall not be placed closer than four feet from the fence line or property line.
 - (2) Where plant materials are placed in two or more rows, plantings shall be staggered in rows.
 - (3) Evergreen trees shall be planted not more than 30 feet on centers, and shall be not less than five feet in height when planted.
 - (4) Narrow evergreens shall be planted not more than six feet on centers, and shall be not less than three feet in height when planted.

- (5) Tree-like shrubs shall be planted not more than ten feet on centers, and shall be not less than four feet in height when planted.
- (6) Large deciduous shrubs shall be planted not more than four feet on centers, and shall be no less than six feet in height when planted.
- (7) Large deciduous trees shall be planted not more than 30 feet on centers, and shall be not less than eight feet in height when planted.
- (c) Suggested plant materials.

Evergreen Trees (Min. 5 ft. in height)	Narrow Evergreens (Min. 3 ft. in height)
Fir	Blue Columnar Chinese Cedar
Douglas Fir	Columnar Hinoki Cypress
Hemlock	Columnar Giant Arbor-Vitae
Juniper	Douglas Arbor-Vitae
Pine	Irish Yew
Spruce	Pyramidal Red Cedar
	Pyramidal White Pine
	Swiss Stone Pine

Large Deciduous Trees (Min. height 8 ft.)	Large Deciduous Shrubs (Min. height 6 ft.)
Beech	Buckthorn
Birch	Cottoneaster
Ginkgo	Euonymus
Hackberry	Forsythia
Hard Maple	Hazelnut

Honey Locust	Honeysuckle
Hop Hornbeam	Lilac
Linden	Mock Orange
Oak	Ninebark
Planetree (Sycamore)	Privet
Sweet Gum	Sumac

Tree-like Shrubs (Minimum height four feet)		
Dogwood	Hornbeam	Redbud
Flowering Crab	Magnolia	Rose of Sharon
Hawthorne	Mountain Ash	Russian Olive

(Zoning Ord. 1977, art. XIV, § 1414; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-655. - Signs.

- (a) *Intent and purpose:* This section is intended to regulate the use, construction, reconstruction, placement and design of signs in order to protect the Township's public health, safety and welfare. This section is intended to establish reasonable regulations regarding the size, placement and construction of signs, while also regulating the time, place and manner of their display.
- (1) The regulations contained in this section acknowledge that an individual property owner's or user's right to convey a message for business or other purposes must be balanced against the public's health, safety and welfare, and its right to be free of signs that are unreasonable distractions to drivers and pedestrians and which unnecessarily compete to attract attention.
- (2) The purposes of this section are to:
 - i. Encourage the effective use of signs as a means of communication;
 - ii. Improve and maintain pedestrian and traffic safety;
 - iii. Encourage economic development;
 - iv. Prevention of blight;
 - v. Minimize the possible adverse effect of signs on nearby public and private property;

- vi. Preservation and/or protection of scenic areas, viewshed and the dark night sky;
 - vii. Enable the fair and consistent enforcement of sign regulations;
- (3) It is further recognized that Fabius Township desires to regulate the size, number, location and placement of signs in order to:
- i. Prevent and/or limit traffic and pedestrian accidents and injuries;
 - ii. Prevent and/or limit property damage occurring from obstructed visions caused by signs;
 - iii. Prevent and/or limit distraction and confusion for the public and/or emergency service personnel resulting from signs;
 - iv. Minimize the risk of injury or damage from dilapidated, obsolete and/or abandoned signs;
 - v. Protect the public health, safety and welfare.
- (4) It is further recognized that in some special instances, temporary signs may be appropriate for a limited time and with reasonable conditions.
- (5) It is further recognized that this section does not regulate the following:
- i. The content of signs;
 - ii. Scoreboards at public schools or public athletic fields.
 - iii. Gravestones or cemetery markers;
 - iv. Religious symbols;
 - v. Noncommercial holiday displays.
- (b) *General requirements.*
- (1) It shall be unlawful for any person to erect, place or maintain a sign in the Township except in accordance with the provisions of this section. Any sign which is not expressly allowed under the provisions of this chapter is prohibited.
- (2) *Signs permitted in all zoning districts:* The following signs are permitted in all zoning districts, except as otherwise provided, and do not required a zoning permit, but must conform to all other requirements of this section.
- i. One property address sign per lot or parcel that identifies the address number and street. Such signs shall not exceed 16 square feet in commercial and industrial zones or five square feet in agricultural and residential zones.
 - ii. Nameplate signs, not to exceed two square feet. A limit of one nameplate sign per each side of a building facing a street or parking area shall be permitted per business.
 - iii. Memorial signs or tablets, names of buildings, and date of erection, monumental citations, commemorative tablets when carved into stone, concrete or other similar material or made of bronze, aluminum or other non-combustible material and made an integral part of the structure.
 - iv. Signs on a bus, truck, trailer or other vehicle while operated and used for transport in the normal course of business.
 - v. Regulatory, directional and street signs erected by a public agency in compliance with the Michigan Manual of Uniform Traffic Control Devices, the Uniform Federal Accessibility Standards and/or the Michigan Barrier Free Manual.
 - vi. Private traffic control signs which conform to the requirements of the Michigan Manual of Uniform Traffic Control Devices.
 - vii. Flags bearing the official insignia of a nation, state, municipality, educational institution or military branch and which do not constitute advertising.

- viii. Gateway signs not exceeding eight feet in height and/or 32 square feet in total sign area, as approved by the Township.
- ix. Plaques and signs designating a building or a site as historic in nature and installed by a federal, state or local historical agency or group.
- x. Permanent signs on vending machines, ice containers or other similar devices, indicating only the contents, provided that the sign area shall not exceed six square feet per device and are not legible from the adjacent street.
- xi. Political signs shall be removed within ten days after the election to which they apply. Political signs shall not be illuminated and may be placed only on private property and only with the permission of the property owner. Political signs shall not exceed 32 square feet per sign or an aggregate of 64 square feet of display area per lot or parcel.
- xii. Any sign that is located completely within an enclosed building and is not visible from outside the building.
- xiii. Incidental signs provided such signs do not occupy more than eight square feet of advertising display area. Incidental signs are not permitted in residential or agricultural zoning districts.
- xiv. Product dispenser and point of sale displays provided they are not readable at a distance greater than three feet off of the lot or parcel. Product dispensers and point of sale displays are not permitted in residential or agricultural zoning districts.
- xv. On-premise directional signs up to four square feet in sign area. Each lot, parcel or development shall not have more than two directional signs per access point.
- xvi. Any sign providing a public notice or emergency information that is temporary in nature.
- xvii. Wayfinding signage installed by a government, government agency or quasi-government agency, including, but not limited to, DDAs, Corridor Improvement Authorities, etc.
- xviii. One construction sign for each street frontage of a construction project except developments involving one-family and two-family dwellings. The construction sign cannot exceed 64 square feet in area. Such signs may be erected 30 days before the beginning of construction and must be removed within 30 days following construction.
- xix. One non-illuminated real estate sign per lot not to exceed 16 square feet in area involving the sale or rental of the lot. Any such sign shall be located on the lot being advertised for sale or rent.
- xx. Any noncommercial sign that is not legible from a distance of more than three feet beyond the lot or parcel on which sign is located.
- xxi. Any portable freestanding sign which is not legible from a public street. Examples of such locations include, but are not limited to, inside a mobile home park or apartment complex, which signs are used for internal purposes only.
- xxii. Sidewalk signs located within ten feet of the entrance to a business that the sign is advertising, so long as adequate clearance is maintained on the sidewalk for pedestrians and other traffic.
- xxiii. Any subdivision or condominium advertising sign, provided that they are temporary, not illuminated and do not exceed 64 square feet in area. There may be no more than two such signs per subdivision or condominium development and the signs must be removed when 75 percent of the lots/units have buildings on them, or have been sold or leased to purchasers/lessees other than the developer.
- xxiv. Banners, seasonal and decorative in nature and theme that do not advertise a product, service or business and which pertain to holidays and/or community or governmental events. Banners must be attached to light or utility poles and can be a maximum size of 32 square feet.
- xxv. Banners, commercial in nature and theme, that are no larger than 32 square feet in area. Such banners may only be displayed for 42 days out of any calendar year per business, entity or

enterprise. No more than one banner is allowed per lot or parcel and such banners are only allowed in the B, RB, SSB and I-1 zoning districts.

