



# Flushing Township

## Code of Ordinances

Charter Township of Flushing

**Code of Ordinances**

Charter Township of Flushing, Michigan

Loose-leaf Supplement

This Supplement contains all ordinances deemed advisable to be included at this time through:  
Ordinance 2022-02 adopted April 7, 2022

***Codification Assistance provided by:***



**ROWE PROFESSIONAL  
SERVICES COMPANY**

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Flint, MI 48502

## Charter Township of Flushing

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## Preface

WHEREAS, MCL 42.20 requires “the ordinances of each charter township shall be compiled and published in looseleaf or booklet form not less than once every 10-years”; and,

WHEREAS, the clerk and township staff have worked with Rowe Engineering to review all existing ordinances and amendments, including Township records regarding adoption of each ordinance, notice and publication; and,

WHEREAS, following the above review, it is believed all existing ordinances and amendments now in effect have been identified and are accurately compiled and codified in the attached Code of Ordinances;

WHEREFORE, THE CHARTER TOWNSHIP OF FLUSHING ORDAINS:

- (A) Codification. The Charter Township of Flushing, in accordance with requirements of MCL 42.20, by this ordinance, codifies its existing ordinances in the form attached hereto and designated the Charter Township of Flushing Code of Ordinances, to be effective, immediately following publication.
- (B) Ratification. It is intended, with the enactment of this codification of the Code of Ordinances, that each provision of the Code of Ordinances shall be deemed lawfully enacted and fully enforceable as set forth in the codification.
- (C) Repeal. To the extent any ordinance existing as of the effective date of this codification is in conflict with any ordinances set forth in the codification, the ordinances set forth in the codification shall be given full force and effect and the previously existing ordinance or such part thereof in conflict with the codified ordinance is hereby repealed.
- (D) Severability. To the extent any codified ordinance or part thereof is determined invalid by a court with appropriate jurisdiction, the invalidity of such ordinance or part thereof shall not affect the continuing validity of any other ordinance or part thereof.
- (E) Printed Form. The Code of Ordinances shall be available in printed form maintained at the township offices, 6524 N. Seymour Rd., Flushing, MI 48433. Copies of the Code of Ordinances may be purchased for an amount to be set by the Township Board of Trustees, solely to recover the costs of publication.
- (F) Posting to Webpage. The Code of Ordinances shall be posted and maintained to the Township’s webpage in a form readily accessible to the public at large.
- (G) Publication. This ordinance shall be published as required by statute, including a statement contained in each publication that the complete Code of Ordinances is available for review at the Township offices and on the Township webpage.
- (H) Ordinances Authorizing Fees. Any ordinance authorizing the charging of a fee is amended to provide as follows:

Any ordinance, part of this codification, authorizing a fee payable to the Township is ratified subject to the following amendment, incorporated as part of each such ordinance: “Any fee charged pursuant to this ordinance may be amended from time to time by duly approved motion of the Township board, to be effective no earlier than 60 days following such motion.” This amendatory language shall not apply to any ordinance imposing criminal or civil infraction fines, fees or other costs.

PASSED AND APPROVED BY THE CHARTER TOWNSHIP OF FLUSHING BOARD ON THE  
7th DAY OF APRIL, 2022.

## **Chapter 1      General Provisions**

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

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

State law reference-Codification authority, MCL 42.20, MSA 5.46(20).

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

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

*Code.* The term "this Code" or "Code" shall mean the Code of Ordinances, Charter Township of Flushing, Michigan, as designated in Sec. 1-1.

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

*County.* The term "the county" or "this county" shall mean the County of Genesee in the State of Michigan.

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

*Month.* The word "month" shall be construed to mean a calendar month.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person and thing.

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

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

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

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



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*State.* The term "the state" or "this state" shall be construed to mean the State of Michigan.

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

*Township.* The word "township" shall mean Charter Township of Flushing in Genesee County, Michigan.

*Township board or board.* The terms "township board," "town board" and "board" shall mean the Township Board of Flushing Township, Michigan.

*Township civil infraction.* The words "township civil infraction" mean an act or omission that is prohibited by this Code or any ordinance of the township, but which is not a crime under this Code or other ordinance, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered as authorized by chapter 87 of Act No. 236 of the Public Acts of 1961, as amended. A township civil infraction is not a lesser included offense of a violation of this Code that is a criminal offense.

*Week.* The word "week" shall be construed to mean seven (7) days.

*Written, in writing.* The words "written" or "in writing" may include any form of reproduction or expression of language.

*Year.* The word "year" shall be construed to mean a calendar year.

(Ord. No. 61-2-94, § 1, 10-27-94)

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

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

### **Sec. 1-4. References and notes.**

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

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

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

- (A) Promising or guaranteeing the payment of money for the township, or authorizing the issuance of any bonds of the township or any evidence of the township's indebtedness, or any contract or obligation assumed by the township;
- (B) Containing any administrative provisions of the township board;
- (C) Granting any right or franchise;
- (D) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the township;
- (E) Making any appropriation;
- (F) Levying or imposing annual taxes;
- (G) Establishing or prescribing grades in the township;

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- (H) Providing for local improvements and assessing taxes therefor;
- (I) Dedicating or accepting any plat or subdivision in the township;
- (J) Prescribing the number, classification or compensation of any township officers or employees;
- (K) Prescribing specific parking restrictions, no-parking zones, specific speed zones, parking meter zones, and specific stop or yield intersections or other traffic ordinances pertaining to specific streets;
- (L) Pertaining to zoning;
- (M) Any other ordinance, or part thereof, which is not of a general and permanent nature;

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

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

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

### **Sec. 1-7. Amendments to Code.**

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

### **Sec. 1-8. Supplementation of Code.**

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

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(B) In preparing a supplement to this Code, all portions of this Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.

(C) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:

1. Organize the ordinance material into appropriate subdivisions;
2. Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
3. Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
4. Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_," (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
5. Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

### **Sec. 1-9. Severability.**

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

### **Sec. 1-10. General penalties and sanctions for violations of Code and township ordinances; continuing violations; injunctive relief.**

(A) Unless a violation of this Code or any ordinance of the township is specifically designated in the Code or ordinance as a township civil infraction, or a civil infraction, the violation shall be deemed to be a misdemeanor.

(B) Unless another penalty is expressly provided by this Code for any particular misdemeanor, every person convicted of a misdemeanor shall be punished by a fine of not more than five hundred dollars (\$500.00), or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment.

(C) The sanction for a violation which is a township civil infraction shall be a civil fine in the amount as provided by this Code or any ordinance, plus any costs, damages, expenses and other sanctions, as authorized under chapter 87 of Act No. 236 of the Public Acts of 1961, as amended, and other applicable laws.

1. Unless otherwise specifically provided for a particular township civil infraction violation by this Code or any ordinance, the civil fine for a first violation shall be fifty dollars (\$50.00) plus costs.

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2. Increased civil fines may be imposed for repeated violations by a person of any requirement or provision of this Code or any ordinance. As used in this section, "repeat offense" means a second (or any subsequent) township civil infraction violation of the same requirement or provision (i) committed by a person within any six-month period (unless some other period is specifically provided by this Code or any ordinance) and (ii) for which the person admits responsibility or is determined to be responsible. Unless otherwise specifically provided by this Code or any ordinance for a particular township civil infraction violation, the increased fine for a repeat offense shall be as follows:
    - (a) The fine for any offense which is first repeat offense shall be one hundred dollars (\$100.00), plus costs.
    - (b) The fine for any offense which is a second repeat offense or any subsequent repeat offense shall be two hundred fifty dollars (\$250.00), plus costs.
    - (c) The fine for any offense which is a third repeat offense or any subsequent repeat offense shall be five hundred dollars (\$500.00), plus costs.
  - (D) A "violation" includes any act which is prohibited or made or declared to be unlawful or an offense by this Code or any ordinance; and any omission or failure to act where the act is required by this Code or any ordinance.
  - (E) Each day on which any violation of this Code or any ordinance continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense.
  - (F) In addition to any remedies available at law, the township may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code or any township ordinance.
- (Ord. No. 61-2-94, § 2, 10-27-94)
- State law reference-Limitation on penalties, MCL 42.21, MSA 5.46(21).

## **Chapter 2 Administration**

### **Article 1 In General**

**Secs. 2-1 - 2-25. Reserved.**

### **Article 2 Township Board**

**Secs. 2-26 - 2-45. Reserved.**

### **Article 3 Officers and Employees**

#### *Division 1 Generally*

**Secs. 2-46 - 2-55. Reserved.**

#### *Division 2 Ordinance Enforcement Officer*

**Sec. 2-56. Office established.**

There is hereby established the office of Ordinance Enforcement Officer within the Charter Township of Flushing, Genesee County, Michigan.

(Ord. No. 49, § 1, 12-12-85, Ord. No. 2018-02 7-18-2018)

**Sec. 2-57. Appointment.**

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

(Ord. No. 49, § 2, 12-12-85, Ord. No. 2018-02 7-18-2018)

**Sec. 2-58. Duties.**

The Ordinance Enforcement Officer is hereby authorized to enforce all ordinances of Flushing Charter Township, whether currently 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. Any ordinance-enforcing authority of the Township Supervisor and any other officer specifically designated in any Township ordinance or the Charter Township Act, MCL 42.10, shall continue in full force and effect and shall in no way be diminished or impaired by the terms of this ordinance.

(Ord. No. 49, § 3, 12-12-85, Ord. No. 2018-02 7-18-2018)

**Sec. 2-59. Definitions.**

The ordinance enforcement duties herein authorized shall include, among others, the following:

- (A) Investigating ordinance violations;
- (B) Serving notices of violation;
- (C) Serving appearance tickets as authorized under Chapter 4 of the Code of Criminal Procedure Act, MCL 764.9c;
- (D) Appearing in court or other judicial proceedings to assist in the prosecution of ordinance violators, and,

(E) Such other ordinance enforcement duties as may be delegated by the Township Supervisor or assigned by the Township Attorney.

(Ord. No. 49, § 4, 12-12-85 Ord. No. 2018-02 7-18-2018)

**Sec. 2-60. Saving Clause.**

The provisions of this Ordinance are severable and the invalidation of any one or more of the same by any judicial determination or statutory or constitutional provisions shall not invalidate remaining provisions of the Ordinance or the Ordinance.

(Ord. No. 2018-02 7-18-2018)

**Sec. 2-61. Authority.**

The ordinance enforcement officer is hereby declared to be a police officer and peace officer under the authority of Act No. 359 of the Public Acts of Michigan of 1947 (MCL 42.1 et seq., MSA 5.46(1) et seq.), as amended.

(Ord. No. 49, § 5, 12-12-85)

**Secs. 2-61 - 2-80. Reserved.**

**Article 4 Boards and Commissions**

***Division 1 Generally***

**Secs. 2-81 - 2-90. Reserved.**

***Division 2 Local Officers Compensation Commission***

**Sec. 2-91. Creation.**

In accordance with MCL 42.6a, MSA 5.46(6a), a local officers compensation commission is created.

(Ord. No. 52, § 1, 7-13-89)

**Sec. 2-92. Appointment of members, eligibility for appointments, term of office.**

(A) The local officers compensation commission shall consist of five (5) members who are registered electors of the township, appointed by the supervisor, subject to confirmation by a majority of the members elected and serving on the township board. The term of office for each member of the commission shall be five (5) years, except that of members first appointed, there shall be one (1) member appointed for terms of one (1), two (2), three (3), four (4) and five (5) years. Each term shall be effective as of October first next following the date of appointment and shall expire on September thirtieth of the fifth year following the effective date, except the terms of the first appointed members, which shall be effective from the date of appointment, with one (1) term to expire on the next September thirtieth, and on each following September thirtieth for the next four (4) years.

(B) Members (other than first members and members appointed to fill vacancies) shall be appointed before October first of the year of appointment.

(C) Vacancies on the commission shall be filled for the remainder of an unexpired term with such appointment to be made as soon as feasible.

(D) An officer or employee of a government agency or unit or a member of the immediate family of an officer or employee shall not be appointed to the commission.

(Ord. No. 52, § 2, 7-13-89)

State law reference-Similar provisions, MCL 42.6a, MSA 5.46(6a).

**Sec. 2-93. Scheduling and conduct of meetings.**

- (A) The local officers compensation commission shall meet on the first Monday in October of each odd-numbered year. Additional meetings may be held within forty-five (45) days of the meeting held on the first Monday in October, as scheduled by the commission. The commission shall not meet for more than fifteen (15) session days in each odd-numbered year. A session day means a calendar day on which the commission meets and a quorum is present.
- (B) The majority of members of the commission shall constitute a quorum for conducting business of the commission. The commission shall not take action or make a determination without the concurrence of a majority of the members appointed and serving on the commission.
- (C) All meetings shall be held at the township hall.
- (D) All business of the commission shall be conducted at public meetings held in compliance with the open meetings act (MCL 15.261 et seq., MSA 4.1800(11) et seq.), as amended, and public notice of the time, date and place of each meeting shall be given as required by this statute.
- (E) All meetings of the commission shall be conducted in accordance with Roberts Rules of Parliamentary Procedure, unless the commission, by majority vote, expressly agrees otherwise.
- (F) The commission shall select a chairperson from its members who shall be responsible for directing the conduct of business for the commission. The chairperson shall designate a committee member to serve as secretary. The secretary shall make a tape recording of each meeting, which shall be preserved by the secretary as a permanent record. In addition, the secretary shall maintain a record book and shall keep written minutes of each commission meeting. A copy of the minutes prepared by the secretary shall be submitted to each member by mail within twenty (20) days of the meeting for which such minutes pertain. Unless a member submits a written objection to the minutes to the secretary, within twenty (20) days of the date the minutes were mailed, the minutes shall be deemed approved. The secretary shall note that no objections were received to the minutes and shall enter the minutes in the commission record book. If an objection to the minutes is received, the secretary shall notify the chairperson, who shall immediately schedule a meeting of the commission, unless such meeting cannot be scheduled within forty-five (45) calendar days of the commission's first meeting that year, in which case, the objections to the minutes will be considered as the first item of business at the next meeting of the commission held on the first Monday in October two (2) years following.
- (G) The commission shall consider the responsible comments of all persons present at its meetings, as well as any written materials submitted by mail or by any person in attendance. The commission shall have access to any information or records maintained by the township concerning the salaries of township officials; attendance of township officials at board and committee meetings, and any other records or information pertaining to the job performance of the township official.
- (H) The commission shall make its determination within forty-five (45) calendar days of its first meeting.

(Ord. No. 52, § 3, 7-13-89)

**Sec. 2-94. Purpose.**

- (A) The local officers compensation commission shall determine the salary of each township elected official. The commission shall not have authority to determine the amount paid any official paid on a per diem or per meeting basis. Upon the commission reaching a determination, the chairperson of the commission shall immediately file a copy of the determination with the township clerk and the determination shall be effective for the salary payable to the official for the period beginning January first next following the date the determination is filed with the township clerk; however, in the event the determination is filed with the township clerk on a date less than thirty (30) days before January first, the determination shall be effective thirty (30) days following the date of filing. The determination shall be effective for two (2) years and may provide for no more than four (4) salary adjustments during the two-year period.
- (B) The determination of the commission shall be the salary of the official, unless the township board, within thirty (30) days of the date the determination is filed with the township clerk, rejects the determination by resolution adopted by two-thirds of the members elected and serving on the board. If the township board rejects the determination, the existing salary for that official shall remain in effect.

(Ord. No. 52, § 4, 7-13-89)

**Sec. 2-95. Compensation and expenses of members.**

The members of the local officers compensation commission shall not receive compensation, but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(Ord. No. 52, § 5, 7-13-89)

**Sec. 2-96. Reductions in salary.**

Notwithstanding any provision contained in this division, the local officers compensation commission shall not decrease the salary of an official during the official's term of office.