- 3) *Prohibited signs:* The following signs are prohibited in all zoning districts, unless expressly permitted in this section.
 - i. Any sign not expressly allowed by this section.
 - ii. Abandoned signs, which shall be removed within 30 days of the cessation of the business, use or activity.
 - iii. Gas or air filled balloons intended to draw attention to a business or other commercial activity.
 - iv. A sign that contains an intermittent or sequential flashing light source used to attract attention to a business or other commercial activity. This does not include electronic changeable copy signs that are otherwise expressly permitted in this section.
 - v. A rotating or moving sign in which the sign itself or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.
 - vi. Vehicle signs not used during the normal course of a lawful business that are parked or located for the primary purpose of displaying the advertising copy.
 - vii. Festoons, pennants, nongovernmental flags, banners, inflatable figures, and streamers, except as expressly permitted in this section.
 - viii. Snipe signs.
 - ix. Signs imitating or resembling official traffic or governmental signs.
 - x. Portable freestanding signs, except where expressly permitted in this section.
 - xi. Any sign that obstructs free access to or egress from a required door, window, fire escape or other required exit from a building or structure.
 - xii. Any sign which makes use of the words "Stop", "Look" or "Danger" or any other words, phrase, symbol or characters in such a manner as to interfere with, mislead or confuse drivers.
 - xiii. Roof signs.
 - xiv. Signs on street furniture, such as benches and trash receptacles, not including commemorative plaques or engravings which are not large than one-half square foot.
 - xv. Business logos or other advertisements on directional signs.
 - xvi. Off-premise signs, unless expressly permitted in this section.
 - xvii. Animated signs.
- (4) *Permit.* Unless otherwise provided by this chapter, no sign shall be installed or utilized unless and until the Township has issued a zoning permit for the sign.
- (5) *General setbacks.* Unless a different setback is specified for a particular sign elsewhere in this chapter, all signs must be setback at least 15 feet from a road right-of-way (including any private road easement) and twenty (20) feet from all other property boundaries.
- (6) *Landscaping.* The base portion of a freestanding sign shall be landscaped with low maintenance plants. Such landscaping may be placed in stone, masonry or treated wood bases or containers to achieve a pleasant aesthetic arrangement. Such landscaping shall be reasonably maintained at all times.
- (7) *Traffic hazards.* No sign may be constructed, erected, displayed, maintained, reconstructed or located so that it creates a hazard for vehicle or pedestrian traffic. If the St. Joseph County Road Commission, MDOT or the Township determines that any sign is a traffic hazard, the Township shall notify the owner to remove the sign. In determining whether a sign is a traffic hazard, the Township may consider, but is not limited to, the following:

- i. Height, area, supporting structure and distance from ground level of the sign;
 - ii. Lighting of the sign;
 - iii. Location of the sign in relation to roads;
 - iv. Drives, points of ingress and egress, parking areas, sidewalks, and other vehicular and/or pedestrian access ways;
 - v. Location of the sign in relation to nearby buildings and structures;
 - vi. If the sign, by reason of its position, shape, color or other characteristics, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device or be distracting to motorists.
- (8) **Maintenance.** All signs shall be properly maintained in good condition and reasonable repair at all times. Exposed surfaces shall be clean and painted, if paint is required. Defective or damaged parts must be replaced in a timely fashion. Any sign that becomes dilapidated or damaged shall either be promptly removed or repaired to a reasonable condition. The Building Inspector has the right to order the repair or removal of any sign that is unsafe as defined by the Michigan Building Code (or its success code), dilapidated, decrepit or damaged. No sign shall be installed, displayed or maintained on a property, structure or fixture of another person or entity without the express permission of the owner of such property, structure or fixture.
- (c) **Measurements and illumination.**
- (1) **Display area.** The display area of a sign shall be measured as the area within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the writing, representation, emblem, logo or other figure of similar character, together with any frame or other material forming an integral part of the display or used to differentiate the sign from the background against which it is placed, excluding only the pedestal, pole or other structure necessary to support the sign, or architectural features.
 - (2) **Faces.** The area of a freestanding or projecting sign that has two or more faces shall be measured by including the area of all sign faces, except if two such faces are placed back to back and are of equal size and are no more than forty-eight inches apart on average, then the area of the two back to back faces shall be counted as one face. If the two back to back faces are of unequal size, the larger of the two faces shall be counted as the one face. As used here, back to back means signs that face in opposite directions and are parallel or form an angle no greater than 30 degrees.
 - (3) **General height.** The height of a sign shall be measured as the vertical distance measured from the highest point of the sign, including any decorative embellishments, to the grade of the adjacent street or the normally undisturbed surface grade beneath the sign, whichever ground elevation is less.
 - (4) **Sign characteristics.** Except for billboards (which regulations are contained elsewhere within this chapter), permitted characteristics of signs shall be based on the following table, where N= Not Permitted and P= Permitted.

	ZONING DISTRICTS											
Characteristic	AG	R-1	R-2	R-3	LR	MH	RM-1	B	RB	SSB	SC	I-1
Internal Illumination	P	N	N	N	N	N	P	P	P	P	P	P

External Illumination	P	N	N	N	N	N	P	P	P	P	P	P
Manual Changeable Copy	P	P	P	P	P	P	P	P	P	P	P	P
Electronic Changeable Copy	P	N	N	N	N	N	N	P	P	P	P	P
Neon	N	N	N	N	N	N	N	P	N	P	P	P

(5) *Illumination.*

- i. There shall be no flashing, moving or intermittent illumination of any sign.
 - ii. If permitted, signs may be illuminated only by continuous indirect white light. Only the sign face shall be illuminated.
 - iii. Any sign lighting must be enclosed and so directed as to prevent the source of light from shining directly or indirectly onto traffic or nearby properties.
- (d) *Portable freestanding signs.* Portable freestanding signs are permitted in any zoning district, subject to the following regulations and requirements:
- (1) Portable freestanding signs shall not be used for more than 42 days out of any calendar year for a specific lot or parcel. For lots or parcels with multi-tenant commercial buildings, each lawful business in the multi-tenant building can utilize any one portable freestanding sign for not more than 42 days out of any calendar year.
 - (2) Portable freestanding signs may be displayed, used installed or erected pursuant to a permit issued by the Zoning Administrator. No portable freestanding sign shall be displayed, used, installed or erected prior to the issuance of a permit by the Zoning Administrator. Each permit shall be valid for seven days. There shall be at least 14 consecutive days between the issuing of a permit for a specific lot or parcel or for a specific business in a multi-tenant building. The permit shall identify the period during which the permit is valid. A fee, as established by the Township Board, shall be required before a permit may be issued. The Zoning Administrator shall have discretion to require an applicant to post a guarantee (irrevocable letter of credit or cash deposit) with the Township to ensure compliance with the requirements of the permit and this section. The Zoning Administrator may attach reasonable conditions to the permit, which conditions shall be based upon the Township's intent to insure public health, safety and welfare with regards to the impacts and effects of any portable freestanding sign.
 - (3) Portable freestanding signs shall not be used in parking, driveway or access areas and/or in a manner which obstructs the vision of motorists or pedestrians using the parking aisles, traffic of movement through a parking lot.
 - (4) Portable freestanding signs shall not obstruct any public or private sidewalk.
 - (5) Portable freestanding signs shall not be illuminate in any fashion.
 - (6) Portable freestanding signs shall be anchored in a safe and secure manner. The anchoring of portable freestanding signs by tying or attaching weight objects (such as cinder blocks) is prohibited.

- (7) No portable freestanding sign shall exceed 32 square feet in area on each sign face. Support framework shall not be included in sign area calculation.
 - (8) No portable freestanding sign copy shall be comprised of more than two colors.
 - (9) Portable freestanding signs shall be located a minimum of 20 feet from the edge of any road or street right-of-way, including a private road right-of-way or easement.
 - (10) No more than one portable freestanding sign shall be allowed on a lot or parcel at one time. For lots or parcels with multi-tenant buildings, no more than one (1) portable freestanding sign shall be allowed at one time for any particular tenant or business and no more than two portable freestanding signs shall be allowed at one time on the lot or parcel involved.
 - (11) There shall be a minimum of 100 feet separation distance between portable freestanding signs.
 - (12) Except during the time period specified in the permit issued by the Zoning Administrator for a portable freestanding sign, no portable freestanding sign shall be stored or kept outdoors on the lot or parcel involved and shall not be visible on any such lot or parcel. This section shall not be applicable to a lawful business that sells or leases portable freestanding signs, so long as those signs are not being used on the lot or parcel of said business for the purpose of off-premise advertising.
 - (13) When in use, every portable freestanding sign shall be kept in good maintenance and reasonable repair.
 - (14) The service, product, sale or event being advertised must be lawful in order for a portable freestanding sign to be used.
- (e) *Signs permitted in the AG zoning district.*
- (1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the AG zoning district in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs AG district	Development Standards			
	Maximum Size	Number Allowed	Maximum Height	Other Requirements
Farm business sign	32 square feet	1 per lot or parcel	6 feet	
Off premises directional sign	32 square feet	1 per lot or parcel	4 feet	
Ground or monument sign	48 square feet	1 per each street frontage	6 feet	
Wall or building sign	32 square feet	1 per each street frontage	N/A	
Freestanding sign	2% of the front wall of the building or 50 square feet, whichever is greater	1 per lot or parcel	12	

Subdivision or condo development sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Mobile home park identification sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Subdivision or site condo advertising sign	64 square feet	2 per development	8 feet	Removed when 75% of lots/units have been sold or have buildings on them
Real estate sign	6 square feet	1 per lot	3 feet	

(f) *Signs permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts.*

- (1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs R-1, R-2, R-3, LR, MH and RM1	Development Standards			
	Maximum Size	Number Allowed	Maximum Height	Other Requirements
Farm business sign	32 square feet	1 per lot or parcel	6 feet	
Off premises directional sign	32 square feet	1 per lot or parcel	4 feet	
Ground or monument sign	48 square feet	1 per each street frontage	6 feet	
Wall or building sign	32 square feet	1 per each street frontage	N/A	
Subdivision or condo development sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Mobile home park identification sign	24 square feet	2 per development	6 feet	Must be located at an entrance
Home occupation sign	6 square feet	1 per dwelling unit	3 feet	

Subdivision or site condo advertising sign	64 square feet	2 per development	8 feet	Removed when 75% of lots/units have been sold or have buildings on them
Real estate sign	6 square feet	1 per lot	3 feet	

(g) Signs permitted in the B, RB, SSB and I-1 zoning districts

(1) In addition to the signs permitted elsewhere in this chapter, signs are permitted in the R-1, R-2, R-3, LR, MH and RM1 zoning districts in accordance with the following table (but such a sign is so allowed only where the sale, business or event being advertised is lawful in the applicable zoning district).

Permitted Signs B, RB, SSB and I-1	B/SSB	RB	I-1	
Freestanding Pole or Pylon Sign				
Permitted	Yes	Yes	Yes	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Height	25 feet	15 feet	25 feet	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Display Area	64 square feet	32 square feet	64 square feet	Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Number	1 per lot	1 per lot	1 per lot	Not permitted if a freestanding ground sign or monument sign is on the same lot
Freestanding Ground or Monument Sign				
Permitted	Yes			Not permitted if a freestanding ground sign or monument sign is on the same lot
Maximum Height	8 feet			
Maximum Display Area	64 square feet			
Maximum Number	1 per lot			
Wall or Building Sign				
Permitted	Yes			

Maximum display area	64 square feet	32 square feet	64 square feet	Signs must belocated on a wall facing a street or parking area
Maximum Number	1 per business, per each side of a building facing a street or parking area			
Directory Sign				
Permitted	Yes			
Maximum Display Area	20 square feet			

(h) **Billboards.**

- (1) Billboards are only permitted within 100 feet of a state or federal highway and within the I-1 zoning district. The lot on which the billboard is located must abut and have frontage on a state or federal highway right-of-way.
- (2) All billboards shall receive prior approval of the State of Michigan, pursuant to the Highway Advertising Act and other applicable regulations, as may be amended, prior to applying to Fabius Township for approval.
- (3) If a billboard qualifies for zoning approval as stated in subsection (h)(1) above, a zoning permit is required prior to the erection or alteration of the billboard. In addition, a zoning permit is required before any existing billboard is rebuilt, structurally altered, or materially changed (but no zoning permit is required simply to change the copy or depictions on the billboard). The application for the zoning permit must contain the following:
 - i. A colored rendering of the proposed billboard containing the proposed dimensions.
 - ii. A site plan indicating the location of the proposed billboard and the appropriate setback information.
 - iii. Information on how the billboard will be illuminated, if applicable.
- (4) Double-faced billboard structures and V-type billboard structures shall be considered as one billboard, but with multiple faces. No billboard shall contain more than one sign panel facing the same direction of traffic on any highway.
- (5) The area of a sign panel on a billboard shall not exceed 672 square feet.
- (6) The height of a billboard shall not exceed 45 feet. The height of a billboard shall be measured as the vertical distance measured from the highest point of the billboard, including any decorative embellishment, to the grade of the highway or the surface grade beneath the sign, whichever ground elevation is lower.
- (7) No billboard shall be located within 300 feet of an existing dwelling. No digital billboard shall be located within 750 feet of an existing dwelling. For the purposes of this subsection, the distance between a billboard and an existing dwelling shall be measured as a straight line between the billboard and the existing dwelling.
- (8) No billboard shall be located closer than 50 feet to any property line, except for those property lines that abut a state or federal highway, where no billboard shall be located closer than ten feet from the state or federal highway right-of-way, as measured from the closest point or edge of the billboard.
- (9) All billboards must be constructed with a monopole-type support structure.

- (10) Except as otherwise provided in this section, 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.
- (11) The slat, panel, or blade twirl time of a tri-vision billboard shall be two seconds or less and the blade dwell time (i.e., stationary and able to be read) shall be eight seconds or more.
- (12) Digital billboards are allowed if the digital or electronic changeable copy portion of the billboard, and the billboard itself, meet all of the following additional standards:
- i. No digital billboard shall be located within 4,000 feet of another digital billboard. For the purposes of this subsection, the distance between digital billboards shall be measured as the distance between the points at which lines drawn perpendicular to the highway from the location of each billboard intersect with a line along the center of the highway.
 - ii. There shall be no movie or television-style pictures or depictions.
 - iii. No design shall have a white background in order to reduce glare.
 - iv. The rate of change between two static messages shall be one second or less.
 - v. There shall be a minimum of eight seconds between copy changes.
 - vi. The face of the sign shall be dimmed automatically from 30 minutes before sunset to 30 minutes before sunrise down to five percent of its daylight brightness setting.
 - vii. The maximum brightness levels for digital billboards shall not exceed 0.2 foot-candles over ambient light levels measured at a distance of 150 feet from the face of the sign.
 - a. The owner(s) of a digital billboard must reasonably coordinate with relevant public agencies to allow for the display of real-time emergency information such as Amber Alerts or natural disaster directives.
 - b. The digital billboard will not distract, endanger, or disorient motorists.
 - c. The digital billboard will not cause glare onto, or illumination of, any adjoining properties.
- (13) The following modifications to existing billboards shall not occur except in full compliance with this section:
- i. Changing or altering a billboard to provide for electronic changeable copy of a different type or manner of electronic changeable copy.
 - ii. Changing or altering a billboard to become a digital billboard.
- (14) The setback requirements of this section shall apply regardless of jurisdictional or governmental boundaries.

(Zoning Ord. 1977, art. XIV, § 1415; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 110, 8-2-2005; Ord. No. 142, § 2, 9-10-2014)

Sec. 46-656. - Walls and obscuring screens.

- (a) For those use districts and uses listed below, there shall be provided and maintained on those sides abutting or adjacent to any residential district an obscuring wall or obscuring screen of evergreen trees and shrubs according to the requirements indicated below, except as otherwise provided in subsection (d) of this section:

B Districts.	7-foot-high wall or obscuring screen
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Auto wash or drive-in restaurants	7-foot-high wall or obscuring screen
Hospital-ambulance and service delivery areas	7-foot-high wall or obscuring screen
I-1 District loading, unloading, service, storage areas	8-foot-high wall or obscuring screen
Public utility buildings, stations, substations, yards	6-foot chain link fence topped with 3-strand barbed wire arm over-hang with posts no more than 10 feet apart

- (b) All walls herein required shall be constructed of materials approved by the Planning Commission to be durable, weather resistant, rust-proof, and easily maintained.
- (c) Where an obscuring screen of evergreen trees and shrubs is approved as an alternative to a wall, trees must of a minimum height of three feet when planted and be spaced in a double staggered row, if necessary, to provide the required horizontal obscuring within two years and the required minimum height within five years.
- (d) In situations involving vehicular traffic or other safety hazards adjacent to residential districts, the Planning Commission may require a temporary fence until the obscuring screen reaches maturity, or may require a permanent fence in addition to the screen.
- (e) Required walls shall be located on the lot line except where underground utilities interfere and except in instances where this article requires conformance with front yard set back lines in abutting residential districts. Upon site plan review and approval, the Planning Commission may approve an alternate location for the wall or may waive the wall requirement if in a specific case it would not serve the purpose of screening the intended area effectively. Required walls may, upon approval of the Planning Commission, be located on the opposite side of any alley right-of-way from a nonresidential zone that abuts a residential zone when mutually agreeable to all affected property owners. In considering whether to waive the wall requirement, the Planning Commission may also consider whether the abutting residential district is considered to be an area in transition and may become nonresidential in the future.
- (f) Such walls and screening barriers shall have no openings for vehicular traffic or other purposes, except as otherwise provided in this article and except such openings as may be approved by the Zoning Board of Appeals.
- (g) An obscuring wall between off-street parking areas, outdoor storage areas, and any abutting residential district shall not be required when such areas are located more than 500 feet from such abutting residential district.

(Zoning Ord. 1977, art. XIV, § 1416; Ord. No. 15, 12-13-1977; Ord. No. 21, 8-3-1979; Ord. No. 65, 9-30-1997)

Sec. 46-657. - Fences (residential).

Fences are permitted, or required, subject to the following:

- (1) Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house, or the minimum required front yard, whichever is greater, unless the fence can be seen through.

Fences on all lots of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six feet in height, measured from the surface of the ground, and shall not extend toward the front of the lot nearer than the front of the house, or the minimum required front yard, whichever is greater, unless the fence can be seen through. In the LR lake residential district, only split rail/post and rail fences, of up to three feet in height are permitted from the front of the house (lakeside) to the established legal lake level.

- (2) Fences in all districts shall be constructed such that supporting posts and framework are on the interior or fence owner's side of the fence and that the sheathing or facing of the exterior as seen from adjoining properties or the street is the more presentable and attractive side of the fence. Also, consideration should be given to whether a proposed fence enhances the neighborhood or blocks scenic views for nearby property owners.
- (3) Fences on lots of record in residential districts shall not contain barbed wire, electric current, or charge of electricity.
- (4) Fences which enclose public or institutional parks, playgrounds, or public landscaped areas, situated with an area developed with recorded lots, shall not exceed eight feet in height, measured from the surface of the ground, and shall not obstruct vision to an extent greater than 25 percent of their total surface area.
- (5) Line fences marking property lines, may be permitted in all yards in areas designated as farms or agricultural areas.