(Ord. No. 52, § 6, 7-13-89)

**Secs. 2-97 - 2-120. Reserved.**

**Article 5 Employee Benefits**

*Division 1 Generally*

**Secs. 2-121 - 2-130. Reserved.**

*Division 2 Health Insurance*

**Sec. 2-131. Authorization.**

Pursuant to the provisions of Act No. 77 of the Public Acts of Michigan of 1989 (MCL 41.110b, MSA 5.159(2)), as amended, the township hereby authorizes the township board from time to time to enter into arrangements to provide policies of group health, hospitalization, medical and surgical insurance coverage to the persons or groups of persons identified in Sec. 2-133.

(Ord. No. 50-A, § 1, 10-8-87)



**Sec. 2-132. Discretionary authority.**

This division shall not prohibit the township board from selecting among various health insurance plans offered by appropriate insurers; from changing plans from time to time; or from changing the benefits offered to eligible persons from time to time.

(Ord. No. 50-A, § 1, 10-8-87)

**Sec. 2-133. Eligibility.**

Benefits extended under this division shall be provided to the following groups of eligible persons:

- (A) All full-time employees of the township other than police officers regularly working not less than thirty-five (35) hours per week, including the spouses and minor dependents of such employees.
- (B) All full-time employees of the township police department, including the spouses and minor dependents of such employees. A full-time police officer shall be an officer regularly working not less than forty (40) hours per week.

(Ord. No. 50-A, § 2, 10-8-87)

**Sec. 2-134. When coverage effective.**

Any person eligible for health insurance provided by this division shall automatically be covered at the time he becomes eligible, unless that person elects not to be covered as set forth in Sec. 2-135.

(Ord. No. 50-A, § 3, 10-8-87)

**Sec. 2-135. Nonparticipation.**

Any person eligible for health insurance as set forth in this division may elect not to be covered by any arrangement for health coverage provided by the township by notifying the township clerk of that fact in writing.

(Ord. No. 50-A, § 4, 10-8-87)

**Secs. 2-136 - 2-155. Reserved.**

## **Chapter 3      Buildings and Building Regulations**

### **Article 1      In General**

**Sec. 3-1 - 3-36. Reserved.**

### **Article 2      Construction Code**

**Sec. 3-37.      Adoption of Michigan State Construction Code.**

The prior adoption of the Stille-Derossett-Hale Single State Construction Code Act, (the Construction Code) established by 1972 PA 230, MCL 125.1501, et seq., as amended, is ratified and shall continue to include the Residential, Rehabilitation, Building, Electrical, Plumbing, Mechanical and Uniform Energy Codes. A copy of the Construction Code shall be kept on file at the Township offices.

(Ord. No. 1-30, §§ 1, 2, 8-14-75, Ord. No. 17-3 12-14-2017)

**Sec. 3-38.      Enforcing agency.**

Pursuant to MCL 125.1508b(1), the Charter Township of Flushing, assumes responsibility for the administration and enforcement of the Construction Code within Flushing Township.

(Ord. No. 1-30, § 1, 8-14-75, Ord. No. 17-3 12-14-2017)

**Sec. 3-39.      Fees.**

In accordance with MCL 125.1509, the Township may contract with one or more qualified individuals or organizations registered in accordance with Article 10 of the Skilled Trades Regulation Act, MCL 329.001-6023 to perform all or part of the administration and enforcement of the Construction Code. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.

(Ord. No. 17-3 12-14-2017)

**Sec. 3-40.      Violation.**

To the extent not inconsistent with the Construction Code, other state statutes or regulations, a violation of this Chapter of the Code of Ordinances, including violation of any provision of the Construction Code as adopted by reference herein, shall be a township civil infraction.

(Ord. No. 61-3-94, § 2, 10-27-94, Ord. No. 17-3 12-14-2017)

**Sec. 3-41.      Repeal.**

All ordinances inconsistent with the provisions of this ordinance are repealed to the extent inconsistent with the provisions of this ordinance.

(Ord. No. 17-3 12-14-2017)

**Sec. 3-42.      Effective.**

This ordinance shall be effective upon publication.

(Ord. No. 17-3 12-14-2017)

**Sec. 3-43.      Amendments.**

The Charter Township of Flushing expressly reserves its rights under state statute to amend this ordinance at later date.

(Ord. No. 17-3 12-14-2017)

## **Chapter 4      Reserved**

## **Chapter 5      Fire Prevention and Protection**

### **Article 1    In General**

#### **Sec. 5-1.      Definitions.**

Defines open fire as any fire not within incinerator or other enclosure and defines recreational fire as an outdoor fire within a suitable enclosure not to exceed 12 square feet;

(Ord. No. 44-92, 4-23-92, Ord No. ##, 12-11-14)

#### **Sec. 5-2.      Fire hazards-Declaration.**

Fire Hazards-Declaration, authorizes declaration of a dangerous fire condition or extreme fire hazard emergency by appropriate officials;

(Ord. No. 44-B, § 1, 5-10-85; Ord. No. 44-92, 4-23-92 Ord No. ##, 12-11-14)

#### **Sec. 5-3.      Same-Notice.**

Same-Notice, provides a means of providing public notice of a dangerous fire condition or extreme fire hazard;

(Ord. No. 44-B, § 2, 5-10-85; Ord. No. 44-92, 4-23-92 Ord No. ##, 12-11-14)

#### **Sec. 5-4.      Same-Burning restricted.**

Same-Burning Restricted, restricts outdoor burning to incinerators;

(Ord. No. 44-B, § 3, 5-10-85; Ord. No. 44-92, 4-23-92 Ord No. ##, 12-11-14)

#### **Sec. 5-5.      General prohibitions.**

Prohibits burning in violation of MCL 336.11, et seq., prohibits burning of leaves and grass clippings and permits the burning of trees, logs, brush and stumps in accordance with the ordinance;

(Ord. No. 44-B, § 4, 5-10-85; Ord. No. 44-92, 4-23-92 Ord No. ##, 12-11-14)

#### **Sec. 5-6.      Adoption of fire control measures and regulations governing conditions which could impede or interfere with fire suppression forces.**

Adoption of Fire Control Measures, authorizes the adoption of fire control measures and regulations and authorizes fire/police personnel to direct emergency situations, including prohibiting and/or removing persons and vehicles from hazardous areas, and makes it unlawful – for a person to interfere with emergency personnel and/or vehicles, to fail to obey the proper orders of emergency personnel, to drive a vehicle across a fire hose, to fail to defer to emergency vehicles, to follow fire apparatus closer than 500 feet or to unlawfully board or tamper with emergency equipment;

(Ord. No. 44-92, 4-23-92 Ord No. ##, 12-11-14)

#### **Sec. 5-7.      Allowed burning.**

Allowed Burning, prohibits starting an open fire when there is danger of such fire spreading, prohibits leaving an open fire unattended and prohibits an open fire before sunrise or more than one half hour following sunset with certain exceptions;

(Ord. No. 44-92, 4-23-92 Ord No. ##, DATE)

**Sec. 5-8. Location requirements.**

Location Requirements prohibits an open fire within 50 feet of any structure;  
(Ord. No. 44-92, 4-23-92 Ord No. ##, DATE)

**Sec. 5-9. Special exceptions.**

Special Exceptions allows exceptions to burning otherwise prohibited, with permission of the supervisor, police chief or fire chief;  
Ord No. ##, DATE)

**Sec. 5-10. Fires prohibited on street surface.**

Fires Prohibited on Street Surface, prohibits fires on street surfaces;  
(Ord. No. 44-B, § 6, 5-10-85; Ord. No. 44-92, 4-23-92 Ord No. ##, DATE)

**Sec. 5-11. Penalty.**

Penalty, provides that certain violations of the ordinance shall be a misdemeanor with a penalty of 90 days jail and/or a fine of \$500 with other violations being a civil infraction subject to fine not to exceed \$500; and,  
(Ord. No. 44-92, 4-23-92; Ord. No. 61-3-94, § 3, 10-27-94 Ord No. ##, DATE)

**Sec. 5-12. Severability.**

Severability, provides the invalidity of one section of the ordinance does not affect the validity of the remaining sections.  
(Ord. No. 44-92, 4-23-92 Ord No. ##, DATE)

**Secs. 5-13 - 5-35. Reserved.**

## **Article 2 Firerun Charges**

**Sec. 5-36. Purpose.**

The within article is adopted for the purpose of providing financial assistance to the township in the operation of a fire department from those receiving direct benefits from the fire protection service. It is the further purpose of the within article to provide for partial funding of the fire department operation which remains, in part, an at-large governmental expense based upon the general benefits derived by all property owners within the township.  
(Ord. No. 69-98, § 1, 9-24-98)

**Sec. 5-37. Charges.**

The township shall, hereafter, forego charges for fire runs made to a township residence, residential property, or vehicle where the cause of the fire is determined to be unintentional or an act of God. The following charges shall, hereinafter, be due and payable to the township from a recipient of any of the following enumerated services:

- (A) Grass fire due to illegal burning or careless burning.     \$500.00
- (B) Illegal burning or burning without permit.
  - 1. First offense.     \$200.00
  - 2. Second offense.     \$500.00
  - 3. Subsequent offense.     \$1,000.00

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(C) Automobile fire. (Nonresi-dent)	\$200.00
(D) Fire in a commercial establishment.	\$1,000.00
(E) Fire in an industrial or manufacturing establishment.	Actual costs
(F) Hotel or motel fire.	\$1,000.00
(G) Aircraft fire.	\$1,000.00
(H) Train fire.	Actual costs
(I) Truck fire.	\$500.00
(J) Emergency rescue or resuscitator service.	N/C
(K) Intentional false alarm.	\$500.00
(L) Any other services not specifically enumerated	\$200.00
(As determined by the Township Fire Committee)	\$1,000.00

(Ord. No. 69-98, § 2, 9-24-98)

### **Sec. 5-38. Time for payment for run.**

All of the foregoing charges shall be due and payable within thirty (30) days from the date billing is rendered and default of payment shall be collectible through proceedings in district court or in any court of competent jurisdiction as a matured debt.

(Ord. No. 69-98, § 3, 9-24-98)

### **Sec. 5-39. Exemptions.**

The following properties and services shall be exempt from the foregoing charges:

- (A) False alarms.
- (B) Fires caused by railroad trains, which are the specific statutory responsibility of railroad companies.
- (C) Fire involving township buildings, grounds and/or property.
- (D) Fire service performed outside the jurisdiction of the township under a mutual aid contract with an adjoining municipality.

(Ord. No. 69-98, § 4, 9-24-98)

### **Sec. 5-40. Collection of charges.**

The township may proceed in district court by suit to collect any monies remaining unpaid and shall have any and all other remedies provided by law for the collection of said charges.

(Ord. No. 69-98, § 5, 9-24-98)

### **Sec. 5-41. Non-exclusive charge.**

The foregoing rates and charges shall not be exclusive of the charges that may be made by the township for the costs and expenses of maintaining a fire department, 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 or by a special assessment established under the Michigan statutes pertinent thereto. General fund appropriations may also be made to cover such additional costs and expenses.

(Ord. No. 69-98, § 6, 9-24-98)

**Sec. 5-42. Multiple property protection.**

When a particular service rendered by the township fire department directly benefits more than one person or property, the owner of each property so benefited and each person so benefited where property protection is not involved shall be liable for the payment of the full charge for such service hereinbefore outlined. The interpretation and application of the within section is hereby delegated to the township fire chief subject only to appeals, within the time limits for payments, to the township board and shall be administered so that charges shall only be collected from the recipients of the service.

(Ord. No. 69-98, § 7, 9-24-98)

## **Chapter 6 Flood Damage Control**

### **Article 1 In General**

#### **Sec. 6-1. Findings of fact.**

- (A) The flood hazard areas of the township are subject to periodic inundation which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (B) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Ord. No. 40, § 1.2, 1-8-81)

#### **Sec. 6-2. Statement of purpose.**

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (A) Protect human life and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business interruptions;
- (E) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (F) Help maintain a stable tax base by providing for the second use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (G) Insure that potential buyers are notified that property is in an area of special flood hazard; and
- (H) Insure that those who occupy the areas of special flood hazard assume responsibility for their actions.

(Ord. No. 40, § 1.3, 1-8-81)

#### **Sec. 6-3. Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (A) Restricting or prohibiting uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (B) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (C) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate channel floodwaters;



(D) Controlling filling, grading, dredging, and other development which may increase flood damage; and

(E) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards in other areas.

(Ord. No. 40, § 1.4, 1-8-81)

**Sec. 6-4. Definitions.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

*Appeal* means a request for a review of the township building inspector's interpretation of any provision of this chapter or a request for a variance.

*Area of shallow flooding* means a designated AO Zone on the flood insurance rate map (FIRM). The base flood depths range from one (1) to three (3) feet; clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident.

*Area of special flood hazard* means the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one (1) percent chance of being equalled or exceeded in any given year.

*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 located within the area of special flood hazard.

*Existing mobile home park or mobile home subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot on which the mobile home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before February 13, 1981.

*Expansion to an existing mobile home park or mobile home subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete or the construction of streets).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland waters; and/or

(B) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood insurance rate map (FIRM)* means the official map on which the federal insurance administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*Flood insurance study* means the official report provided in which the federal insurance administration has provided flood profiles, as well as the flood boundary-floodway map and the water surface elevation of the base flood.

*Floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-tenth of one (1) foot.

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*Habitable floor* means any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor."

*Mobile home* means a structure that is transportable in one (1) or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

*New construction* means structures for which the "start of construction" commenced on or after February 13, 1981.

*New mobile home park* or *mobile home subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more mobile home lots for rent or sale for which the construction of facilities for servicing the lot (including, at a minimum, the installment of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed on or after February 13, 1981.

*Start of construction* means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading, and filling, nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, "start of construction" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

*Structure* means a walled and roofed building, a mobile home, or a gas or liquid storage tank, that is principally aboveground.

*Substantial improvement* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

- (A) Before the improvement or repair is started, or
- (B) If the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

- (A) Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- (B) Any alteration of a structure listed on the national register of historic places or a state inventory of historic places.

*Variance* means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(Ord. No. 40, § 2.0, 1-8-81)

Cross reference-Definitions and rules of construction. generally, § 1-2.

**Sec. 6-5. Abrogation and greater restrictions.**

This chapter is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter and other ordinance, easement, covenant or deed restrictions conflict or overlap, whichever imposes the more stringent restriction shall prevail.

(Ord. No. 40, § 3.4, 1-8-81)

**Sec. 6-6. Interpretation.**

In the interpretation and application of this chapter, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the township board; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 40, § 3.5, 1-8-81)

**Sec. 6-7. Warning and disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the township, any officer or employee thereof or the federal insurance administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 40, § 3.6, 1-8-81)

**Secs. 6-8 - 6-35. Reserved.**

## **Article 2 Flood Hazard Zones**

**Sec. 6-36. Application of provisions.**

This chapter shall apply to all areas of special flood hazards within the boundaries of the township.

(Ord. No. 40, § 3.1, 1-8-81)

**Sec. 6-37. Identification of areas of special flood hazard.**

- (A) The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "the Flood Insurance Study for the Township of Flushing", dated August, 1980, with accompanying flood insurance rate maps and flood boundary-floodway maps (collectively, the "Study") is hereby adopted by reference and declared to be part of this chapter. The Study is on file at the township hall.
- (B) The Study may be amended from time to time by the Federal Insurance Administration or other authorized organizations. To the extent such amendment affects the special flood hazards within Flushing Township, such amendment shall become part of the Study, 90

days following the availability of the published amendment to the Township, with a complete copy of the amendment to the Study to be maintained on file at the township hall.