(Zoning Ord. 1977, art. XIV, § 1417; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 125, § VII, 12-27-2007)

Sec. 46-658. - Swimming pools.

- (a) Private indoor and outdoor swimming pools are permitted as an accessory use in all use districts. They shall be constructed, enclosed, operated, and maintained in accordance with the applicable provisions of the building code currently in effect in the Township and the following additional requirements:
 - (1) Structures housing indoor pools are subject to all provisions of this article applicable to any other structure.
 - (2) Outdoor pools shall be set back from front lot lines by a minimum of 25 feet and from side lot lines and rear lot lines or alley right-of-way lines by a minimum of ten feet. Distances are to be measured to the outside of the pool wall.
 - (3) No outdoor swimming pool shall be located in an easement.
 - (4) Above ground outdoor pools and fences surrounding outdoor pools, whether in-ground or above ground, shall not obstruct views by abutting property owners of nearby lakes, ponds, or other natural features.
- (b) Private ponds shall be permitted without fencing being required provided the area surrounding the pond does not exceed a horizontal to vertical slope ratio of 2:1.

(Zoning Ord. 1977, art. XIV, § 1418; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

Sec. 46-659. - Anti-funneling regulations.

- (a) *Intent.* It is the intent of this section to promote the integrity of the lakes within the Township while preserving the quality of recreational use of the inland waters; to protect the quality of the lakes by discouraging excessive use; to promote the ecological balance of the waters by limiting incompatible land use of the wetlands associated with the lakes; and to maintain the natural beauty of the lakes by minimizing manmade adjustments to the established shorelines. Nothing in this article shall be

construed to limit access to lakes or waterways by the general public by way of a public park or public access site provided or maintained by any unit of state, county, or local government.

- (b) *Regulations.* In any zoning district where a parcel of land is contiguous to a lake or pond, either natural or manmade, such parcel of land may be used as access property or as common open space held in common by a subdivision, association, or any similar agency; or held in common by virtue of the terms of a plat of record; or provided for common use under deed restrictions of record; or owned by two or more dwelling units located away from the waterfront only if the following conditions are met:
- (1) That said parcel of land shall contain at least 70 linear feet of water frontage for each dwelling unit or each single-family unit to which such privileges are extended or dedicated, with a minimum lot depth of 100 feet. Frontage shall be measured by a straight line which intersects each side lot line at the water's edge.
 - (2) That in no event shall water frontage of such parcel of land consist of a swamp, marsh, or bog as shown on the most recent U.S. Geological Survey Maps, or the Michigan Department of Natural Resources MIRIS map, or have otherwise been determined to be wetland by the Michigan DNR; and that in no event shall a swamp, marsh, or bog be altered by the addition of earth or fill material or by the drainage of water for the purpose of increasing the water frontage required by this regulation.
 - (3) That in no event shall such parcel of land abut a manmade canal or channel, and no canal or channel shall be excavated for the purpose of increasing the water frontage required by this regulation.
 - (4) That access property, as provided for in, and meeting the conditions of, this article, regardless of total area, shall not be used as a residential lot for the purpose of constructing a dwelling and/or accessory structure, or for any commercial or business use.

(Zoning Ord. 1977, art. XIV, § 1419; Ord. No. 52, 11-10-1993; Ord. No. 65, 9-30-1997; Ord. No. 144, § VIII, 8-12-2015)

Sec. 46-660. - Setbacks from lakes, ponds, streams and rivers.

- (a) Any building or structure, abutting a lake, stream, pond or river shall be setback at least 50 feet from the "ordinary high water mark" or "established legal lake level" set out in subsection (i) below except:
- (1) Those buildings or structures in existence at the time of passage of the ordinance from which this Chapter derives.
 - (2) Any principal building abutting a lake, river, stream or pond in any district shall be set back from the ordinary high water mark or established lake level by the lesser of 50 feet or the average of the three nearest existing principal structures on each side (total of six).
 - (3) Docks, together with temporary boat shelters, which are dismantled during the winter months, shall comply with the state regulations for inland lakes, streams and waterways.
- (b) The required setback shall be measured from the "established lake level" unless one does not exist in which case the "ordinary high water mark" shall apply. For any lake, pond, stream, canal or river not listed below, then in the event of a controversy concerning the location of the benchmark from which the required setback shall be measured, the determination of the Zoning Board of Appeals established under this chapter shall be conclusive.
- (c) On the street side of a lot or parcel abutting a lake, river, pond or stream, every principal building or structure shall be set back from the street at least 35 feet.
- (d) Only split rail/post and rail fences of up to three feet in height are permitted between the house and the ordinary high water mark or established lake level. For fencing on parcels abutting a lake, river, stream or pond, see also section 46-657.

- (e) For accessory buildings on lots fronting on a lake, stream, pond or river, the minimum building setback shall be 15 feet from a public or private street or the average setback of the street side accessory buildings on the nearest three adjoining lots in either direction (total of six), if any.
- (f) For accessory buildings on lots fronting on a lake, stream, pond or river, the minimum setback from the side lot line shall be ten feet or the average of the three adjoining accessory buildings, whichever is greater. On lots and parcels that were of record when the zoning ordinance was adopted and that have frontage on a lake, river, pond or stream, where a lot or parcel is 60 feet wide or less (measured at the building setback line), the following standards shall apply:
 - (1) Front "lake side" 50 feet or the average setback distance of the three nearest existing residential structures on each side (total of six), whichever is greater.
 - (2) Side yards of at least ten feet on each side, measured from the building line, shall be required.
 - (3) Rear (road side): 35 feet. A minimum setback of ten feet for accessory buildings only, from the right-of-way or street side property, subject to 46-653(7).
- (g) *Nonconforming riparian parcels.* A lawfully nonconforming structure located on a lake, river, stream or pond which is damaged or destroyed by an act of God outside of the control of the owner or occupant such as tornado, earthquake, or wind storm may be reconstructed on the same footprint and/or size foundation as it previously existed prior to the destruction.
- (h) *Parcels with riparian and street side front yards.* For those parcels located on a river, stream, lake or pond that also contain a road in the front yard (parallel or nearly parallel to the water), the riparian setbacks and limitations in this section shall apply and all buildings or structures shall be set back 35 feet from the road right-of-way.
- (i) *Established lake levels:*

Lake Name	Established Lake Level	Date Established	100-year Flood Plain	Date of DEQ Letter Re: Floodplain
Clear	874.75	10-29-53	876.5	12-4-95
Corey	874.0	8- 5-74	878.5	1-13-00
Long	887.0	5-16-52	892.00	10-14-91
Kaiser	874.5	8-21-53	878.5	1-13-00
Pleasant	851.0	9- 7-67	853.0	5-19-95

(Zoning Ord. 1977, art. XIV, § 1420; Ord. No. 15, 12-13-1977; Ord. No. 59, 7-10-1996; Ord. No. 65, 9-30-1997; Ord. No. 79, 3-24-2000; Ord. No. 128, § III, 11-18-2008; Ord. No. 144, § VI, 8-12-2015)

Sec. 46-661. - Depth to width ratio, lots and parcels.

Lots or parcels created either by land division or subdivision shall not exceed a depth to width ratio of 4:1, exclusive of access roads, easements, or non-development sites. The depth of a lot or parcel shall be

measured within its proposed boundaries from the abutting road right-of-way to the most remote boundary line point, or from that side of the parcel nearest the road accessed by and approved and recorded easement.

(Zoning Ord. 1977, art. XIV, § 1421; Ord. No. 79, 3-24-2000)

Sec. 46-662. - Private road construction and maintenance standards and requirements.

- (a) *Conditions.* Private roads may be utilized within residential open space projects and elsewhere in the Township if approved by the Planning Commission provided they are constructed and maintained in accordance with the standards and requirements of this section.
- (b) *Design and construction.* Private roads may serve not more than 12 parcels, lots, or buildings sites and shall be designed and/or constructed:
 - (1) With a deeded and recorded easement or right-of-way width of at least 33 feet for its entire length, to include provisions for public utilities, and for repair and maintenance as prescribed in subsection (g) of this section.
 - (2) Parallel to and as close as practical to the centerline of the easement or right-of-way.
 - (3) To accommodate vehicle speeds of at least 20 miles per hour.
 - (4) To control stormwater run-off and to permit effective storm water drainage by means of sloping, ditches or other acceptable methods. Side ditch cross sections shall have slopes not exceeding one foot vertically in three feet horizontally on the side adjoining the road and not more than one foot vertically in two feet horizontally on the side away from the road. Ditches shall have a minimum lateral grade slope of 0.5 percent and flow into a cross culvert or drainage course. Culverts shall be placed at all natural drainage courses or other waterways. Culvert sizes, grades, materials, and placement shall meet the standards of the St. Joseph County Road Commission or the St. Joseph County Drain Commissioner, if applicable.
 - (5) To have a road bed of at least 20 feet in width (or 12 feet for a single-loaded one-way road) plus a compacted shoulder surfaced with gravel or grass of at least two feet in width on each side of the road bed. The roadway shall be constructed with a gravel base (MDSH 22A processed road gravel) of at least six inches, graded parallel to the road surface. The private road shall be paved with bituminous asphalt with a depth of at least two inches. Grades of the private road shall not exceed ten percent. T-intersections with public streets shall slope away from the public street for a distance of at least 50 feet from the centerline of the public street at a slope between 0.2 percent and 0.6 percent.
- (c) *Road end turn-arounds.* Private roads ending in a cul-de-sac or other turn-around shall not exceed 1,350 feet in length from the sideline of the public road to which connected to the center of the cul-de-sac or turn-around. Cul-de-sacs shall have a paved turn-around with a minimum diameter of 100 feet constructed to the same standards as the roadway and incorporate a center island with a diameter of 40 feet; provided, however, that the Planning Commission may waive or modify these cul-de-sac requirements where an alternate means of turn-around is provided, such as a Y-style turn-around, that is adequate for all vehicles potentially using the road, including emergency vehicles and moving vans.
- (d) *Required permits.* Any permits required by the State Highway or County Road Commission shall be obtained as required.
- (e) *Names and signs.* Private roads shall be named as approved by the Township Board in coordination with the County Road Commission and signs posted as arranged by the Township Board with the County Road Commission.
- (f) *Required plan approval.* Construction of proposed private roads requires the approval of a site plan by the Planning Commission that includes a detailed road construction plan, including a diagram of the standard cross section and layout prepared and sealed by a registered civil engineer. The site plan shall also show the proposed location of the private road, all existing or proposed lots or