(Ord. No. 40, § 3.2, 1-8-81, Ord No. XX, 2022)

**Secs. 6-38 – 6-60. Reserved.**

### Article 3 Administration

#### **Sec. 6-61. Establishment of development permit.**

- (A) A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Sec. 6-37.
- (B) Application for a development permit shall be made on forms furnished by the township building inspector and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structure, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
1. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
  2. Elevation in relation to mean sea level to which any structure has been floodproofed;
  3. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in Sec. 6-108; and
  4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

(Ord. No. 40, § 4.1, 1-8-81)

#### **Sec. 6-62. Building inspector-Designation.**

The township building inspector is hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.

(Ord. No. 40, § 4.2, 1-8-81)

#### **Sec. 6-63. Duties and responsibilities.**

The duties of the township building inspector shall include, but not be limited to:

- (A) Review all development permits to determine that the permit requirements of this chapter have been satisfied.
- (B) Review all development permits to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- (C) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Sec. 6-131 are met.

(Ord. No. 40, § 4.3-1, 1-8-81)

#### **Sec. 6-64. Use of other base flood data.**

When base flood elevation data has not been provided in accordance with Sec. 6-37, the township building inspector shall obtain, review, and reasonably utilize any base flood elevation

data available from a federal, state or other source, in order to administer Sec. 6-107 and Sec. 6-108.

(Ord. No. 40, § 4.3-2, 1-8-81)

**Sec. 6-65. Certain information required.**

The following information shall be obtained and maintained for each permit required by this article:

(A) Obtain and record the actual elevation (in relation to mean sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.

(B) For all new substantially improved floodproofed structures:

1. Verify and record the actual elevation (in relation to mean sea level); and
2. Maintain the floodproofing certifications required in Sec. 6-61.

(C) Maintain for public inspection all records pertaining to the provisions of this chapter.

(Ord. No. 40, § 4.3-3, 1-8-81)

**Sec. 6-66. Alterations of watercourses.**

The following shall be required in connection with the issuance of any permit under this article:

(A) Notify adjacent communities and the state department of natural resources prior to any alteration or relocation to the federal insurance administration.

(B) Require that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is not diminished.

(Ord. No. 40, § 4.3-4, 1-8-81)

**Sec. 6-67. Interpretation of FIRM boundaries.**

In the performance of his duties under this chapter, the building inspector may make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Sec. 6-156.

(Ord. No. 40, § 4.3-5, 1-8-81)

**Secs. 6-68 - 6-90. Reserved.**

**Article 4 Flood Hazard Reduction**

**Division 1 Generally**

**Sec. 6-91. General standards.**

In all areas of special flood hazards, the standards set forth in this article are required.

(Ord. No. 40, § 5.1, 1-8-81)

**Sec. 6-92. Anchoring.**

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

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(B) All mobile homes shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Special requirements shall be that:

1. Over-the-top ties shall be provided at each of the four (4) corners of the mobile home, with two (2) additional ties per side at intermediate locations, with mobile homes less than fifty (50) feet long requiring one (1) additional tie per side.
2. Frame ties shall be provided at each corner of the home with five (5) additional ties per side at intermediate points, with mobile homes less than fifty (50) feet long requiring four (4) additional ties per side.
3. All components of the anchoring system shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
4. Any additions to the mobile home shall be similarly anchored.

(Ord. No. 40, § 5.1-1, 1-8-81)

### **Sec. 6-93. Construction material and methods.**

- (A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(Ord. No. 40, § 5.1-2, 1-8-81)

### **Sec. 6-94. Utilities.**

- (A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (B) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
- (C) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 40, § 5.1-3, 1-8-81)

### **Sec. 6-95. Subdivision proposals.**

- (A) All subdivision proposals shall be consistent with the need to minimize flood damage.
- (B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- (D) Base flood elevation data shall be provided for subdivision proposals and other proposed development which contain at least fifty (50) lots or five (5) acres (whichever is less).

(Ord. No. 40, § 5.1-4, 1-8-81)

### **Secs. 6-96 - 6-105. Reserved.**

## Division 2      *Specific Standards*

### **Sec. 6-106.    Required.**

In all areas of special flood hazards where base flood elevation data have been provided as set forth in Sec. 6-37 or in section Sec. 6-64, the standards contained in this division are required.

(Ord. No. 40, § 5.2, 1-8-81)

### **Sec. 6-107.    Residential construction.**

New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation.

(Ord. No. 40, § 5.2-1, 1-8-81)

### **Sec. 6-108.    Nonresidential construction.**

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (A) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
- (B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- (C) Be certified by a registered professional engineer or architect that the standards of this section are satisfied. Such certifications shall be provided to the official as set forth in Sec. 6-64.

(Ord. No. 40, § 5.2-2, 1-8-81)

### **Sec. 6-109.    Mobile homes.**

(A) Mobile homes shall be anchored in accordance with Sec. 6-92(B).

(B) For new mobile home parks and mobile home subdivisions; for expansions to existing mobile home parks and mobile home subdivisions; for existing mobile home parks and mobile home subdivisions where the repair, reconstruction or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; and for mobile homes not placed in a mobile home park or mobile home subdivision, it is required that:

- 1. Stands or lots are elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the base flood level;
- 2. Adequate surface drainage and access for a hauler are provided; and
- 3. In the instance of elevation on pilings, that:
  - (a) Lots are large enough to permit steps,
  - (b) Piling foundations are placed in stable soil no more than ten (10) feet apart, and
  - (c) Reinforcement is provided for pilings more than six (6) feet above the ground level.
- 4. No mobile home shall be placed in a floodway, except in an existing mobile home park or an existing mobile home subdivision.

(Ord. No. 40, § 5.2-3, 1-8-81)

**Secs. 6-110 - 6-130. Reserved.**

## **Article 5 Floodway Protection**

### **Sec. 6-131. Standards.**

- (A) Located within areas of special flood hazard established in Sec. 6-37 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- (B) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless a technical evaluation demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (C) If subsection (A) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 4 of this chapter.
- (D) Prohibit the placement of any mobile homes, except in an existing mobile home park or existing mobile home subdivision.

(Ord. No. 40, § 5.3, 1-8-81)

**Secs. 6-132 - 6-155. Reserved.**

## **Article 6 Appeals and Variances**

### **Sec. 6-156. Appeal board.**

- (A) The board of appeals as established by state statute shall hear and decide appeals and requests for variance from the requirements of this chapter.
- (B) The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the building inspector in the enforcement or administration of this chapter.
- (C) Those aggrieved by the decision of the board of appeals, or any taxpayer, may appeal such decision to the county circuit court.
- (D) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:
  - 1. The danger that materials may be swept onto other lands to the injury of others;
  - 2. The danger to life and property due to flooding or erosion damage;
  - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - 4. The importance of the services provided by the proposed facility to the community;
  - 5. The necessity to the facility of a waterfront location, where applicable;
  - 6. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - 7. The compatibility of the proposed use with existing and anticipated development;
  - 8. The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;



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9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (E) Upon consideration of the factors of subsection (D) above and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.
- (F) The building inspector shall maintain the records of all appeal actions, including technical information, and report any variances to the federal insurance administration upon request. (Ord. No. 40, § 4.4-1, 1-8-81)

### **Sec. 6-157. Conditions for variances.**

- (A) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (1) through (11) in Sec. 6-156(D) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (B) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the national register of historic places or the state inventory of historic places, without regard to the procedures set forth in the remainder of this section.
- (C) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (D) Variances shall only be issued upon a determination that the variance is minimum necessary, considering the flood hazard, to afford relief.
1. A showing of good and sufficient cause;
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Sec. 6-156(D), or conflict with existing local laws or ordinances.
- (E) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. No. 40, § 4.4-2, 1-8-81)

## **Chapter 7      Reserved**

## **Chapter 8      Animals**

### **Sec. 8-1.      Prohibited acts.**

It shall be unlawful:

- (A) For any person who is the owner of, in the possession of, or has control of any dog or other animal to allow such dog or other animal to roam unrestrained upon any street, sidewalk, park or other public place in the township, or upon the land or property of any person other than the owner, person in possession or having control of such dog or other animal.
- (B) For any person who is the owner of, in the possession of, or has control of any dog or other animal to abandon such dog or other animal within the township, or to willfully or negligently allow any dog or other animal to suffer unnecessary torture or pain.
- (C) For any person to keep any dog or other animal in any yard, structure, or otherwise so as to create an unsanitary, malodorous or obnoxious condition.
- (D) Domesticated animals being transported on a public road or road right-of-way within the confines of an open bed pick-up truck or similar vehicle shall be confined in a suitable carrier such as a cage or similar type container.

(Ord. No. 43, § 1, 10-8-81; Ord. No. 43, 8-24-98)

### **Sec. 8-2.      Seizure, impoundment.**

It shall be lawful for any township police officer or any person acting under the direction of the township police officer to seize any dog or any other animal which had been abandoned or is found roaming at large in the township in violation of this chapter.

(Ord. No. 43, § 2, 10-8-81)

### **Sec. 8-3.      Initiation of prosecution of violators.**

Violation of Chapter 7 of the Code shall be a township civil infraction.

(Ord. No. 43, § 3, 10-8-81; Ord. No. 61-3-94, § 1, 10-27-94)

### **Sec. 8-4.      Vicious dog.**

Defined:

- (A) Any dog with a propensity, tendency or disposition to attack, to cause injury or otherwise endanger the safety of human beings or other domestic animals, or
- (B) Any dog which has previously attacked or bitten a human being or other domestic animal other than under the type of circumstances that would be justifiable, or
- (C) Any dog which has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of tendencies to attack or bite human beings or other domestic animals other than under the type of circumstances that would be justifiable.

(Ord No. 95-11, 7-14-2011)

### **Sec. 8-5.      Keeping of vicious dog regulated.**

The keeping of vicious dogs will be subject to the following standards:

- (A) Leash and Muzzle. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four feet in length. No person shall permit such a dog to be kept on a chain, rope, or other type leash outside its

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kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, etc. In addition, all such dogs on a leash outside of the animal's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting persons or other animals.

- (B) Confinement. All vicious dogs shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to sides. All structures used to confine such dogs must be locked with a key or combination lock when such animals are within the structure.

Such structure must have a secure bottom or floor attached to the side of the pen on the sides or the sides of the pen must be embedded in ground to a depth of no less than two feet. All structures erected to house such dogs must comply with all zoning and building regulations of the Township. All structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.

- (C) Confinement Indoors. No vicious dog may be kept on a porch, patio, or in any part of a house or structure that would allow the dog to exit such building on its own volition. In addition, no such animal may be kept in a house or structure where window screens or screen doors are the only obstacle to preventing the dog from exiting the structure.
- (D) Signs. All owners, keepers or harborers of vicious dogs within the Township shall display in prominent place on their premises a sign easily readable by the public using the words "BEWARE OF DOG". In addition, a similar sign is required to be posted on the kennel or pen of such animal.
- (E) Insurance. All owners, keepers or harborers of vicious dogs must provide proof to Flushing Township of public liability insurance in a single incident amount of \$100,000 for bodily injury to or death of any person or persons which may result from ownership, keeping or maintenance of such animal.
- (F) Identification Photographs. All owners, keepers or harborers of vicious dogs must provide the Flushing Township Clerk two (2) photographs showing the color and approximate size of the animal.

(Ord No. 95-11, 7-14-2011)

### **Sec. 8-6. Reporting requirements.**

All owners, keepers or harborers of vicious dogs must report the following information, in writing, to the Township Clerk as required hereinafter:

- (A) The removal from the Township or death of a vicious dog.
- (B) The new address of a vicious dog should the owner move within the Township.
- (C) The dog is on the loose, has been stolen or has attacked a person

(Ord No. 95-11, 7-14-2011)

### **Sec. 8-7. Failure of owner or keeper to comply.**

It shall be unlawful for the owner, keeper or harborer of a vicious dog within the Township to fail to comply with the requirements and conditions set forth in this ordinance. Any dog found to be subject to a violation of this ordinance shall be subject to immediate seizure and impoundment by the Genesee County Animal Control.

(Ord No. 95-11, DATE-2011)

**Sec. 8-8. Violation and penalties.**

Any person violating or permitting the violation of any provision of this ordinance for which no other penalty is set forth shall, upon conviction, be guilty of a misdemeanor, and shall be subject to a fine of not less than \$200 and not more than \$500, and/or 90 days in jail. Each day that a violation of this ordinance continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this ordinance shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this ordinance.

(Ord No. 95-11, DATE-2011)

**Sec. 8-9. Order to show cause; killing or confining a dog.**

A District Court Magistrate or Judge of the District Court shall issue a summons to show cause why a dog should not be killed, upon a sworn complaint that any of the following exist:

- (A) A dog, licensed or unlicensed, has destroyed property or habitually caused damage by trespassing on the property of a person who is not the owner;
- (B) A dog, licensed or unlicensed, has attacked or bitten a person.
- (C) A dog, licensed or unlicensed, has shown vicious habits or has molested a person when lawfully on a public right-of-way or in a public place.
- (D) A dog, licensed or unlicensed, has run at large, contrary to this ordinance or other applicable Township ordinance

(Ord No. 95-11, DATE-2011)

**Sec. 8-10. Noncompliance with Order; Fine; Court Costs**

After a hearing, a District Court Judge may either order the dog killed, or confined to the premises of the owner. Failure to comply with the order of a District Court Judge may result in the owner of the dog against which an order has been entered being punished by a fine of not more than \$500 and/or 90 days in jail. Court costs for such actions taken shall be taxed against the owner of the dog against whom the complaint was issued.

(Ord No. 95-11, DATE-2011)

## **Chapter 9      Amusements and Entertainments**

### **Article 1      In General**

**Secs. 9-1 - 9-25. Reserved.**

### **Article 2      Public Entertainments and Performances**

**Sec. 9-26 Title.**

This article shall be known as the Ordinance Licensing Entertainment and Prohibiting Sexually Oriented Businesses.

(Ord. No. 70-98, 12-10-98)

**Sec. 9-27.      Definitions.**

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

*Business establishment* means a location within the township, where for a fee or other consideration, goods or services are provided, including, but not limited to, locations where alcoholic beverages and/or food are served for consumption at the location.

*Entertainment* means, but is not limited to, the following activities:

- (A) Animal acts.
- (B) Closed circuit television, including computer monitors or similar devices which display moving or still pictures.
- (C) Contests.
- (D) Dancers.
- (E) Dancing.
- (F) Dialogues.
- (G) Mimes.
- (H) Monologues.
- (I) Motion pictures.
- (J) Music provided by live musicians or by electronic means previously recorded.
- (K) Plays.
- (L) Still slides.
- (M) Videos.
- (N) Vocalists, single and/or group.
- (O) Modeling.

*Licensing agent* means the township clerk or such other township official or employees as may be designated by resolution of the township board.

*Nudity or semi nudity* means exposing to the public view the following areas of the body of any person more than three (3) years of age, whether by the display of the person's body or by showing of pictures, films, television, slides or other electronic reproductions:

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- (A) Buttocks.
- (B) Female breasts.
- (C) Genitals.
- (D) Pubic area.

*Person* means any individual, partnership, association, or corporation.

*Public view* means visible to a person present within any business establishment or other place open to or accessible by the public at large.

*Sexually oriented business* means a business establishment, which provides or makes available, the goods, services or entertainment defined in Sec. 9-32 of this article.

*Specified anatomical areas* means:

- (A) The human male genitals in a discernible turgid state even if fully and opaquely covered.
- (B) Less than completely and opaquely covered human genitals, pubic region, buttocks, or a female breast below a point immediately above the top of the areola.

*Specified sexual activities* means and includes any of the following:

- (A) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts, whether covered or uncovered;
- (B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
- (C) Masturbation, actual or simulated; or
- (D) Excretory functions as part of or in connection with any of the activities [put] forth in (A) through (C) above.

*Township* means Flushing Charter Township.

(Ord. No. 70-98, 12-10-98)

### **Sec. 9-28. Purpose.**

The purpose of this article is to protect the public morals: by regulating entertainment, by prohibiting certain types of entertainment, and establish a registry of business offering entertainment within the township to allow for police and fire protection.

(Ord. No. 70-98, 12-10-98)

### **Sec. 9-29. License requirements.**

No person may commence or continue a business offering entertainment, as herein defined within the township without having first obtained a license as hereinafter provided.

(Ord. No. 70-98, 12-10-98)

### **Sec. 9-30. Procurement procedure for license.**

No license to commence or continue a business establishment which provides entertainment shall be issued until the owner or operator thereof shall have first submitted an application to the licensing agent of the township or a form, provided by the licensing agent for such purposes. A fee as established in Sec. 36-1716 shall accompany the application. Upon the receipt of a properly completed application and fee, the licensing agent shall issue a license to the applicant

to commence or continue the business designated in said application if the business complies with the terms of this article.

(Ord. No. 70-98, 12-10-98)

**Sec. 9-31. Scope of license.**

(A) The license issued under this article shall be effective until December 31 of the year of issuance. Renewals of an existing license may be obtained by the same procedure applicable to original license with renewal effective from January 1 through December 31.

(B) No license shall be issued if:

1. The business establishment would be illegal under any law or ordinance of the United States of America, the State of Michigan, County of Genesee, or the Flushing Charter Township.
2. The business real estate or its goods, fixtures, equipment, or inventory has any delinquent, unpaid real property taxes, personal property taxes, water bills, sewer connection fees or sewer bills outstanding.
3. The business building or location of the proposed establishment is in violation of the township building code.

(C) No license may be transferred by the person to whom it was issued without the prior approval of the licensing agent.

(D) The licensing agent shall have the right to inspect the building premises, or location of any proposed or existing business establishment prior to issuance of any license or renewal.

(Ord. No. 70-98, 12-10-98)

**Sec. 9-32. Sexually oriented businesses.**

Sexually oriented businesses are prohibited in the township.

*Sexually oriented business* is defined to include, but is not limited to the following activities or entertainment provided at a business establishment as defined herein:

*Adult arcades* are defined as any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas."

*Adult bookstores* or *adult video stores* which defined as a business establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- (A) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproduction, slides, or other representations that depict or describe "specified sexual activities" or "specified anatomical areas", or
- (B) Instruments, devices or paraphernalia that are designated for use in connection with "specified sexual activities".

The sale or rental of the items listed in (A) and (B) [above] shall not be deemed a principal business purpose of the business establishment if all of the following conditions apply:



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1. The availability of the items is not advertised by signs or other means visible from outside the business establishment.
2. The items listed in (B) [above] are not prominently displayed and the items listed in (A) [above] are not displayed at all or, if available for public viewing, access to establishment not visible to the public at large.
3. No more than thirty-two (32) square feet of the actual floor space used in the operation of the establishment to store and/or display such items.
4. The gross revenue generated by the sale or rental of the items identified in (A) and (B) [above] is less than one (1) percent of the total gross revenues generated by the business establishment.

A business establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still may be categorized as adult bookstore or adult video store. Such other business purposes will not serve to exempt such business establishments from being categorized as an adult bookstore or adult video store as long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials that depict or describe "specified sexual activities" or "specified anatomical areas." A principal business purpose need not be a primary use of an establishment so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

*Adult cabarets* which is described as a nightclub, bar, restaurant, or similar commercial establishment that regularly features:

- (A) Persons who appear in a state of nudity or semi-nudity, or
- (B) Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities," or
- (C) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", or
- (D) Persons who engage in erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

*Adult motels* which is described as a hotel, motel, or similar commercial establishment that:

- (A) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of "specific sexual activities" or "specified anatomical areas" and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; or
- (B) Offers a sleeping room for rent for a period of time that is less than twenty-four (24) hours;
- (C) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twenty-four (24) hours.

*Adult motion picture theaters* which are described as a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of "specific sexual activities" or "specified anatomical areas."

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*Adult theaters* which is described as a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or "specified sexual activities."

*Escort agencies* which means a person or business association which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration. An escort means a person who for consideration agrees or offers to act as a companion, guide or date for another person or who agrees or offers to privately model lingerie or to privately perform striptease for another person.

*Nude model studios*; and *nude or semi-nude dancing* which is described as the appearance of a human bare buttock, anus, and cleft or cleavage, or pubic area, male genitals, female genitals, or vulva, with less than a fully opaque covering or female breast with less than a fully opaque covering of any part of the nipple; or human genitals in a discernible turgid state, even if completely and opaquely covered.

*Sexual encounter centers* which is described as a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- (A) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (B) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

(Ord. No. 70-98, 12-10-98)

### **Sec. 9-33.     Penalty for violation including possible license revocation.**

Violation of the provisions of this article of failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements, shall upon conviction thereof, be fined not more than five hundred dollars (\$500.00), or imprisoned for not more than ninety (90) days, or both, and in addition shall pay all costs and expenses involved in prosecution to this case.

- (A) Each day that such violations continue shall be considered a separate offense.
- (B) The owner of any business establishment, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and the penalties herein provided, and upon conviction, any license with respect to such business establishment may be revoked.
- (C) Nothing herein contained shall prevent the township from taking such other lawful action as is necessary to prevent or remedy any violation, including seeking injunctive relief.

(Ord. No. 70-98, 12-10-98)

## Chapter 10 Garbage and Trash

### Article 1 In General

#### Sec. 10-1. Liability for collection services.

(A) All residents of the township serviced by any garbage and trash collection contract which may be in effect between the township and any independent contractor shall be required to pay for garbage and trash collection services if:

1. Being an occupant of premises immediately adjoining a public right-of-way; garbage, trash and other refuse is placed at the property line of the premises immediately adjacent to the public right-of-way on collection day.
2. Being an occupant of premises immediately adjoining a private easement by which means the occupant gains access to the premises; garbage, trash and other refuse is placed in the private easement immediately adjacent to the intersection of the private easement and the nearest public right-of-way.

(B) Nothing contained in this section shall prohibit the occupant of premises in the township from making private arrangements with any garbage or trash removal service for pickup of refuse from a different location from that specified herein.

(Ord. No. 32, § 2, 9-28-78)

**Secs. 10-2 - 10-21. Reserved.**

### Article 2 Solid Waste Collection, Disposal, and Recycling

#### Sec. 10-22. Definitions and terms.

Whenever the following terms are used in this division or any contract entered into by the township for the collection, recycling or disposal of solid waste, the meaning, of the terms, shall be as follows:

*Building refuse* means waste materials from the demolition, construction, remodeling, and repair operations on residences and other buildings, a small amount of which shall be accepted by the contractor as a normal amount of refuse from households. In greater quantity, it will not be regarded as municipal refuse but as industrial refuse and will be removed by the resident or by a building or demolition contractor employed by the resident.

*Bulk items* means large pieces of furniture, bed springs, mattresses, appliances, and other discarded materials incidental to the usual routine of major housekeeping.

*Christmas trees* means trees used for decoration to celebrate the Christmas holiday.

*Commercial refuse* means mixed refuse generated by business establishments, churches, schools, office buildings, and other establishments engaged in commerce.

*Commingled recyclables* means a collection of recyclable materials such as glass, plastic, ferrous and nonferrous metals, newspapers, corrugated materials placed in a single approved container for collection at curbside.

*Compostables* or *compost material* means grass clippings, leaves, garden trimmings placed at curbside for the purpose of processing into humus or compost.

*Contractor of independent contractor* means an individual, partnership, corporation or firm engaged or hired by the township to provide solid waste collection, recycling, disposal or other services as set forth in a written contract between the township and the contractor.

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*Curbside* means the physical location for the placement of refuse accumulations intended for residential service collection, recycling, and disposal.

*Garbage* means all waste materials of animal, fish, fowl, fruit, or vegetable matter incidental to the use and storage of food for human consumption.

*Household hazardous waste* means any waste material which is described as ignitable, reactive, corrosive or toxic, or other such materials (including wet and dry cell batteries) as defined by the Michigan Department of Natural Resources Hazardous Waste Management Act, Michigan Public Act 64 or the Public Acts of 1969 as amended.

*Landfill* means a solid waste disposal area for which a permit, other than a general permit, is required by Michigan Public Act 641 or the Public Acts of 1978 as amended, that receive solid waste for disposal in or upon land.

*Mixed waste* means a mixture of garbage, rubbish, and building refuse. This will not include recyclables or compostables.

*Recyclable materials* means glass, plastics, ferrous and nonferrous metals, newspapers, corrugated materials and other such materials as may be agreed between the township and contractor.

*Rubbish* means miscellaneous solid waste material resulting from housekeeping, including but not limited to packing boxes, cartons, excelsior, paper, magazines, ashes, tin cans, bottles, glassware, dishes, rubber, rags, wood, leather, automobile tires, automobile parts, floor sweepings, and the like. It will further include large pieces of furniture, bed springs, storm doors and windows, metal furniture, refrigerators, stoves, washers, dryers, dishwashers, air conditioning units, furnaces, humidifiers and dehumidifiers, hot water heaters, water closets, toilets, bathtubs, sinks, carpets and pads, railroad ties, fences or fence posts, and other discarded material incident to the usual routine of housekeeping.

*Solid waste* means a mixture of garbage, rubbish, compostables, and building refuse.

*Surety* means the party who is bound with and for the contractor to insure the performance of a contract between the township and contractor.

(Ord. No. 32-1, 11-14-91)

### **Sec. 10-23. Authorization required to collect garbage, rubbish, recyclables and bulk items from curbside.**

No one shall collect garbage, rubbish, recyclables or bulk items placed at curbside in the township, without the prior written authorization of the township board.

(Ord. No. 32-1, 11-14-91)

### **Sec. 10-24. Mandatory recycling.**

Commencing with the effective date of this division [Dec. 21, 1991], occupants of a single-family dwelling, mobile home, or multiple-family dwelling, where the property owner does not provide for the disposal of solid waste, shall separate recyclable materials from other household solid waste and garbage and shall prepare the recyclable materials for pickup on the scheduled collection date. All recyclable materials shall be rinsed and cleaned of all contents and placed in recycling bins provided by contractor and the recycling bins shall be placed at curbside on the regular collection day.

The owner and/or operator of a mobile home park or multiple-family dwelling, which is serviced by the contractor for the disposal of solid waste, shall provide sufficient space or facilities for the occupants of each mobile home or dwelling unit to place at curbside or some other location

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acceptable to contractor, the garbage, rubbish, recyclables (in recycling bins) and bulk items to be collected each collection day. The owner and/or operator of a mobile home park or multiple-family dwelling may charge the occupants of each mobile home or dwelling unit the additional aliquot costs charged to and paid by the owner and/or operator for the collection of recyclables from each occupant of the mobile home park or multiple family dwelling. Except as provided herein, the owner and/or operator shall not charge additional costs to the occupants for the collection of recyclables.

Contractor can refuse to collect garbage, rubbish, recyclables or bulk items which have not been separated and prepared for collection in accordance with this division. In the event that the contractor refused to collect garbage, rubbish, recyclables or bulk items, the contractor must tag the bin or bags containing the material which will not be collected. The tag must be signed by the contractor, or his employee, and the reason for the refusal to collect the bin or bags must be set forth on the tag.

(Ord. No. 32-1, 11-14-91)

### **Sec. 10-25. Violation; penalties.**

Any person who violates the ordinance by collecting recyclable materials or bulk items from curbside without authorization of the township board shall be responsible for a civil infraction and upon determination of responsibility shall be subject to a fine not to exceed fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for a second offense committed within a one (1) year period.

(Ord. No. 32-1, 11-14-91)

## **Chapter 11     Landfill**

### **Sec. 11-1.     Approval required.**

No person shall use land for filling with materials of any kind in an amount in excess of twenty-five (25) cubic yards without the prior written approval of the township board and subject to all requirements deemed appropriate by the board or its authorized representative.

(Ord. No. 42, 8-27-81)

### **Sec. 11-2.     Application for approval.**

Application for approval of a landfill operation shall be in writing, signed by the applicant and shall set forth the following information:

- (A) The name and address of the party seeking approval of the landfill operation.
- (B) Location of the land to be filled.
- (C) Reason for the landfill operation.
- (D) Nature, origin and amount of fill material.
- (E) Method and route whereby fill material will be transported to the fill site.
- (F) Time when the fill operation will be conducted.
- (G) Name and address of the party who shall be responsible for the fill operation.

(Ord. No. 42, 8-27-81)

### **Sec. 11-3.     Issuance of permit.**

If an application for approval of any landfilling operation is approved, a landfill permit shall be prepared, setting forth the requirements for the landfill operation and it shall be signed by the party responsible for the landfill operation whereupon the permit may be issued upon signature of the township supervisor and the township building Inspector.

(Ord. No. 42, 8-27-81)

## **Chapter 12 Prohibition of Recreational Marihuana Establishments**

### **Sec. 12-1. Title.**

This Ordinance shall be known as and may be cited as the Flushing Township Prohibition of Marihuana Establishments Ordinance.

### **Sec. 12-2. Definitions.**

Words used herein shall have the definitions as provided for in Initiated Law 1 of 2018, MCL 333.27951-333.27967 as may be amended.

### **Sec. 12-3. No Marihuana Establishment.**

Flushing Township hereby prohibits all marihuana establishments within the boundaries of the Township pursuant to Initiated Law 1 of 2018, MCL, 333.27951-333.27967 as may be amended.

### **Sec. 12-4. Violations and Penalties.**

- (A) Any person who disobeys neglects or refuses to comply with any provision of this Ordinance or who causes allows or consents to any of the same shall be deemed to be responsible for the violation of this Ordinance. A violation of this Ordinance is deemed to be nuisance per se.
- (B) A violation of this Ordinance is a municipal civil infraction, for which the fines shall not be less than one-hundred dollars (\$100) no more than five-hundred dollars (\$500), 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.
- (C) Each day during which any violation continues shall be deemed a separate offense.
- (D) In addition, the Township may seek injunctive relief against persons alleged to be in violation of this Ordinance and such other relief as may be provided by law.
- (E) This Ordinance 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.

### **Sec. 12-5. Severability.**

The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, word, section or provision is hereafter declared void or unenforceable for any reason by a court of competent jurisdiction, it shall not affect the remainder of such Ordinance which shall continue in full force and effect.

### **Sec. 12-6. Repeal.**

All Ordinance or part of Ordinances in conflict herewith are hereby repealed.

### **Sec. 12-7. Effective Date.**

This Ordinance shall take effect January 17, 2019.

(Ord. No. 2018-05 1-17-2019)

## **Chapter 13     Regulate the Growing, Processing, Testing, Storage, Transport, Transfer, Sale or Exchange of Marijuana**

### **Sec. 13-1.     Policy.**

As Marijuana remains a Schedule 1 drug and federal law prohibits any use of marijuana, it is the policy of Flushing Township to limit marijuana use to the uses expressly legalized under Michigan statutes: the Medical Marijuana Facilities Licensing Act (the Medical Act), MCL 333.2710, et seq., enacted by PA 281 of 2016; the Marijuana Tracking Act, MCL 333.27901, et seq., enacted by PA 282 of 2016; and, the Michigan Regulation and Taxation of Marijuana Act (the Recreational Act), MCL 333.27951, et seq., enacted with adoption of Proposal 18-1 in the November 6, 2018, general election.

As provided in the Medical Act, the Township, by ordinance previously adopted, has "opted out" of the Medical Act and, by ordinance as provided under the Recreational Act, has prohibited recreational marijuana establishments in the Township.