building sites adjoining or intending to use the private road, proposed grades, drainage systems, and signage.

- (g) *Maintenance agreement.* A written maintenance agreement with a detailed description of how and by whom the private road will be maintained, repaired, or reconstructed if needed to include snow removal, must be submitted to and approved by the Planning Commission. The agreement must identify who will be responsible for extending and/or enlarging the road to serve additional lots in the future, including provisions for the assessment of maintenance fees to be paid by the owners of benefitted (using) lots or properties. Maintenance agreements for private roads, and any revised versions required by the Planning Commission, shall be in recordable form and shall provide that the obligations thereunder run with the benefitted properties.
- (h) *Inspections.* To ensure compliance with the standards and requirements of this section, the following inspections shall be carried out by the Zoning Administrator or qualified inspector designated by him:
 - (1) At completion of compacted base course, also checking sub-base and drainage work.
 - (2) Upon completion of paving and installation of required guards, signage, marking, drain grills, etc.
 - (3) Final, to confirm correction of any deficiencies per subsection (k) of this section.
- (i) *Waivers.* A written waiver of liability and indemnification agreement, on a form approved by the Township, releasing the Township from any liability for any claims of whatever nature resulting from or related to the construction, maintenance/repair, or use of the private road. Such agreement shall include the witnessed and notarized signatures of the owners of all properties adjoining any portion of the proposed private road, and shall extend to the successors and assigns of said lot owners.
- (j) *Construction/inspection certification fee.* Upon completion of construction of the private road, the applicant for special exception use approval shall submit to the Zoning Administrator the certification of a registered professional civil engineer stating that the private road has been completed in accordance with the approved site plan and the tentative approval of the Planning Commission. The certification shall be accompanied by such reasonable inspection fee as the Township Board may establish. The Zoning Administrator shall review the certification and inspect the constructed private road with such assistance from a Township Engineer as may be necessary. The Zoning Administrator shall identify any deficiencies and inform the applicant of same.
- (k) *Final approval.* The Planning Commission's tentative approval shall be considered final upon the Zoning Administrator's verification of the following:
 - (1) The completion of the private road as required, including the correcting of any deficiencies identified by the Zoning Administrator.
 - (2) Proof of recording in the records of the St. Joseph County Register of Deeds of the fully executed maintenance agreement and the fully executed waiver of liability and indemnification agreement.
 - (3) Proof that the applicant has furnished the location and description of the completed private road to the St. Joseph County Sheriff's Department to be coordinated with the county emergency 911 service.
- (l) *Building permits.* Final approval of the private road by the Zoning Administrator shall be required before a building permit is issued for any construction on properties served by the private road.
- (m) *Maintenance and repair responsibility.* All maintenance, repair, snow removal, and other responsibility for a private road shall belong exclusively to the right-of-way or easement owner or owners of benefitted properties and in no circumstances shall Fabius Township have any liability or responsibility therefor. Further, the St. Joseph County Road Commission shall have no responsibility for an approved private road unless and until such private road is constructed to the standards of the county and accepted by the St. Joseph County Road Commission as a dedicated public street.
- (n) *Pre-existing nonconforming private roads.* Any existing lawfully created private road shall not be extended or expanded to serve additional properties unless such extension or expansion road provides for upgrading to meet the standards of this section and is approved by the Planning

Commission. In addition, a private road approved pursuant to this section shall not be extended or otherwise made available to serve more than the approved number of residences unless the road is approved by the Planning Commission in accordance with the requirements and standards of this section.

(Zoning Ord. 1977, art. XIV, § 1422; Ord. No. 79, 3-24-2000; Ord. No. 81, 10-31-2000)

Sec. 46-663. - Land-structure relationship.

In R-1, R-2, R-3, and LR districts, structures on a lot or parcel shall be sited such that each dwelling or main building, with its associated accessory structures, shall be provided simultaneously with its own lot, with the lot and structures thereon conforming with the requirements of the zoning district in which they are situated. The foregoing provisions also apply to AG districts, except that on farms of at least 40 acres actively engaged in agriculture, up to three dwellings may be sited on a parcel or lot, however, such dwellings with their associated accessory structures shall be sited so that each in future can be provided with its own lot, with the lot and structures thereon conforming with the requirements of this chapter. The provisions of this section do not apply to public parks, not-for-profit children's camps, or religious or meditative retreats.

(Zoning Ord. 1977, art. XIV, § 1423; Ord. No. 79, 3-29-2002; Ord. No. 106, 5-3-2005)

Secs. 46-664—46-684. - Reserved.

DIVISION 2. - OFF-STREET PARKING AND LOADING

Sec. 46-685. - Requirements.

There shall be provided in all districts at the time of erection or enlargement of any main building or structure, automobile off-street parking space with adequate access to all spaces. The number of off-street parking spaces, in conjunction with all land or building uses, shall be reported to the Township Zoning Administrator prior to the issuance of a building permit, as hereinafter prescribed:

- (1) Off-street parking spaces may be located within a non-required side or rear yard and within the rear yard setback unless otherwise provided in this article. Off-street parking shall not be permitted within a front yard or a side yard set-back unless otherwise provided in this article.
- (2) Off-street parking for other than residential use shall be either on the same lot or within 300 feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot. Ownership by the applicant shall be shown of all lots or parcels intended for use as parking by the applicant.
- (3) Required residential off-street parking spaces shall consist of a parking strip, parking bay, driveway, garage or combination thereof and shall be located on the premises they are intended to serve, and subject to the provisions of section 46-653, accessory buildings.
- (4) Any area once designated as required off-street parking shall never be changed to any other use unless and until equivalent facilities are provided elsewhere.
- (5) Off-street parking existing at the effective date of the ordinance from which this chapter is derived, in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.
- (6) Two or more buildings or uses may collectively provide the required off-street parking in which case the required number of parking spaces shall not be less than the sum of the requirements for the several individual uses computed separately.
- (7) On the instance of dual function of off-street parking spaces, where operating hours of buildings do not overlap, the Board of Appeals may grant an exception.

- (8) The use of required off-street parking spaces for the storage of merchandise, motor vehicles for sale, trucks, or the repair of vehicles is prohibited.
- (9) For those uses not specifically mentioned, the requirements for off-street parking facilities shall be in accord with a use which the Township Zoning Administrator considers similar in type.
- (10) When units or measurements determining the number of required parking spaces result in the requirement for a fractional space, any fraction of one-half or more shall require one parking space.
- (11) For the purpose of computing the number of parking spaces required, the definition of floor area, usable, in section 46-3 shall govern.
- (12) The minimum number of off-street parking spaces by type of use shall be determined in accordance with the following schedule:

Use	Minimum Number of Parking Spaces
<i>Residential</i>	
Residential, single-family	Two per dwelling unit
Residential, multi-family	Two per dwelling unit
Housing for the elderly	0.5 per unit, plus one for each employee
Mobile home park	Two per mobile home, plus one for each employee
<i>Institutional</i>	
Churches, temples:	One per three seats or six lineal feet of pews in main space for worship
Hospitals:	One per bed, plus one per employee
Convalescent homes, homes for the aged	One for each four beds, plus one per employee
Elementary and middle schools	One per teacher, administrator, employee, plus one per auditorium seat
High schools:	One for each teacher, administrator, or employee, plus one for each auditorium seat.
Private clubs or lodge halls:	One for each three persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.