### **Sec. 13-2.     Definitions.**

The following definitions, taken from Section 3 of the Recreational Act, MCL 333.27952, are part of this ordinance:

- (A) "Cultivate" means to propagate, breed, grow, harvest, dry, cure, or separate parts of the marijuana plant by manual mechanical means.
- (B) "Industrial hemp" means a plant of the genus cannabis and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration that does not exceed 0.3% on a dry-weight basis, or per volume or weight of marijuana-infused product, or the combined per cent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus cannabis regardless of moisture content.
- (C) "Marijuana" means all parts of the plant of the genus cannabis, growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds or resin, including marijuana concentrate and marijuana-infused products. For purposes of this ordinance, marijuana does not include:
  - 1. the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, and the other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, except the resin extracted from those stalks, fiber, oil, or cake, or any sterilized seed of the plant that is capable of germination;
  - 2. industrial hemp; or,
  - 3. any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.
- (D) "Marijuana concentrate" means the resin extracted from any part of the plant of the genus cannabis.
- (E) "Marijuana establishment" means a marijuana grower, marijuana safety compliance facility, marijuana processor, marijuana micro business, marijuana retailer, marijuana secure transporter, or any other type of marijuana-related business as defined by MCL 333.27953 and/or licensed by the State of Michigan.

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- (F) "Other terms" used in this ordinance shall have the meaning as defined in the Medical Act or Recreational Act.

### **Sec. 13-3. Prohibited Acts.**

The following are prohibited in Flushing Township:

- (A) The operation of a dispensary or other medical marijuana facility.
- (B) A household shall not grow more than 12 marijuana plants; have stored more than 10 ounces of marijuana; and an individual shall not possess more than 2.5 ounces of marijuana.
- (C) Marijuana plants can only be grown in a secured, enclosed space, where the marijuana plants are not visible from a public location.
- (D) Marijuana cannot be smoked, consumed or ingested in public or in an area open to the public. Marijuana can only be smoked, consumed or ingested in private property in an area properly designated and identified as available for the consumption of marijuana, by the person who owns, occupies or manages the property.
- (E) Marijuana shall not be smoked, consumed or ingested while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat or while a person is a passenger in any vehicle upon a public way.
- (F) Marijuana can only be sold, transferred or gifted in strict accordance with the Acts and only by persons properly licensed and registered with the state of Michigan. Marijuana cannot be given away as a promotional incentive or with the purchase of other items.
- (G) Marijuana edibles cannot be manufactured or processed to appear as bright colored candy; be packaged, advertised or marketed as candy; or, in any way be targeted to children or under aged consumers.
- (H) To possess any amount of marijuana on the property or within the buildings of the Charter Township of Flushing or the Flushing Community Schools; in any school bus; or, at any event or activity sponsored by Flushing Township or Flushing Community Schools.
- (I) To possess any amount of marijuana while in possession of or using a firearm.

### **Sec. 13-4. Penalty.**

Conviction under this Ordinance is punishable as follows:

1<sup>st</sup> offense - civil infraction with a maximum fine of \$500

2<sup>nd</sup> offense - civil infraction with a maximum fine of \$1000

3<sup>rd</sup> offense - a misdemeanor with a maximum fine of \$500 and/or 90 days in jail

(Ord. No. 2019-02 Adopted 11-14-2019)

## **Chapter 14    Reserved**

## **Chapter 15     Housing**

### **Article 1     In General**

**Secs. 15-1 - 15-25. Reserved.**

### **Article 2     Housing Commission**

**Sec. 15-26.     Created.**

There is hereby created a commission pursuant to Act No. 18 of the Public Acts of Michigan of 1933 (Extra Session) (MCL 125.651 et seq., MSA 5.301 et seq.), as amended, which shall be known as the township housing commission which shall have the power to purchase, acquire, construct, maintain, operate, improve, extend or repair facilities and eliminate housing conditions which are detrimental to the public peace, health, safety, morals or welfare of the residents of the unincorporated area of the township.

(Ord. No. 27, § 1, 8-15-74)

State law reference-Authority for application of act, MCL 125.652, MSA 5.3012.

**Sec. 15-27.     Composition.**

The housing commission shall consist of five (5) members appointed by the supervisor and confirmed by the township board. The term of office of members of the commission shall be five (5) years. Members of the first commission existing hereunder shall be appointed for the terms of one (1) year, two (2) years, three (3) years, four (4) years and five (5) years respectively, and annually thereafter one (1) member shall be appointed for the term of five (5) years. Members of the commission shall serve without compensation and may be removed from office by the appointing authority. Any vacancy in office shall be filled by the appointing authority for the remainder of the unexpired term.

(Ord. No. 27, § 2, 8-15-74)

State law reference-Similar provisions, MCL 125.654, MSA 5.3014.

**Sec. 15-28.     Fiscal management.**

Funds for the operation of the housing commission may be provided by the township board as they may from time to time provide, but the commission shall as soon as possible reimburse the township for all monies expended by it from revenues received from the sale of bonds.

(Ord. No. 2, § 3, 8-15-74)

**Sec. 15-29.     Powers, duties.**

The housing commission shall have the following enumerated powers and duties:

- (A) To determine in what areas of the township it is necessary to provide proper sanitary housing facilities for families of low income and for the elimination of housing conditions which are detrimental to the public peace, health, safety, morals and/or welfare.
- (B) To purchase, lease, sell, exchange, transfer, assign and mortgage any property, real or personal, or any interest therein, or acquire the same by gift, bequest or under the power of eminent domain; to own, hold, clear and improve property; to engage in or contract for the design and construction, reconstruction, alteration, improvement, extension and/or repair of any housing project or projects or parts thereof; to lease and/or operate any housing project or projects.

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- (C) To control and supervise all parks and playgrounds forming a part of such housing development but may contract with existing departments of the township for operation or maintenance of either or both.
- (D) To establish and revise rents of any housing project or projects, but shall rent all property for such sums as will make them self-supporting, including all charges for maintenance and operation, for principal and interest on loans and bonds, and for taxes.
- (E) To rent only to such tenants as are unable to pay for more expensive housing accommodations.
- (F) To call upon other departments for assistance in the performance of its duties, but such departments shall be reimbursed for any added expense incurred therefor.
- (G) Such other powers relating to the housing facilities project as may be prescribed by ordinance or resolution of the township board or as may be necessary to carry out the purposes of this chapter.

(Ord. No. 27, § 4, 8-15-74)

State law reference-Similar provisions, MCL 125.657, MSA 5.3017.

### **Sec. 15-30. Conflicts of interest.**

No member of the housing commission or any of its officers or employees shall have any interest directly or indirectly in any contract for property, materials or services to be acquired by the commission.

(Ord. No. 27, § 5, 8 15-74)

State law reference-Similar provisions, MCL 125.658, MSA 5.3018.

### **Sec. 15-31. Annual report.**

The housing commission shall make an annual report of its activities to the township board and shall make such other reports as the township board shall from time to time require.

(Ord. No. 27, § 6, 8-15-74)

State law reference-Similar provisions, MCL 125.659, MSA 5.3019.

### **Sec. 15-32. Statutory authority.**

The housing commission shall have such other powers and duties which shall be more particularly set forth in Act No. 18 of the Public Acts of Michigan of 1933 (Extra Session) (MCL 126.651 et seq., MSA 5.3011 et seq.), as amended.

(Ord. No. 27, § 7, 8-15-74)

## **Chapter 16     Property Maintenance Code**

### **Sec. 16-1.     Purpose and Intent**

The 2015 edition of the International Property Maintenance Code, copies of which are on file with the office of the Charter Township of Flushing (the "Township"), as published by the International Code Counsel, is hereby adopted as the Property Maintenance Code of the Township, for regulating and governing the conditions and maintenance of all residential rental property, buildings, and structures. By authority granted the Township, MCL 42.23, each and all of the regulations, provisions, penalties, conditions and terms of the Property Maintenance Code are referred to, adopted and made part of this Ordinance, as if fully set forth in this Ordinance, with the additions, insertions, deletions and changes stated this Ordinance.

### **Article 1     Scope and Administration**

#### ***Division 1   Scope and Administration.***

### **Sec. 16-2.     General**

- (A) Title. These regulations shall be known as the International property Maintenance Code of the Charter Township of Flushing, hereinafter referred to as "this code".
- (B) Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and for a reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators and occupants; the occupant of existing structures and premises, and for administration, enforcement and penalties.
- (C) Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.
- (D) Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

### **Sec. 16-3.     Applicability**

- (A) General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.
- (B) Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order.

No owner, owner's authorized agent, operator or occupant shall cause any service, facility, equipment or utility that is required under this section to be removed from, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended

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to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner authorized agent shall be responsible for the maintenance of buildings, structures and premises.

- (C) Application of Other Code. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Existing Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Residential Code, International Plumbing Code and NFPA 70. Nothing in this code shall be construed to cancel, modify or set aside any provision of the International Zoning Code.
- (D) Existing Remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure that is dangerous, unsafe and insanitary.
- (E) Workmanship. Repairs, maintenance work, alterations or installations that are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.
- (F) Historic Buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings where such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare.
- (G) Reference Codes and Standards. The codes and standards referenced in this code shall be those that are listed in Article 8 and considered part of the requirements of this code to the prescribed extent of each such reference and as further regulated in Sec. 16-7.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

  - 1. Conflicts. Where conflicts occur between provisions of this code and the referenced standards, the provisions of this code shall apply.
  - 2. Provisions in referenced codes and standards. Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.
- (H) Requirements Not Covered by Code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.
- (I) Application of References. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.
- (J) Other Laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

*Division 2 Administration and Enforcement*

**Sec. 16-4. Department of Property Maintenance Inspection.**

- (A) General. The Department of Property Maintenance Inspection (the department) is hereby created and shall include the Code Enforcement Officer who shall be designated the code official.
- (B) Appointment. The code official shall be appointed by the chief appointing authority of the jurisdiction.
- (C) Deputies. In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the code official shall have the authority to appoint a deputy(s). Such employees shall have powers as delegated by the code official.
- (D) Liability. The code official, member of the board of appeals or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered civilly or criminally liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties.
  - 1. Legal defense. Any suit or criminal complaint instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The code official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.
- (E) Fees. The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as determined by the Board and established by resolution adopted and amended from time to time.

**Sec. 16-5. Duties and Powers of the Code Official**

- (A) General. The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.
- (B) Inspections. The code official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.
- (C) Right of Entry. Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied the code official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable

effort to locate the owner, owner's authorized agent, other person having charge or control of the structure or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry.

- (D) Identification. The code official shall carry proper identification when inspecting structure or premises in the performance of duties under this code.
- (E) Notices and Orders. The code official shall issue all necessary notices or orders to ensure compliance with this code.
- (F) Department Records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

**Sec. 16-6. Approval**

- (A) Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owners authorized agent, provided the code official shall first find that special individual reason makes the strict letter of this code impractical, the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.
- (B) Alternatives Materials, Methods, and Equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons the alternative was not approved.
- (C) Required Testing. Whenever there is insufficient evidence of compliance with the provisions of this code or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.
  - 1. Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.
  - 2. Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.
- (D) Used Material and Equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the code official.
- (E) Approved Materials and Equipment. Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.



- (F) Research Reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

**Sec. 16-7. Violations**

- (A) Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code.
- (B) Notice of Violation. The code official shall serve a notice of violation or order in accordance with Chapter 16.
- (C) Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with Chapter 16 shall be deemed guilty of a civil infraction, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- (D) Violation Penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Each day that a violation continues after due notice has been served shall be deemed a separate offense.
- (E) Abatement of Violation. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

**Sec. 16-8. Notices and Orders**

- (A) Notice to Person Responsible. Whenever the code official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in Sec. 16-8(B) and Sec. 16-8(C) to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Sec. 16-9(C).
- (B) Form. Such notice prescribed in Sec. 16-8(A) shall be in accordance with all of the following:
1. Be in writing.
  2. Include a description of the real estate sufficient for identification.
  3. Include a statement of the violation or violations and why the notice is being issued.
  4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
  5. Inform the property owner or owner's authorized agent of the right to appeal.
  6. Include a statement of the right to file a lien in accordance with Sec. 16-7(C).
- (C) Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:
1. Delivered personally;

2. Sent by certified or first-class mail addressed to the last known address; or
  3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.
- (D) Unauthorized Tampering. Signs, tag or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.
- (E) Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Sec. 16-7(D).
- (F) Transfer of Ownership. It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner or the owner's authorized agent shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

#### **Sec. 16-9. Unsafe Structures and Equipment**

- (A) General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.
1. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
  2. Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
  3. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.
  4. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

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5. Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:
- (a) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
  - (b) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worm loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
  - (c) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
  - (d) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
  - (e) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
  - (f) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
  - (g) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrant, criminal or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
  - (h) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
  - (i) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
  - (j) Any building or structure because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.

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- (k) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.
- (B) Closing of Vacant Structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.
  - 1. Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Sec. 16-3(G) in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.
- (C) Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Sec. 16-8(C). If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Sec. 16-8(B).
- (D) Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provision within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.
  - 1. Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.
- (E) Prohibited Occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premise who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this code.
- (F) Abatement Methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to

be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

- (G) Records. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

#### **Sec. 16-10. Emergency Measures**

- (A) Imminent Danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure that endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosive, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance of such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.
- (B) Temporary Safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.
- (C) Closing Streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.
- (D) Emergency Repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.
- (E) Cost of Emergency Repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.
- (F) Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the Construction Board of Appeals, be afforded a hearing as described in this code.

#### **Sec. 16-11. Demolition**

- (A) General. The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order

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the owner or owner's authorized agent to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.

- (B) Notices and Orders. Notices and orders shall comply with Sec. 16-8.
- (C) Failure to Comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.
- (D) Salvage Materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

### **Sec. 16-12. Means of Appeal**

- (A) Application for Appeal. Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Construction Board of Appeals, provided that a written application for appeal is filed within fourteen (14) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.
- (B) Membership of Board. The board of appeals shall consist of not less than three members who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees of the jurisdiction. The code official shall be an ex-officio member but shall have no vote on any matter before the board. The board shall be appointed by the chief appointing authority, and shall serve staggered and overlapping terms.
- (C) Notices of Meeting. The board shall meet upon notice from the chairman, within 20 days of the filing of an appeal, or at stated periodic meetings.
- (D) Open Hearing. Hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of a minimum of two-thirds of the board membership.
  - 1. Procedure. The board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- (E) Postponed Hearing. When the full board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a post-ponement of the hearing.
- (F) Board decision. The board shall modify or reverse the decision of the code official only by a concurring vote of a majority of the total number of appointed board members.

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1. Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.
  2. Administration. The code official shall take immediate action in accordance with the decision of the board.
- (G) Court Review. Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.
- (H) Stays of Enforcement. Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

### **Sec. 16-13. Stop Work Order**

- (A) Authority. Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.
- (B) Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.
- (C) Emergencies. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.
- (D) Failure to Comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to a civil infraction and liable for fines as provided in the Township's Municipal Civil Infractions (Chapter 20Article 2).

## Article 2 Definitions

### **Sec. 16-14. General**

- (A) Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.
- (B) Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.
- (C) All references to the International Building Code shall mean the Michigan Building Code; all references to the International Zoning Code shall mean the Flushing Charter township Zoning Ordinance; all references to the International Plumbing Code shall mean the Michigan Plumbing Code; all references to the International Mechanical Code shall mean the Michigan Mechanical Code; all references to the international Existing Building Code shall mean the Chapter of the Michigan Building Code pertaining to existing structures; and all references to the ICC Electrical Code shall mean the National Electrical Code.
- (D) Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

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(E) Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit," "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

### **Sec. 16-15. General Definitions**

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Acceptable to the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

[A] CODE OFFICIAL. The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a code official, the governing body or Construction Board of Appeals.