Private golf clubs, swimming pool clubs, tennis clubs, or other similar uses:	One for each two members, plus spaces for each accessory use, such as a restaurant or bar.
Golf courses open to the public, but not miniature golf courses:	Six for each golf hole, plus one for each employee, plus spaces required for each accessory use, such as a restaurant or bar.
Stadium, sports arena, or similar place of outdoor assembly:	One for each three seats or for each six feet of benches.
Theaters and auditoriums:	One for each three seats, plus one for each employee.
<i>Offices</i>	
Banks:	One for each 100 feet of usable floor space.
Professional offices of doctors, dentists, lawyers, similar professions:	One for each 50 square feet of usable floor area in waiting rooms, plus one for each examining room, dental chair, or similar use area.
Business offices, other professional offices:	One for each 200 square feet of usable floor space.
<i>General Business and Commercial</i>	
Planned commercial or shopping center:	One for each 200 square feet of usable floor area (amended by Ord. No. 112, eff. March 26, 2006).
Beauty parlor or barbershop:	Three spaces for each of the first two chairs, 1½ spaces for each additional chair.
Auto wash, automatic:	One for each employee, plus reserve spaces five times the capacity of the car wash. Capacity is determined by dividing length of wash line in feet by 20.
Auto wash, self service or coin operated:	Three for each washing stall in addition to stall itself.

Bowling alleys:	Five for each bowling lane, plus spaces required for any accessory uses.
Dance halls, pool or billiards parlors, roller or skating rinks, exhibition halls, and assembly halls without fixed seats:	One for each two persons allowed within the maximum occupancy load as established by local, county, or state fire, building, or health codes.
Establishment for sale and consumption on the premises of beverages, food, or refreshments:	One for each 100 square feet of usable floor space, or one for each two persons allowed within the maximum legal occupancy load, whichever is greater.
Furniture and appliance, household equipment, repair shops, showroom of a plumber, decorator, electrician, or similar trade, shoe repair and other similar uses:	One for each 800 feet of usable floor area, plus one space for each two persons employed in processing areas.
Gasoline service stations:	Two for each lubrication stall, rack, or pit, and one for each gasoline pump.
Laundromats and coin operated dry cleaners:	One for each two washing and/or dry cleaning machines.
Miniature golf courses:	Three for each hole, plus one for each employee.
Mortuary establishments:	One for each 50 square feet of usable floor space.
Hotel, motel, or other commercial lodging establishment:	One for each occupancy unit, plus one for each employee.
Motor vehicle sales and service establishments:	One for each 200 square feet of usable floor space of sales room and one for each auto service stall.
Nursery school, day nurseries, or child care centers:	One for each 350 square feet of usable floor space.
Retail stores except as otherwise specified herein:	One for each 200 square feet of usable floor space (amended by Ord. No. 112, eff. March 26, 2006).
<i>Industrial</i>	

Industrial or research establishments, and related accessory offices:	Five plus one for every 1½ employees on the largest working shift. Space shall also be provided for all construction workers during periods of plant construction.
Warehouses and wholesale establishments and related accessory offices:	Five plus one for every employee in the largest working shift, or one for every 1,700 square feet of usable floor space.

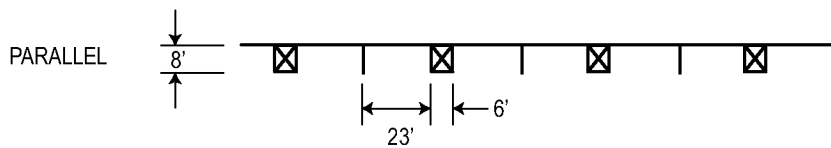
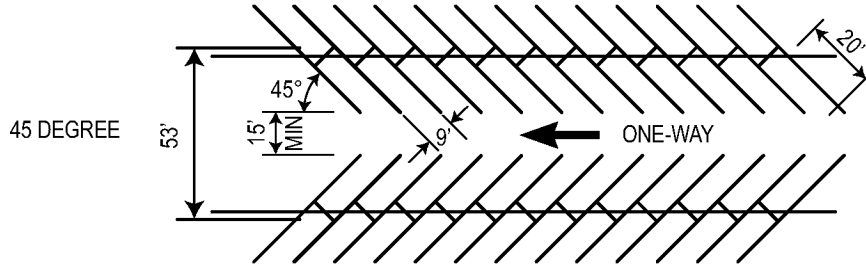
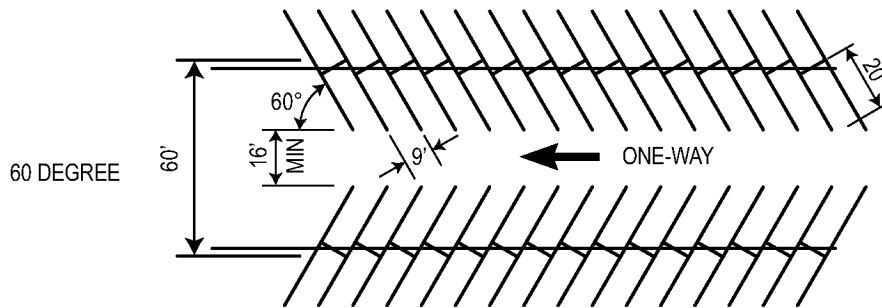
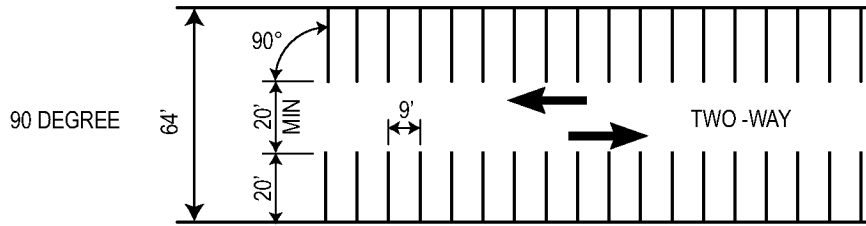
(Zoning Ord. 1977, art. XIV, § 1411; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 112, 3-26-2006)

Sec. 46-686. - Off-street parking space layout, standards, construction, and maintenance.

Whenever the off-street parking requirements of section 46-685 require the building of an off-street parking facility, such off-street parking lots shall be laid out, constructed, and maintained in accordance with the following standards and regulations:

- (1) No parking lot shall be constructed unless and until a permit therefor is issued by the Township Zoning Administrator, following site plan review and approval by the Planning Commission in accordance with division 2 of article II of this chapter.
- (2) Plans for the layout, construction, and maintenance of off-street parking facilities shall be in accordance with the following minimum requirements:

Parking Layouts



Parking Pattern (degrees)	Maneuvering Lane Width (feet)	Parking Space Width (feet)	Parking Space Length (feet)	Total Width of One Tier of Spaces Plus Maneuvering Lane	Total Width of Two Tiers of Spaces Plus Maneuvering Lane (feet)
90	64	9	20	64 + 9 = 73	73 + 9 = 82
60	60	9	20	60 + 9 = 69	69 + 9 = 78
45	53	9	20	53 + 9 = 62	62 + 9 = 71
Parallel	8	6	23	8 + 6 = 14	14 + 6 = 20

Zero (parallel parking)	12	8	23	20 feet	28
30—53	15	9	20	32 feet 6 inches	53
54—74	16	9	20	38 feet	60
75—90	20	9e	20	44 feet	64

- a. Parking layouts. (See diagrams and specifications.)
- b. All spaces shall be provided adequate access by means of maneuvering lanes. Backing directly onto a street shall be prohibited.
- c. Adequate ingress and egress to the parking lot by means of clearly limited and defined drives shall be provided for all vehicles.
- d. Ingress and egress to a parking lot lying in an area zoned for other than single-family residential shall not be across land zoned R-1, R-2, LR, or MH Single-Family Residential Districts.
- e. All maneuvering lane widths shall permit one way traffic movement, except that the 90-degree pattern may permit two-way movement.
- f. Each entrance and exit to and from any off-street parking lot located in an area zoned for other than single-family residential uses shall be at least 25 feet distant from adjacent property located in any R-1, R-2, LR, or MH district.
- g. The off-street parking area shall be provided with a continuous and obscuring wall not less than six feet in height measured from the surface of the parking area. This wall shall be provided on all sides where the abutting zoning district is designated as a residential district.
- h. When a front yard setback is required, all land between said wall and front property line or street right-of-way line shall be kept free from refuse and debris and shall be landscaped. The ground area and landscaping shall be kept neat and orderly in appearance and all living materials shall be maintained in a healthy, growing condition.
- i. The entire parking area, including parking spaces and maneuvering lanes required under this section shall be provided with a durable, paved surface.
- j. Off-street parking areas shall be drained so as to dispose of all surface water accumulated in the parking area in such a way as to preclude drainage of water onto adjacent property or toward buildings.
- k. All lighting used to illuminate any off-street parking area shall be so installed and shielded to be confined within and directed onto the parking area only. (See section 46-650, exterior lighting.)
- l. In all cases where a wall extends to an alley which is a means of ingress and egress to an off-street parking area, it shall be permissible to end the wall not more than ten feet from such alley line in order to permit a wider means of access to the parking area.
- m. Where, in unusual circumstances, no good purpose would be served by compliance with the yard or wall requirements of this section, the Zoning Board of Appeals, upon application by the property owner of the off-street parking area, may modify said yard and wall requirements.

(Zoning Ord. 1977, art. XIV, § 1412; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997; Ord. No. 112, 3-26-2006)

Sec. 46-687. - Off-street loading and unloading space.