CONSTRUCTION BOARD OF APPEALS. For the City of Flushing, which by agreement serves as the construction Board of Appeals for the Charter Township of Flushing.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[BG] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

[Z] EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.



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[BE] GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

[BG] HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which can- not be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

[A] LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or structure.

[A] OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

[A] OWNER. Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding

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title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**PERSON.** An individual, corporation, partnership or any other group acting as a unit.

**PEST ELIMINATION.** The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other approved pest elimination methods.

**[A] PREMISES.** A lot, plot or parcel of land, easement or public way, including any structures thereon.

**[A] PUBLIC WAY.** Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

**ROOMING HOUSE.** A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

**ROOMING UNIT.** Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

**RUBBISH.** Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

**[BG] SLEEPING UNIT.** A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**STRICT LIABILITY OFFENSE.** An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

**[A] STRUCTURE.** That which is built or constructed or a portion thereof.

**TENANT.** A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**TOILET ROOM.** A room containing a water closet or urinal but not a bathtub or shower.

**ULTIMATE DEFORMATION.** The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to eighty (80) percent or less of the maximum strength.

**[M] VENTILATION.** The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

**WORKMANLIKE.** Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

**[Z] YARD.** An open space on the same lot with a structure.

## Article 3    **General Requirements**

### **Sec. 16-16.    General**

- (A) Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.
- (B) Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises that are not in a sanitary and safe condition and that do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.
- (C) Vacant structures and land. Vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

### **Sec. 16-17.    Exterior Property Areas**

- (A) Sanitation. Exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property that such occupant occupies or controls in a clean and sanitary condition.
- (B) Grading and drainage. Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

- (C) Sidewalks and driveways. Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair. and maintained free from hazardous conditions.
- (D) Premises and exterior property shall be maintained free from weeds or plant growth in excess of ten (10) inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Sec. 16-7(C) and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

- (E) Rodent harborage. Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.
- (F) Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

(G) Accessory structures. Accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(H) Motor vehicles. Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

(I) Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

#### **Sec. 16-18. Swimming Pools, Spas, and Hot Tubs**

(A) Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

(B) Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier not less than 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is not less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

#### **Sec. 16-19. Exterior Structure**

(A) General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

1. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (a) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (b) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
- (c) Structures or components thereof that have reached their limit state;

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- (d) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
- (e) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
- (f) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (g) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (h) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
- (i) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
- (j) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (k) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (l) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
- (m) Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

### Exceptions:

- (1) Where substantiated otherwise by an approved method.
- (2) Demolition of unsafe conditions shall be permitted where approved by the code official.

- 2. Protective treatment. Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other

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protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

3. Premises identification. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).
4. Structural members. Structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.
5. Foundation walls. Foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.
6. Exterior walls. Exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.
7. Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.
8. Decorative features. Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
9. Overhang extensions. Overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.
10. Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
11. Chimneys and towers. Chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. Exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

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12. Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
13. Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.
  - (a) Glazing. Glazing materials shall be maintained free from cracks and holes.
  - (b) Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.
14. Insect screens. During the period from May 1 to November 1, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.
15. Doors. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Sec. 16-44(C).
16. Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.
17. Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.
18. Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.
  - (a) Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock.
  - (b) Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.
  - (c) Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or house-keeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

19. Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

**Sec. 16-20. Interior Structure**

(A) General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

1. Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (a) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (b) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
- (c) Structures or components thereof that have reached their limit state;
- (d) Structural members are incapable of supporting nominal loads and load effects;
- (e) Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (f) Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

**Exceptions:**

- (1) Where substantiated otherwise by an approved method.
- (2) Demolition of unsafe conditions shall be permitted when approved by the code official.

- (B) Structural members. Structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.
- (C) Interior surfaces. Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.
- (D) Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.
- (E) Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.



- (F) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**Sec. 16-21. Component Serviceability**

- (A) General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

1. Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

- (a) Soils that have been subjected to any of the following conditions:

- (1) Collapse of footing or foundation system;
- (2) Damage to footing, foundation, concrete or other structural element due to soil expansion;
- (3) Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
- (4) Inadequate soil as determined by a geotechnical investigation;
- (5) Where the allowable bearing capacity of the soil is in doubt; or
- (6) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

- (b) Concrete that has been subjected to any of the following conditions:

- (1) Deterioration;
- (2) Ultimate deformation;
- (3) Fractures;
- (4) Fissures;
- (5) Spalling;
- (6) Exposed reinforcement; or
- (7) Detached, dislodged or failing connections.

- (c) Aluminum that has been subjected to any of the following conditions:

- (1) Deterioration;
- (2) Corrosion;
- (3) Elastic deformation;
- (4) Ultimate deformation;
- (5) Stress or strain cracks;
- (6) Joint fatigue; or
- (7) Detached, dislodged or failing connections.

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(d) Masonry that has been subjected to any of the following conditions:

- (1) Deterioration;
- (2) Ultimate deformation;
- (3) Fractures in masonry or mortar joints;
- (4) Fissures in masonry or mortar joints;
- (5) Spalling;
- (6) Exposed reinforcement; or
- (7) Detached, dislodged or failing connections.

(e) Steel that has been subjected to any of the following conditions:

- (1) Deterioration;
- (2) Elastic deformation;
- (3) Ultimate deformation;
- (4) Metal fatigue; or
- (5) Detached, dislodged or failing connections.

(f) Wood that has been subjected to any of the following conditions:

- (1) Ultimate deformation;
- (2) Deterioration;
- (3) Damage from insects, rodents and other vermin;
- (4) Fire damage beyond charring;
- (5) Significant splits and checks;
- (6) Horizontal shear cracks;
- (7) Vertical shear cracks;
- (8) Inadequate support;
- (9) Detached, dislodged or failing connections; or
- (10) Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

### **Sec. 16-22. Handrails and Guardrails**

(A) General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface that is more than 30 inches (762 mm) above the floor or grade below shall have guards. Handrails shall be not less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall be not

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less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

### **Sec. 16-23. Rubbish and Garbage**

- (A) Accumulation of rubbish or garbage. Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.
- (B) Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.
  - 1. Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.
  - 2. Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.
- (C) Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.
  - 1. Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.
  - 2. Containers. The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

### **Sec. 16-24. Pest Elimination**

- (A) Infestation. Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.
- (B) Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.
- (C) Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.
- (D) Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.
- (E) Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for pest elimination.

## Article 4 Light, Ventilation and Occupancy Limitations

### Sec. 16-25. General

- (A) Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.
- (B) Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.
- (C) Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the International Building Code shall be permitted.

### Sec. 16-26. Light

- (A) Habitable spaces. Every habitable space shall have not less than one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**Exception:** Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but a minimum of 25 square feet (2.33 m<sup>2</sup>). The exterior glazing area shall be based on the total floor area being served.

- (B) Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup> of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 foot-candle (11 lux) at floors, landings and treads.
- (C) Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

### Sec. 16-27. Ventilation

- (A) Habitable spaces. Every habitable space shall have not less than one openable window. The total openable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Sec. 16-27(A).

**Exception:** Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

- (B) Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Sec. 16-27(A), except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.
- (C) Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit.

**Exceptions:**

1. Where specifically approved in writing by the code official.
  2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.
- (D) Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.
  - (E) Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

**Exception:** Listed and labeled condensing (ductless) clothes dryers.

**Sec. 16-28. Occupancy Limitations**

- (A) Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.
- (B) Minimum room widths. A habitable room, other than a kitchen, shall be not less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a minimum clear passageway of 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.
- (C) Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a minimum clear ceiling height of 7 feet (2134 mm).

**Exceptions:**

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting a maximum of 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a minimum ceiling height of 6 feet 8 inches (2033 mm) with a minimum clear height of 6 feet 4 inches (1932 mm) under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a minimum clear ceiling height of 7 feet (2134 mm) over not less than one- third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a minimum clear ceiling height of 5 feet (1524 mm) shall be included.

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(D) Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sec. 16-28(D)1 through Sec. 16-28(D)5.

1. Room area. Every living room shall contain not less than 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain not less than 70 square feet (6.5 m<sup>2</sup>) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof.
2. Access from bedrooms. Bedrooms shall not constitute the only means of access to the bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

3. Water closet accessibility. Every bedroom shall have access to not less than one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to not less than one water closet and lavatory located in the same story as the bedroom or an adjacent story.
4. Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.
5. Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Article 5; the heating facilities and electrical receptacle requirements of Article 6; and the smoke detector and emergency escape requirements of Article 7.

(E) Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

TABLE 404.5  
MINIMUM AREA REQUIREMENTS

SPACE	MINIMUM AREA IN SQUARE FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room <sup>a,b</sup>	120	120	150
Dining room <sup>a,b</sup>	No requirement	80	100
Bedrooms	Shall comply with Sec. 16-28(D)1		

For SI: 1 square foot = 0.0929 m<sup>2</sup>.

- a. See Sec. 16-28(E)2 for combined living room/dining room spaces.
- b. See Sec. 16-28(E)1 for limitations on determining the minimum occupancy area for sleeping purposes.

1. Sleeping area. The minimum occupancy area required by Table 404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. Sleeping areas shall comply with Sec. 16-28(D).
2. Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(F) Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m<sup>2</sup>). A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet (20.4 m<sup>2</sup>). A unit occupied by three occupants shall have a minimum clear floor area of 320 square feet (29.7 m<sup>2</sup>). These required areas shall be exclusive of the areas required by Items 2 and 3.
  2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
  3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
  4. The maximum number of occupants shall be three.
- (G) Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

## **Article 5 Plumbing Facilities and Fixture Requirements**

### **Sec. 16-29. General**

- (A) Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.
- (B) Responsibility. The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises that does not comply with the requirements of this chapter.

### **Sec. 16-30. Required Facilities**

- (A) Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.
- (B) Rooming houses. Not less than one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.
- (C) Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 occupants.
- (D) Employees' facilities. Not less than one water closet, one lavatory and one drinking facility shall be available to employees.
1. Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.
- (E) Public toilet facilities. Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the International Plumbing Code. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

**Sec. 16-31. Toilet Rooms**

- (A) Privacy. Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.
- (B) Location. Toilet rooms and bathrooms serving hotel units, rooming units or dormitory units or housekeeping units, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.
- (C) Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

**Exception:** Facilities that are required for employees in storage structures or kiosks, which are located in adjacent structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

- (D) Floor surface. In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

**Sec. 16-32. Plumbing Systems and Fixtures**

- (A) General Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.
- (B) Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.
- (C) Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**Sec. 16-33. Water System**

- (A) General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.
- (B) Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.



- (C) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.
- (D) Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

**Sec. 16-34. Sanitary Drainage System**

- (A) General. Plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.
- (B) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.
- (C) Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

**Sec. 16-35. Storm Drainage**

- (A) General. Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

**Article 6 Mechanical and Electrical Requirements**

**Sec. 16-36. General**

- (A) Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.
- (B) Responsibility. The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that does not comply with the requirements of this chapter.

**Sec. 16-37. Heating Facilities**

- (A) Facilities required. Heating facilities shall be provided in structures as required by this section.
- (B) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

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Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

- (C) Heat supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to June 1 to maintain a minimum temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code.
  2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.
- (D) Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to June 1 to maintain a minimum temperature of 65°F (18°C) during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
  2. Areas in which persons are primarily engaged in vigorous physical activities.
- (E) Room temperature measurement. The required room temperatures shall be measured three (3) feet (914 mm) above the floor near the center of the room and two (2) feet (610 mm) inward from the center of each exterior wall.

### **Sec. 16-38. Mechanical Equipment**

- (A) Mechanical appliances. Mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.
- (B) Removal of combustion products. Fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

**Exception:** Fuel-burning equipment and appliances that are labeled for unvented operation.

- (C) Clearances. Required clearances to combustible materials shall be maintained.
- (D) Safety controls. Safety controls for fuel-burning equipment shall be maintained in effective operation.
- (E) Combustion air. A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.
- (F) Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

**Sec. 16-39. Electrical Facilities**

- (A) Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Chapter 28.
- (B) Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of sixty (60) amperes.
- (C) Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.
  - 1. Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.
    - (a) Electrical equipment. Electrical distribution equipment, motor circuits, power equipment, trans- formers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the International Building Code.

**Exception:** The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

- (1) Enclosed switches, rated a maximum of 600 volts or less;
- (2) Busway, rated a maximum of 600 volts;
- (3) Panelboards, rated a maximum of 600 volts;
- (4) Switchboards, rated a maximum of 600 volts;
- (5) Fire pump controllers, rated a maximum of 600 volts;
- (6) Manual and magnetic motor controllers;
- (7) Motor control centers;
- (8) Alternating current high-voltage circuit breakers;
- (9) Low-voltage power circuit breakers;
- (10) Protective relays, meters and current transformers;
- (11) Low- and medium-voltage switchgear;
- (12) Liquid-filled transformers;
- (13) Cast-resin transformers;
- (14) Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;

- (15) Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
  - (16) Luminaires that are listed as submersible;
  - (17) Motors;
  - (18) Electronic control, signaling and communication equipment.
- (b) Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.
- (1) Electrical equipment. Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the International Building Code.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

#### **Sec. 16-40. Electrical Equipment**

- (A) Installation. Electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.
- (B) Receptacles. Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.
- (C) Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over fifteen (15) V shall have ground fault circuit interrupter protection.
- (D) Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

#### **Sec. 16-41. Elevators, Escalators and Dumbwaiters**

- (A) Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumb waiter, be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the authority having jurisdiction.
- (B) Elevators. In buildings equipped with passenger elevators, not less than one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

**Sec. 16-42. Duct System**

- (A) General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

**Article 7 Fire Safety Requirements**

**Sec. 16-43. General**

- (A) Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.
- (B) Responsibility. The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this chapter.

**Sec. 16-44. Means of Egress**

- (A) General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.
- (B) Aisles. The required width of aisles in accordance with the International Fire Code shall be unobstructed.
- (C) Locked doors. Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.
- (D) Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

**Sec. 16-45. Fire-Resistance Ratings**

- (A) Fire-resistance-rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.
- (B) Opening protectives. Required opening protectives shall be maintained in an operative condition. Fire and smoke stop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

**Sec. 16-46. Fire Protection Systems**

- (A) General. Systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.
1. Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

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2. Fire department connection. Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.
- (B) Single- and multiple-station smoke alarms. Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sec. 16-46.
1. Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sec. 16-46. Interconnection and power sources shall be in accordance with Sec. 16-46.

### **Exceptions:**

- (1) Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
  - (2) Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
  - (3) Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.
- (a) Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:
- (1) In sleeping areas.
  - (2) In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
  - (3) In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
- (b) Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:
- (1) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
  - (2) In each room used for sleeping purposes.
  - (3) In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

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- (c) Installation near cooking appliances. Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Sec. 16-46.
    - (1) Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
    - (2) Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
    - (3) Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.
  - (d) Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Sec. 16-46.
2. Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

### **Exceptions:**

- (1) Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
  - (2) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.
3. Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for over-current protection.

### **Exceptions:**

- (1) Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
- (2) Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
- (3) Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building

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wiring without the removal of interior finishes.

4. Smoke detection system. Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:
  - (a) The fire alarm system shall comply with all applicable requirements in Section 907 of the International Fire Code.
  - (b) Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with Section 907.5.2 of the International Fire Code.
  - (c) Activation of a smoke detector in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that a supervisory signal is generated and monitored in accordance with Section 907.6.5 of the International Fire Code.

### Article 8 Reference Standards

This article lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standards, the standards identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified as Section 16.3(G).