- (a) On the same premises with every building, structure, or part thereof involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading, and unloading in order to avoid undue interference with public use of dedicated rights-of-way.
- (b) Such spaces shall be provided as follows:
 - (1) Loading space shall be provided in the rear yard in the ratio of at least ten square feet per front foot of building and shall be computed separately from off-street parking requirements. Where an alley exists or is provided at the rear of a building, the rear building setback and loading requirements may be computed from the center of said alley.
 - (2) Within I-1 districts, all spaces shall be laid out in the dimensions of at least ten feet by 50 feet, or 500 square feet in area, with a clearance of at least 14 feet in height. Loading dock approaches shall be provided with a permanent, durable concrete or asphalt paved surface. All spaces in I districts shall be provided in the following ratio of spaces to floor area:

Gross Floor Area	Loading/Unloading Space Required
Zero—1,400 square feet	None
1,401—20,000 square feet	One space
20,001—100,000 square feet	One space, plus one additional space for each 20,000 square feet in excess of 20,001 square feet
100,001 square feet and over	Five spaces

- (3) All loading and unloading in I-1 districts shall be provided in the rear yard or interior side yard, and shall in no instance be permitted in a front yard. In those instances where exterior side yards have a common relationship with an industrial district across a public thoroughfare, loading and unloading may take place in said exterior side yard, when the setback is at least 50 feet.

(Zoning Ord. 1977, art. XIV, § 1413; Ord. No. 15, 12-13-1977; Ord. No. 65, 9-30-1997)

CODE COMPARATIVE TABLE

1977 ZONING ORDINANCE

This table gives the location within this Code of those sections of the 1977 Zoning Ordinance that are included herein. Sections of the 1977 Zoning Ordinance not listed herein have been omitted as repealed, superseded, obsolete or not of a general and permanent nature. For the location of ordinances adopted subsequent thereto, see the table immediately following this table.

Zoning Ord. 1977 Section	Section this Code
preamble	46-1
art. I, § 100	46-2
art. II, § 200	46-4
art. II, § 201	46-3
art. III, § 300— art. III, § 303	46-165—46-168
art. III, § 304	46-190
art. IV, § 400	46-221
art. IV, § 401(1)— art. IV, § 401(4)	46-222—46-225
art. V, § 500	46-244
art. V, § 501(1)— art. V, § 501(4)	46-267—46-270
art. V, § 502(1)— art. V, § 502(4)	46-289—46-292
art. V, § 503(1)— art. V, § 503(4)	46-318—46-321
art. V, § 504(1)— art. V, § 504(5)	46-346—46-350
art. V, § 505(1)— art. V, § 505(5)	46-374—46-378
art. VI, § 600	46-400
art. VI, § 601(1)— art. VI, § 601(4)	46-401—46-404

art. VII, § 700—art. VII, § 711	46-582—46-593
art. VIII, § 800, art. VIII, § 801	46-422, 46-423
art. VIII, § 802(1)— art. VIII, § 802(4)	46-445—46-448
art. VIII, § 803(1)— art. VIII, § 803(5)	46-480—46-484
art. VIII, § 804(1)— art. VIII, § 804(3)	46-507—46-509
art. VIII, § 805(1)—art. VIII, § 805(4)	46-527—46-530
art. IX, § 900	46-554
art. IX, § 901(1)— art. IX, § 901(5)	46-555—46-559
art. X, § 1000, art. X, § 1001	46-191
art. XI, § 1100, art. XI, § 1101	46-620, 46-621
art. XII, § 1200, art. XII, § 1201	46-571, 46-572
art. XIII, § 1300— art. XIII, § 1309	46-68—46-77
art. XIV, § 1400	46-646
art. XIV, § 1402— art. XIV, § 1404	46-647—46-649
art. XIV, § 1405	46-47
art. XIV, § 1406— art. XIV, § 1408	46-650—46-652

art. XIV, § 1410	46-653
art. XIV, § 1411— art. XIV, § 1413	46-685—46-687
art. XIV, § 1414— art. XIV, § 1423	46-654—46-663
art. XV, § 1500	46-9
art. XVI, § 1600, art. XVI, § 1601	46-45, 46-46
art. XVI, § 1602— art. XVI, § 1607	46-128—46-133
art. XVII, § 1700— art. XVII, § 1709	46-98—46-107
art. XVIII, art. XIX	46-5, 46-6
art. XX	46-8
art. XXII, § 2200— art. XXII, § 2204	46-7

CODE COMPARATIVE TABLE

ORDINANCES

This is a chronological listing of the ordinances used in this Code.

Ordinance Number	Effective Date	Section	Section this Code
8	7-15-1966	1	14-1
15	12-13-1977		46-1—46-9
			46-45—46-47
			46-68—46-77

			46-128—46-133
			46-165—46-168
			46-190, 46-191
			46-221—46-225
			46-244
			46-289—46-292
			46-346—46-350
			46-374—46-378
			46-400—46-404
			46-423
			46-554
			46-556—46-559
			46-571, 46-572
			46-620, 46-621
			46-647—46-658
			46-660
			46-685—46-687
	12-15-1977		46-98—46-102
			46-104—46-107
17		I	2-89
		III	2-1
21	8- 3-1979		46-3

			46-9
			46-68—46-77
			46-98—46-107
			46-133
			46-191
			46-268
			46-558
			46-656
	8-30-1979		46-620, 46-621
25	10- 1-1982		46-3
26	5- 6-1983		46-648
36	2-17-1988		46-347
			46-350
40		I—V	2-90
66	9- 1-1989		2-90
52	11-10-1993		46-659
59	7-10-1996		46-167
			46-221—46-225
			46-244
			46-267—46-270
			46-289—46-292
			46-346, 46-347

			46-349, 46-350
			46-374—46-378
			46-660
	7-20-1996		46-68—46-77
61	10-21-1996	I—V	14-21—14-25
		VI	14-25
65	9-30-1997		46-1, 46-2
			46-4—46-9
			46-45—46-47
			46-68—46-77
			46-98—46-107
			46-128—46-132
			46-165—46-168
			46-190, 46-191
			46-221—46-225
			46-244
			46-267—46-270
			46-318—46-321
			46-346—46-350
			46-374—46-378
			46-400—46-404
			46-422, 46-423

			46-445—46-448
			46-480—46-484
			46-507—46-509
			46-554—46-559
			46-571, 46-572
			46-620, 46-621
			46-646—46-648
			46-650—46-660
			46-685—46-687
15	12-15-1997		46-103
68	2-27-1998		46-191
			46-558, 46-559
70	4-21-1999	art. I, § 100	10-19
		art. II, § 200	10-21
		art. III, § 300	10-20
		art. IV, § 400	10-22
		art. V, § 500	10-50
		art. VI, § 600,	10-97, 10-98
		art. VI, § 601	
		art. VII, § 700	10-23
		art. VIII, § 800—	10-74—10-76
		art. VIII, § 802	

		art. IX, § 900,	10-99, 10-100
		art. IX, § 901	
		art. X, § 1000	10-101
		art. XI, § 1100	10-102
		art. XII, § 1200	10-103
		art. XIII, § 1300	10-122
		art. XIV, § 1400—	10-123—10-125
		art. XIV, § 1402	
		art. XV, § 1500	10-149
		art. XV, § 1503—	10-150—10-152
		art. XV, § 1505	
72	6-26-1999		46-270
			46-422
			46-480—46-484
			46-527—46-530
73	8-25-1999	1	46-129
			46-653
75	12- 2-1999	I—IV	22-2
76	12- 2-1999	art. I, § 100	34-19
		art. I, § 101,	34-23, 34-24
		art. I, § 102	
		art. I, § 103	34-20

		art. II, § 200,	34-60, 34-61
		art. II, § 201	
		art. II, § 203—	34-62—34-68
		art. II, § 209	
		art. III, § 300	34-95
		art. III, § 302	34-96
		art. IV, § 400,	34-121, 34-122
		art. IV, § 401	
		art. V	34-28
		art. VI	34-27
		art. VII	34-26
		art. VIII, § 800	34-21
		art. VIII, § 802	34-25
		art. IX, § 800	34-22
77	2-24-2000	1	2-62
79	3-24-2000		46-7
			46-269
			46-318—46-321
			46-582, 46-583
			46-585—46-593
			46-653
			46-660—46-662

81	10-31-2000		46-662
		I	46-165
83	2-14-2001	1, 2	2-44
84	3-29-2001		46-222, 46-223
			46-225
			46-268
			46-270
			46-319
			46-321
			46-347
			46-349
			46-528
88	3-29-2001		46-653
79	3-29-2002		46-663
90	4-16-2002	1	10-97
93	9-25-2002	I—IV	10-50
		V, VI	10-98
		VII—IX	10-99
		X	10-102
94	11-28-2002		46-584
95	5- 1-2003		46-653
77	2-24-2004	2—4	2-63—2-65

96	2-27-2004	I—IV	22-1
99	4-14-2004		38-19
100	4-14-2004	1	2-109
	4-20-2004	1	2-112
		2, 3	2-110, 2-111
		5—7	2-113—2-115
97	4-29-2004		46-348
			46-350
			46-558
			46-653
103	9-22-2004	I, II	42-19, 42-20
		III	42-22
		IV(I)	42-68
		IV(A)—IV(H)	42-60—42-67
		V(A)—V(E)	42-23—42-27
		VI	42-28
		VII	42-21
		VIII(A)—VIII(E)	42-95—42-99
102	9-30-2004	2	46-165
104	3-25-2005		46-653
106	5- 3-2005		46-663
108	7- 6-2005	IX	34-65