#### ASME

American Society of Mechanical Engineers  
Three Park Avenue  
New York, NY 10016-5990

Standard reference number	Title	Referenced in code section number
ASME A17.1/CSA B44—2013	Safety Code for Elevators and Escalators.	606.1

#### ASTM

ASTM International  
100 Barr Harbor Drive  
West Conshohocken, PA 19428-2959

Standard reference number	Title	Referenced in code section number
F 1346—91 (2010)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2

#### ICC

International Code Council  
500 New Jersey Avenue, NW  
6th Floor  
Washington, DC 20001

Standard reference number	Title	Referenced in code section number
IBC—15	International Building Code®	102.3, 201.3, 401.3, 702.3
IEBC—15	International Existing Building Code®	305.1.1, 306.1.1
IFC—15	International Fire Code®	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC—15	International Fuel Gas Code®	102.3
IMC—15	International Mechanical Code®	102.3, 201.3
IPC—15	International Plumbing Code®	201.3, 505.1, 602.2, 602.3
IRC—15	International Residential Code®	201.3
IYC—15	International Zoning Code®	102.3, 201.3



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National Fire Protection Association  
1 Batterymarch Park  
Quincy, MA 02269

Standard reference number	Title	Referenced in code section number
25—14	Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems . . . . .	704.1.1
70—14	National Electrical Code . . . . .	102.4, 201.3, 604.2

### Article 9 General Provisions

#### **Sec. 16-47. Repeal**

All Ordinances, resolutions, orders or parts thereof in conflict, in whole or in part, with any of the provisions of this Ordinances are, to the extent of such conflict, hereby repealed.

#### **Sec. 16-48. Severability**

If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional, such decisions shall not affect the validity of the remaining portions of this Ordinance. The Township Board declares it would have passed this Ordinance, in each section, subsection, clause, or phrase, irrespective of the fact that any one or more sections, subsections, senses, clauses, and phrases be declared unconstitutional.

#### **Sec. 16-49. Pending Suits and Rights**

Nothing in this Ordinance or in the Property Maintenance Code hereby adopted shall be construed affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Sec. 16-47 of this Ordinance; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this Ordinance.

#### **Sec. 16-50. Immunity**

No officer, agent, employee, or member of the Township shall be personally liable for any damage that may occur to any person or entity as a result of any act or decision performed in the discharge of his or her duties and responsibilities pursuant to this Ordinance or to be the Property Maintenance Code hereby adopted.

#### **Sec. 16-51. Effective Date**

This Ordinance shall be immediately effective upon introduction, reading, approval and publication in accordance with requirements of MCL 42.44.

[Ord No. 2018-01 July 12, 2018]

## Chapter 17 Vegetation

### Article 1 In General

**Secs. 17-1 - 17-25. Reserved.**

### Article 2 Weeds

#### Division 1 Generally

**Secs. 17-26 - 17-35. Reserved.**

#### Division 2 Noxious Weeds

##### **Sec. 17-36. Definitions.**

The following words, terms and phrases shall have the meanings stated below, except where the context clearly indicates a different meaning and, unless otherwise indicated, reference to Ordinance means Sec. 17-36 through Sec. 17-42 of the Code of Ordinances:

*Noxious Weeds means the species of plants identified in MCL 247.62 and any other species of vegetation determined by the Township as constituting a common nuisance.*

*Season means, in each calendar year, March 1 through September 30.*

*Uncontrolled Vegetation means:*

- (A) any growth whether naturally occurring or intentionally planted which restricts or interferes with the view of any motorist of oncoming motor vehicle or pedestrian traffic in either direction at an intersecting public street or road when the motorist is within 50 feet of the edge of the main traveled portion of intersecting road or street;
- (B) any growth whether naturally occurring or intentionally planted growing in or in proximity to any ditch, drain, culvert or other drainage feature, which impedes drainage or impairs the maintenance of the ditch, drain culvert or other drainage feature.
- (C) any growth of noxious weeds or grasses or a combination thereof whether naturally occurring or intentionally planted in any front, side or rear yard of any residential property which exceeds a height of 10 inches or more, if such growth occurs within 150 feet from nearest edge of the road right-of-way on which the property fronts.
- (D) the accumulation of brush, dead weeds, grass or vegetation, except in the rear yard, to be composted or otherwise properly disposed of.

(Ord. No. 25, § 1, 3-8-73; Ord. No. 72-03, §§ 2, 7, 11-13-03; Ord. No. 103-16 8-11-2016)

##### **Sec. 17-37. Responsibility of owner and occupant.**

- (A) No person owning any lands or premises, whether occupied or unoccupied, nor any person occupying any lands or premises, shall permit or maintain on any such lands or premises, any growth of noxious weeds, nor shall the owner or occupant maintain or allow any uncontrolled vegetation on the lands or premises. It shall be the duty of the owner or occupant of all lands and premises along any public street or road or improved street in common usage to cut and remove all noxious weeds and uncontrolled vegetation no later than May 1 of each year and thereafter as may be necessary

(Ord. No. 25, § 2, 3-8-73; Ord. No. 72-03, §§ 3, 4, 11-13-03, Ord. No. 103-16 8-11-2016)

**Sec. 17-38. Notice requirements.**

- (A) In the month of March, each year, the Township clerk shall publish a notice in a newspaper of general circulation in the township stating that noxious weeds, weeds and uncontrolled vegetation which are not cut by May 1, may be cut by the Township and the costs charged to the occupant and/or owner and, if not paid, the costs shall be collected and enforced in the same manner as a property tax lien.
- (B) In the event the Code Enforcement Officer or other authorized representative of the Township determines a property is in violation of this Ordinance, notice of the violation shall be sent to the owner of the property, as identified in the Township's tax records. The notice shall be sent by first-class mail setting forth the violation, requiring the owner or occupant to correct the violation within 10 days of the date of the notice, stating if the violation is not corrected within 10 days, the Township may correct the violation and assess costs as provided in this Ordinance. The notice shall state the date of the notice, the property address, the name of the owner as identified from Township tax records, the specific violation and what must be done to correct the violation. Noxious weeds shall be destroyed or removed; uncontrolled vegetation shall be mowed to a height not exceeding 4 inches; and, other uncontrolled vegetation shall be trimmed or removed so as not to interfere with vision at intersecting roads or with the proper drainage or maintenance of ditches, drain culverts or other drainage features.
- (C) It shall not be necessary to send more than one notice, per property, per season; the Township may address subsequent violations of this Ordinance, involving the same property, without providing additional notice.
- (D) Any occupant or property owner who disagrees with the determination of the Code Enforcement Officer and wishes to challenge the asserted violation of this Ordinance must come to the township office and speak with the Code Enforcement Officer within 10 days of the date of the notice of violation.

(Ord. No. 25, § 3, 3-8-75; Ord. No. 72-03, §§ 5, 6, 11-13-03; Ord. No. 103.-16 8-11-2016)

**Sec. 17-39. Violations.**

If any person fails to comply with a notice of violation, the Township may cause the noxious weeds or uncontrolled vegetation to be mowed or otherwise removed or destroyed. Independent contractors at the direction of the Code Enforcement Officer or Township employees shall have full authority to enter onto the property for purposes of mowing, destroying or otherwise removing noxious weeds and uncontrolled vegetation. If necessary to protect equipment or to enable uniform cutting, rocks, debris and other objects may be moved on the property or removed altogether. The Township may remove and dispose of any mowed grass or weeds, branches or brush and the cost of such disposal shall be included in the total costs charged to the occupant and/or owner.

(Ord. No. 25, § 4, 3-8-75; Ord. No. 103.-16 8-11-2016)

**Sec. 17-40. Costs.**

The Township shall keep an account of all expenses incurred with respect to each property entered upon in order to carry out the provisions of this Ordinance. If the work is performed by an independent contractor, Township shall require a written statement of account or invoice for each property. If the work is performed by Township employees, the cost shall be calculated based on the employee time spent, calculated at the employees hourly rate together with fringe benefits together with a reasonable rate for equipment usage and supplies.

(Ord. No. 25, § 5, 3-8-75; Ord. No. 103.-16 8-11-2016)

**Sec. 17-41. Collection of Costs.**

The cost as set forth in Sec. 17-40 shall be invoiced to the occupant and property owner within five days of receipt of the invoice from the independent contractor or within five days of completion of the work if performed by Township employees. Any invoices attributable to a property throughout a season, which are not paid by September 30, shall be turned over to the Township assessor by October 15, to be included as part of the winter ad valorem property tax bill for that year.

(Ord. No. 25, § 6, 3-8-75; Ord. No. 72-03, § 8, 11-13-03; Ord. No. 103.-16 8-11-2016)

**Sec. 17-42. Resolution.**

Unless otherwise indicated by resolution of the Board of Trustees, authority to enforce this Ordinance shall rest with the Township's Code Enforcement Officer or the Township's Police Department. Violation of this ordinance shall be a municipal civil infraction, subject to a civil fine not to exceed \$100.

(Ord. No. 25, § 7, 3-8-75; Ord. No. 103.-16 8-11-2016)

## **Chapter 18      Offenses and Civil Infractions**

An ordinance to enact a criminal code to promote the public health, safety and welfare by regulating conduct, including but not limited to, relating to the acquisition and consumption of alcoholic beverages; assaultive conduct; attempts, conspiracies, and aiding in the commission of offenses; the destruction of property; controlled substances and paraphernalia related thereto; the reporting of false alarms and police reports; stealing, defrauding and embezzling of property; littering; immoral conduct including prostitution, indecent exposure, gambling and disorderly conduct, curfew violations, prohibited communications; resisting arrest and obstructing justice; trespass and unlawful assemblies; weapons offenses; dogs and certain other animals; forfeitures; sex offenders; and providing for the enforcement thereof and penalties therefore

### **Article 1      General Provisions**

#### **Sec. 18-1.      Short Title**

The Charter Township of Flushing hereby adopts Ordinance 2018-03 to be part of its Compiled Ordinances designated "The Criminal Code of the Charter Township of Flushing". The Criminal Code contains certain Articles which regulate conduct within the Charter Township of Flushing in order to further the public health, safety and welfare of its residents.

#### **Sec. 18-2.      Definitions**

To the extent not defined in this Ordinance, terms shall be as defined as provided in state statute, including but not limited to, the Michigan Penal Code, MCL 750.1-750.568, and applicable case law.

#### **Sec. 18-3.      Gender**

The masculine gender as used throughout this Code includes the feminine and neuter genders. The feminine gender includes the masculine and neuter genders. The neuter gender includes the masculine and feminine genders. As used throughout this Code "individual" or "person" shall include both the singular and plural and shall include natural persons, corporations, public corporations, limited liability companies, partnerships, joint ventures, groups, associations, and organizations.

#### **Sec. 18-4.      Sections**

(A) The Articles, Sections, subsections, paragraphs, sentences and clauses of this Code are severable, and if any clause, sentence, paragraph, subsection, Section or Article shall be declared unconstitutional, unenforceable or otherwise invalid by any court or tribunal of competent jurisdiction, such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining clauses, sentences, paragraph, subsections, Sections or Articles of this Code.

(B) Titles and headings to Articles of this Code and the Sections and paragraphs contained herein are inserted for convenience of reference and are not intended to affect the interpretation or construction of this Code or its Articles.

#### **Sec. 18-5.      Penalty**

Whenever in this Code any act is prohibited or is made unlawful, or the doing of an act is required, or the failure to do an act is made unlawful, where no specific penalty is provided therefore, the violation of such provision shall be punishable by a fine not to exceed Five

Hundred Dollars (\$500.00) or by imprisonment in the Genesee County Jail for a term not to exceed ninety (90) days or by both fine and imprisonment.

**Sec. 18-6. Repeal of Prior Inconsistent Ordinances**

Any existing ordinance in conflict with this Ordinance, including Chapter 13 of the Code of Ordinances, is hereby repealed as of the effective date of this Ordinance. The repeal of those Articles or Sections does not affect or impair any act done, offense committed, or right accruing, accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**Sec. 18-7. Codification**

This Ordinance shall replace and be designated Chapter 13 of the Code of Ordinances.

**Article 2 Alcohol Related Offenses**

**Sec. 18-8. Definition of Alcoholic Liquor**

The term alcoholic liquor shall be as defined in the Michigan Liquor Control Code of 1998, MCL 436.1101 *et. seq.*

**Sec. 18-9. Minor Purchasing, Consuming, Possessing or Transporting Alcohol**

(A) No person under the age of twenty-one (21) shall purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily alcohol content, except as provided in this Section.

1. For the first violation of Subsection (A), or a statute or local ordinance substantially conforming to Subsection (A), a person may be fined not more than \$100.00, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (A)(5).
2. For a violation of Subsection (A) following a prior conviction or juvenile adjudication for a violation of Subsection (A), Section 33b(1) of former 1933 (Ex Sess.) PA 8, or a local ordinance substantially corresponding to Subsection (A) or Section 33b(1) of former 1933 (Ex Sess.) PA 8, a person may be imprisoned for not more than 30 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, and fined not more than \$200.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (A)(5).
3. For a violation of Subsection (A) following 2 or more prior convictions or juvenile adjudications for a violation of Subsection (A), section 33b(1) of former 1933 (Ex. Sess.) PA 8, or a local ordinance substantially corresponding to Subsection (A) or section 33b(1) of former 1933 (Ex. Sess.) PA 8, a person may be imprisoned for not more than 60 days but only if the minor has been found by the court to have violated an order of probation, failed to successfully complete any treatment, screening, or

community service ordered by the court, or failed to pay any fine for that conviction or juvenile adjudication, and fined not more than \$500.00, or both, and may be ordered to participate in substance abuse prevention services or substance abuse treatment and rehabilitation services as defined in Section 6107 of the public health code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in Subsection (A)(5).

4. When an individual who has not previously been convicted of or received a juvenile adjudication for a violation of Subsection (A) pleads guilty to a violation of Subsection (A) or offers a plea of admission in a juvenile delinquency proceeding for a violation of Subsection (A), the court, without entering a judgment of guilt in a criminal proceeding or a determination in a juvenile delinquency proceeding that the juvenile has committed the offense and with the consent of the accused, may defer further proceedings and place the individual on probation upon terms and conditions that include, but are not limited to, the sanctions set forth in Subsection (A)(1), payment of the costs including minimum state cost as provided for in Section 18m of Chapter XIIA of the Probate Code of 1939, 1939 PA 288, MCL 712A.18m and Section 1j of Chapter IX of the Code of Criminal Procedure, 1927 PA 175 MCL 769.1j, and the costs of probation as prescribed in Section 3 of Chapter XI of the Code of Criminal Procedure, 1927 PA 175, MCL 771.3. Upon violation of a term or condition of probation or upon a finding that the individual is utilizing this Subsection in another court, the court may enter an adjudication of guilt, or a determination in a juvenile delinquency proceeding that the individual has committed the offense, and proceed as otherwise provided by law. Upon fulfillment of the terms and conditions of probation, the court shall discharge the individual and dismiss the proceedings. Discharge and dismissal under this Section shall be without adjudication of guilt or without a determination in a juvenile delinquency proceeding that the individual has committed the offense and is not a conviction or juvenile adjudication for purposes of this Section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the additional penalties imposed for second or subsequent convictions or juvenile adjudications under Subsection (A)(2) and (3). There may be only 1 discharge or dismissal under this Subsection as to an individual. The court shall maintain a nonpublic record of the matter while proceedings are deferred and the individual is on probation under this Subsection. The secretary of state shall retain a nonpublic record of a plea and of the discharge and dismissal under this Subsection. This record shall be furnished to any of the following:

- (a) To a court, prosecutor, or police agency upon request for the purpose of determining if an individual has already utilized this Subsection.
- (b) To the department of corrections, a prosecutor, or a law enforcement agency, upon the department's, a prosecutor's, or a law enforcement agency's request, subject to all of the following conditions:
  - (1) At the time of the request, the individual is an employee of the department of corrections, the prosecutor, or the law enforcement agency, or an applicant for employment with the department of corrections, the prosecutor, or the law enforcement agency.
  - (2) The record is used by the department of corrections, the prosecutor, or

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the law enforcement agency only to determine whether an employee has violated his or her conditions of employment or whether an applicant meets criteria for employment.