80	7-14-2005	I	34-143
		II	34-146
		III	34-144
		IV—VII	34-147—34-150
		VIII	34-145
108	7-16-2005	I	34-25, 34-26
			34-61
			34-64, 34-65
			34-67
		II	34-63
			34-65, 34-66
			34-68
		IV	34-23
		V—VII	34-60—34-62
		VIII	34-64
		X—XII	34-66—34-68
		XIII	34-95
110	8- 2-2005		46-653
			46-655
109	8-24-2005	I	30-19
		II	30-22
		III	30-20

		IV	30-24
		V	30-23
		VI—VIII	30-25—30-27
		IX	30-21
112	3-26-2006		46-685, 46-686
113	5-27-2006	I, II	6-66, 6-67
		III—V	6-69—6-71
		VI	6-68
119	9-30-2006		46-104
			46-107
			46-621
118	10-21-2006	I	18-19, 18-20
		III	18-22
		IV	18-21
123	7- 1-2007		46-107
			46-349
122	7-22-2007	1	6-44
		3, 4	6-45, 6-46
120	8-17-2007	II	10-50
			10-75, 10-76
			10-101
			10-103

		III	10-97
			10-102
		V	10-149
125	12-27-2007	VII	46-657
	9-30-2008		2-90
128	11-18-2008	II	46-350
		III	46-660
130	4-30-2009	I—XI	26-19—26-29
132	5-22-2010	1, 2	6-19
		3	6-20
134	11-20-2010	I	18-22
135	12-14-2011	1	38-19
136	2- 8-2012	1	46-653
137	2- 8-2012	1	46-3
		2	46-224
		3	46-558
138	7-11-2012	1—4	22-2
140	7-10-2013	I—VI	Adopting ord.
141	5-14-2014	I, II	2-90
142	9-10-2014	1	46-3
		2	46-655
143	1-14-2015	I.A	10-20

		I.B	10-50(4)
		II.A	10-97(4)
		II.B—E	10-98
		III Added	10-99(6)
		IV.A	10-149
		IV.B	10-152
144	8-12-2015	I Rpld	46-9
		II	46-3
		III	46-47
		IV Added	46-46(d)
			46-47
		V	46-350
		VI	46-530
		VII	46-660
		VIII	46-659
		IX	46-102(2)
		X	46-225(6)b.
		XI Added	46-291(5)
			46-296(6)
		XII Added	46-269(7)
			46-270(6)
		XIII Added	46-320(7)

			46-321(6)
145	10-14-2015	I—VIII Added	34-171—34-178
147	6- 8-2016	I Added	34-192—34-197
149	11- 9-2017	1	26-20
150	1-10-2018	I	46-224(6)
153	1- 9-2019	I—IV Added	22-4
154	1- 9-2019	I(A—D)	46-3
		II Added	46-46(e)
		III	46-191(b)(2)
		IV(A) Added	46-446(8)
		IV(B)	46-446(7)
		V(A)	46-653(2)
		V(B)	46-653(5)(b)
		VI Rnmb	46-350(a)—(d)
		as	46-350(1)—(4)
		VII(A)	46-225(2)
		VII(B)	46-225(3)
		VIII(A)	46-270(2)
		VIII(B)	46-270(3)
160	6-20-2019	1—5 Added	22-5
163	1- 8-2020	I Added	46-290(8)

		II Added	46-291(6)
		III	46-3
		IV Added	46-233(9)
		V Added	46-224(11)
		VI Added	46-268(9)
		VII	46-270(3)
		VIII Added	46-319(8)
		IX Added	46-320(7)
		X Added	46-557(20)
		XI Added	46-347(5)
		XII Added	46-375(3)
		XIII Added	46-402(5)
		XIV Added	46-446(9)
		XV Added	46-447(18)
		XVI Added	46-528(5)
		XVII Added	46-558(7)
		XVIII	46-225(3)
164	2-12-2020	I(A, B)	46-3
		II(A)	46-190
		II(B)	46-268(3)
		II(C)	46-290(1)
		II(D)	46-290(2)

		II(E)	46-319(1)
		II(F)	46-319(2)
		II(G)	46-347(1)
		II(H)	46-348(5)
		II(I)	46-528(1)
		II(J)	46-653(9)

ORDINANCE CHANGES LISTED ABOVE IN RED ARE NOT VALID DUE TO THE FACT THAT THEY WERE ADOPTED DURING THE TIME THAT THE MASTER PLAN WAS DEFECTIVE.

STATE LAW REFERENCE TABLE

This table shows the location within the Code, either in the text or notes following the text, of references to the Michigan Compiled Laws (MCL).

MCL	Section this Code
8.3 et seq.	1-2
8.3u	1-9
8.4	1-4
8.4b, 8.4	1-3, 1-4
8.5	1-8
15.1 et seq.	Ch. 2, Art. III
15.231 et seq.	26-25
15.261 et seq.	26-25
28.451 et seq.	22-5
29.1 et seq.	Ch. 14
41.1a et seq.	Ch. 2

41.8	2-1
41.61 et seq.	Ch. 2, Art. III
41.65 et seq.	Ch. 2, Art. III
41.70 et seq.	Ch. 2, Art. II
41.72	2-89
41.76 et seq.	Ch. 2, Art. III
41.82	2-44
41.181	34-172
41.181 et seq.	2-44
	34-24
41.183	1-7
	6-44, 6-45
	10-149
	18-21
	22-1, 22-2
	30-21
	34-21
	34-145
	42-21
41.184 et seq.	34-25
41.186	1-1
41.271 et seq.	Ch. 30
41.411 et seq.	Ch. 30

41.805	Ch. 14
42.181 et seq.	1-5
125.271 et seq.	26-28
125.321 et seq.	26-20
	26-27, 26-28
125.1501 et seq.	6-19
	6-44—6-46
125.1508b(2)	6-19
125.1523(3)	6-44, 6-45
125.2301 et seq.	46-376
125.2307	Ch. 46, Art. IV, Div. 3, Subdiv. VI
125.2506	46-583—46-585
125.3101 et seq.	Ch. 26
	26-19
	26-28
	Ch. 46
	46-8
	46-98
	46-107
	46-621
125.3102	46-3
125.3201	46-165

125.3202	46-483
	46-509
125.3208	46-47
125.3210	46-5
125.3401 et seq.	46-8
125.3407	46-7
125.3501	Ch. 46, Art. II, Div. 2
	46-68
	46-71—46-77
125.3502	Ch. 46, Art. VI
125.3503	Ch. 46, Art. V
	46-582, 46-583
125.3505	46-133
125.3506	Ch. 46, Art. V
	46-582
125.3601 et seq.	Ch. 46, Art. II, Div. 3
	46-102—46-107
125.3801 et seq.	Ch. 26
	26-19, 26-20
	26-27
	Ch. 46
125.3811 et seq.	Ch. 26, Art. II

125.3811	26-20
125.3815	26-21—26-23
125.3817	26-24
125.3821	26-25
125.3831 et seq.	26-27
125.3871	26-29
	34-25
247.61 et seq.	Ch. 18, Art. II
247.321 et seq.	34-144
247.351 et seq.	Ch. 30
252.201 et seq.	46-558
252.301 et seq.	46-557
257.101 et seq.	Ch. 38
257.605	Ch. 38
257.606	Ch. 38
257.1301 et seq.	38-19
280.1 et seq.	10-98
286.471 et seq.	46-222
324.3112	10-98
324.30301 et seq.	Ch. 10, Art. II
	10-97
324.30301	10-20
324.30305 et seq.	10-98

324.30305(3), (4)	10-96
324.30307 et seq.	Ch. 10, Art. II
324.30310	10-102
	10-104
324.36505	10-102
324.51503	14-1
325.3101 et seq.	46-224
325.3113	10-98
325.12511	46-191
333.12721	42-27
333.12751	46-423
	46-556
559.101 et seq.	Ch. 34
	Ch. 34, Art. II
	Ch. 34, Art. II, Div. 3
	34-20
	34-23, 34-24
	46-583
559.103—559.110	34-20
560.101 et seq.	26-29
	Ch. 34
	Ch. 34, Art. II

	Ch. 34, Art. II, Div. 2
	Ch. 34, Art. III
	34-20
	34-23, 34-24
	34-60
	34-66
	34-68
	34-144
	34-146—34-150
	34-172
	34-192
	46-583
560.102	34-20
	34-144
560.105	34-62
	34-65, 34-66
560.106	34-62
	34-65, 34-66
560.107	34-60
560.108	34-144
560.109	34-61
	34-144

560.111	34-60, 34-61
560.112	34-60, 34-61
560.113—560.118	34-64
560.120	34-66
560.241	34-67
560.245	34-67
600.8301 et seq.	2-44
600.8396	2-110
600.8701 et seq.	1-7
	6-44, 6-45
	10-149
	18-21
	22-1, 22-2
	30-21
	34-21
	34-145
	42-21
	46-7
600.8701(b)	2-64
600.8707	2-64
600.8707(2)	2-64
764.1 et seq.	2-65
764.9c	2-64