- (3) The court may order the person convicted of violating Subsection (A) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in Section 6103 of the public health code, 1978 PA 368, MCL 333.6103 in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.
- (B) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this Subsection is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00
- (C) Upon determining that a person less than 18 years of age who is not emancipated under 1968 PA 293, MCL 722.1, allegedly consumed, possessed, purchased alcoholic liquor, attempted to consume, possess, or purchase alcoholic liquor, or had any bodily alcohol content in violation of Subsection (A) the Township police department shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the Township police department. The notice required by this Subsection shall be made not later than 48 hours after the Township police department determines that the person who allegedly violated Subsection (A) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating Subsection (A), his or her parents or legal guardian shall be notified immediately as provided in this Subsection.
- (D) This Section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by a person licensed by The Michigan Liquor Control Act 1998, by the Liquor Control Commission, or by an agent of the Liquor Control Commission, if the alcoholic liquor is not possessed for his or her personal consumption.
- (E) This Section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this Article.
- (F) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited post-secondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this Section if the purpose of the consumption is solely educational and is a requirement of the course.
- (G) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this Section.
- (H) Subsection (A) does not apply to a minor who participates in either or both of the following:



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1. An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office or Township attorney as part of an employer-sponsored internal enforcement action.
2. An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the Liquor Control Commission, or the Township police department as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the Liquor Control Commission, or the Township police department and was not part of the undercover operation.

### **Sec. 18-10. Furnishing Alcohol to Minor**

- (A) No person shall give or furnish any alcoholic liquor to any person under twenty-one (21) years of age, except upon authority of and pursuant to a prescription of a duly licensed physician. Further, persons in charge of any establishment where alcoholic liquor is sold or furnished for consumption, either on or away from the premises, shall have the right at any time to demand of any person offering to buy or drinking any alcoholic liquor proof that said person has attained the age of twenty-one (21) years.
- (B) A person who violates Subsection (A) of this Section or who fails to make diligent inquiry as to whether the person is a minor, shall be guilty of a misdemeanor punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the Genesee County Jail for a term not to exceed ninety (90) days or by both fine and imprisonment except that if the violation is the result of an undercover operation in which the minor received alcoholic liquor under the direction of the Township police as part of an enforcement action, the licensee's clerk, agent, or employee is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00.
- (C) A licensee shall not be charged with a violation of Subsection (A) unless all of the following occur, if applicable:
1. Enforcement action is taken against the minor who purchased or attempted to purchase, consumed or attempted to consume, or possessed or attempted to possess alcoholic liquor.
  2. Enforcement action is taken under this Section against the person 21 years of age or older who is not the retail licensee or the retail licensee's clerk, agent, or employee who sold or furnished the alcoholic liquor to the minor.
  3. Enforcement action under this Section is taken against the clerk, agent, or employee who directly sold or furnished alcoholic liquor to the minor.
- (D) Subsection (C) does not apply if the minor against whom enforcement action is taken, the clerk, agent, or employee of the licensee who directly sold or furnished alcoholic liquor to the minor or the person 21 years of age or older who sold or furnished alcoholic liquor to the minor is not alive or is not present in this state at the time the licensee is charged. Subsection (C)(1) does not apply under either of the following circumstances:
1. The violation of Subsection (A) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutors office or the Township attorney as part of an employer sponsored internal enforcement action.

2. The violation of Subsection (A) is the result of an undercover operation in which the minor purchased or received alcoholic liquor under the direction of the Township police as part of an enforcement action.

**Sec. 18-11. False Identification to Purchase Alcohol**

- (A) No person shall furnish fraudulent identification to a minor and no minor shall use fraudulent identification to purchase alcoholic liquor.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-12. Persons Under Eighteen Where Liquor is Furnished**

Except as may be provided by law, no person under the age of eighteen (18) years of age shall be permitted to enter or remain in any dance hall, saloon, barroom or any place where alcoholic liquor is sold, given away or furnished, unless said person is accompanied by a parent or legal guardian. Further, no proprietor, keeper or manager of any such place shall permit any person under the age of eighteen (18) to enter or remain in any such dance hall, saloon, barroom or any place where alcoholic liquor is sold, given away or furnished, unless said person is accompanied by parent or legal guardian. No person under the age of eighteen (18) years of age shall be permitted to enter or remain in any restaurant, dance hall or other place where alcoholic liquor is sold, given away or furnished, incidental to the serving of food, after twelve o'clock (12:00) midnight, unless such person is accompanied by a parent or legal guardian.

**Sec. 18-13. Restricted Areas for Consuming Alcohol**

- (A) No person shall consume alcoholic liquor on any public street, park or any other public place, or private place open to the public, including stores, drive-in restaurants or other establishments not licensed by the state and authorized to permit on premises consumption of such alcoholic liquor.
- (B) No person shall consume any alcoholic liquor in any public dance hall, toilet, cloak room or appendage to any such dance hall unless said premises are duly licensed by the Michigan Liquor Control Commission. Further, no person engaged in the business of operating or managing any public dance hall shall knowingly allow, permit or suffer to be consumed any alcoholic liquor upon such premises unless said premises are duly licensed. Further, any owner or proprietor of such an establishment shall be held criminally liable for knowingly permitting the acts of his manager, servant, agent or employee in violation of the provisions of this Section.

**Sec. 18-14. Consuming Alcohol on School Property**

- (A) No person shall consume alcoholic liquor on school property. For purposes of this section, "school" shall include any public, parochial, charter or private school.
- (B) No person shall possess alcoholic liquor on school property with the intent to consume it on that property.
- (C) As used in this Section, "school property" mean those terms as defined in MCL 750.237a.
- (D) A person violating Subsection (A) or (B) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-15. Operation of vehicle by persons under twenty-one years old with alcohol content.**

- (A) A person who is less than twenty-one (21) years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this state if the person has any bodily alcohol content. As used in this subsection, "any bodily alcohol content" means either of the following:
1. A blood alcohol content of not less than 0.02 percent or more than 0.07 percent by weight of alcohol.
  2. Any presence of alcohol within a person's body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as part of a generally recognized religious service or ceremony.
- (B) If a person is convicted of violating subsection (A) the following shall apply:
1. Except as otherwise provided in subsection (B)(2), the person is guilty of a misdemeanor punishable by one (1) or both of the following:
    - (a) Service to the community for a period of not more than forty-five (45) days.
    - (b) A fine of not more than two hundred fifty dollars(\$250.00).
  2. If the violation occurs within seven (7) years of one or more prior convictions, the person may be sentenced to one or both of the following:
    - (a) Service to the community for a period of not more than sixty (60) days.
    - (b) A fine of not more than five hundred dollars (\$500.00).
  3. The court shall impose license sanctions pursuant to MCL 257.675b.
  4. A person sentenced to perform service to the community under this subsection shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.
  5. As used in this section, "prior conviction" means a conviction for a violation of MCL 257.625(1), (3), (4), (5) or (6), former section 625(1) or (2) or former section 625b, a local ordinance substantially corresponding to section 625(1), (3) or (6) former section 625(1) or (2), or former section 625b or a law of another state substantially corresponding to section 625(1), (3), (4), (5) or (6), former section 625(1) or (2) or former section 625b.
- (C) In addition to imposing the sanctions prescribed under subsection (B) the court may, pursuant to the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being MCL 760.1 to 776.21, order the person to pay the costs of the prosecution.
- (D) If the prosecuting attorney intends to seek an enhanced sentence under subsection (B)(2) based upon the defendant having one or more prior convictions, the prosecuting attorney shall include on the complaint and information: filed in district court, circuit court, recorder's court, municipal court or probate court a statement listing the defendant's prior convictions.
- (E) A prior conviction shall be established at sentencing by one or more of the following:
1. An abstract of conviction.
  2. A copy of the defendant's driving record.

3. An admission by the defendant.

(Ord. No. 62-1-94, §§ 1-5, 1-12-95)

### **Article 3     Assault And Related Offenses**

#### **Sec. 18-16.     Assault**

- (A) No person shall intentionally assault another by the unlawful offer of corporal injury under such circumstances as create a well-founded fear of imminent peril.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (**93**) days.

#### **Sec. 18-17.     Assault and Battery**

- (A) No person shall assault or batter another, with or without a dangerous weapon, and inflict injury upon the person of another.
- (B) A person violating Subsection(A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (**93**) days.

#### **Sec. 18-18.     Stalking**

- (A) No person shall stalk another person.
- (B) Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

#### **Sec. 18-19.     Domestic Assault and Battery**

- (A) No person shall assault or assault and batter his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household.
- (B) As used in this section, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.
- (C) A person violating Subsections 3(A) or 4(A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (**93**) days.

#### **Sec. 18-20.     Ethnic Intimidation**

- (A) No person shall maliciously, and with specific intent to intimidate or harass another person because of that person's race, color, religion, gender, or national origin, or do any of the following:
1. Cause physical contact with another person.
  2. Damage, destroy, or deface any real or personal property of another Person

3. Threaten, by word or act, to do an act described in Subsection (A)(1) or (2) of this Section, if there is reasonable cause to believe that an act described in such Subsections will occur.

**Sec. 18-21. Assaulting Police Officer, Firefighter or Emergency Medical Service Personnel**

- (A) No person shall assault or batter a police officer, firefighter or emergency medical service personnel while fulfilling the duties of their office, with or without a dangerous weapon.
- (B) A person violating Subsection 6(A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Article 4 Attempt, Conspiracy, and Aiding and Abetting**

**Sec. 18-22. Attempting to Commit a Crime**

Any person who shall attempt to commit an offense prohibited by this Code, and in such attempt shall do any act towards the commission of such offense, but shall fail in the perpetration, or shall be intercepted or prevented in the execution of the same shall be guilty of a misdemeanor punishable by a fine of not more than Two Hundred and Fifty Dollars (\$250.00) and/or imprisonment in the County jail for not more than forty five (45) days.

**Sec. 18-23. Conspiracy to Commit a Crime**

No person shall combine, conspire or agree with another or other persons to commit any act outlawed by the Ordinances or Articles of The Charter Township of Flushing or to commit any act which is innocent in itself, but which becomes unlawful when done by the concerted action of the conspirators.

**Sec. 18-24. Aiding and Abetting**

No person shall violate any provision of any Section of this Criminal Code, or aid, assist or abet another to violate any provision of any such Section.

**Article 5 Destruction of Property and Arson**

**Sec. 18-25. Maliciously Destroy Property**

- (A) No person shall willfully and maliciously mark, deface, mutilate, injure or destroy the personal or real property of another.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-26. Automobiles, Unlawful Use or Damaging**

- (A) No person shall intentionally and without authority from the owner, start or cause to be started the motor of any motor vehicle, or maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than that in which it was left by the owner or driver of said motor vehicle.
- (B) No person shall intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top covering or upholstering of any motor vehicle, the property of another, or intentionally cut, mash, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof.

- (C) No person shall intentionally release the brake upon any standing motor vehicle, with intent to injure said machine or cause the same to be removed without the consent of the owner; provided, that this Subsection shall not apply in case of moving or starting of motor vehicles by a police officer under the authority of law or by a member(s) of a fire department(s) in case of emergency in the vicinity of a fire.
- (D) No person shall operate a motor vehicle on any public or private property, without the consent of the owner of the motor vehicle, or in any area other than an area designated as a driveway or parking area.

**Sec. 18-27. Cutting, Breaking, Tapping, Connecting Line, Wire or Cable**

- (A) No person shall willfully and maliciously cut, break, tap or make any connection with, or read, or copy, by the use of telegraph or telephone instruments, or otherwise, in any unauthorized manner, any message, either social or business, sporting, commercial or other news reports, from any telegraph or telephone line, wire or cable so unlawfully cut or tapped in The Charter Township of Flushing; or make unauthorized use of the same.
- (B) No person shall willfully and maliciously prevent, obstruct or delay by any means or contrivance whatsoever the sending, conveyance or delivery, in this Township, of any authorized communication, sporting, commercial or other news reports, by or through any telegraph or telephone line, cable or wire under the control of any telegraph or telephone company doing business in The Charter Township of Flushing.

**Sec. 18-28. Preparation to Burn Property**

- (A) No person shall willfully and maliciously, prepare, arrange, place, devise, or distribute an inflammable, combustible, or explosive material, liquid, substance, or device in or near property, owned by himself or herself or another person intending it to be burned.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-29. Arson**

- (A) No person shall willfully and maliciously burn any personal property, owned by himself or herself or another.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Article 6 Controlled Substances and Related Offenses**

**Sec. 18-30. Possession of Marijuana**

No person shall (i) possess, (ii) transport, or (iii) knowingly possess, transport or have under his control in any motor vehicle any marijuana, unless such person possesses, transports or controls said marijuana upon authority of and pursuant to a prescription of a duly licensed physician, or pursuant to specific authorization by the State of Michigan or the United States of America.

**Sec. 18-31. Passing Bogus Prescription**

- (A) No person shall obtain or attempt to obtain a prescription drug by giving a false or fictitious name to a pharmacist or other authorized seller, prescriber, or dispenser.

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- (B) No person shall falsely represent himself to be a lawful prescriber, dispenser, or licensee, or acting on behalf of any of them, obtain a prescription drug.
- (C) No person shall falsely make, utter, publish, pass, alter, or forge a prescription.
- (D) No person shall knowingly possess or have under his control any blank prescription, or blank prescription pads, nor a false, fictitious, forged or altered prescription.
- (E) No person shall knowingly attempt to obtain, or possess a drug by means of a prescription for other than a legitimate therapeutic purpose or as a result of a false, fictitious, forged or altered prescription.
- (F) No person shall possess or control for the purpose of resale, or sell, offer to sell, dispense or give away a drug, pharmaceutical preparation or chemical which has been dispensed on prescription and has left the control of a pharmacist, or has been damaged or subjected to damage by heat, smoke, fire, water, or other cause, and which is unfit for human or animal use.
- (G) No person shall prepare or permit the preparation of prescription drugs except as delegated by a pharmacist.
- (H) No person shall sell at auction drugs in bulk or in open packages unless the sale has been approved in accordance with the laws of the State of Michigan.

### **Sec. 18-32. Sale of Controlled Substance Paraphernalia**

- (A) No person shall sell, offer for sale or give away any drug paraphernalia.
- (B) Any drug paraphernalia used, sold, possessed with intent to use or sell, or manufactured with intent to sell, or used in violation of this section, shall be seized and forfeited.
- (C) The prohibitions contained in this Section shall not apply to manufacturers, wholesalers, jobbers, licensed medical technicians, technologists, nurses, hospitals, research or teaching institutions, clinical laboratories, medical doctors, osteopathic physicians, dentists, chiropractors, veterinarians, pharmacists or embalmers in the normal, lawful course of their respective businesses or professions, nor to common carriers or warehousemen or their employees engaged in the lawful transportation of such paraphernalia, nor to public officers or employees while engaged in the performance of their official duties, nor to persons suffering from diabetes, asthma, or any other medical condition requiring self-injections.
- (D) Definitions:
  - 1. As used in this Article drug paraphernalia means any equipment, product, material or combination of equipment, products, or materials, which is specifically designed for use in planting; propagating; cultivating; growing; harvesting; manufacturing; compounding; converting; producing; processing; preparing; testing; analyzing; packaging; repackaging; storing; containing; concealing; injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance; including, but not limited to, all of the following:
    - (a) An isomerization device specifically designed for use in increasing the potency of any species of plant which plant is a controlled substance.
    - (b) Testing equipment specifically designed for use in identifying or in analyzing the strength, effectiveness, or purity of a controlled substance.
    - (c) A weight scale or balance specifically designed for use in weighing or measuring a controlled substance.

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- (d) A dilutant or adulterant, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose, and lactose, specifically designed for use with a controlled substance.
- (e) A separation gin or sifter specifically designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marijuana.
- (f) An object specifically designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body.
- (g) A kit specifically designed for use in planting, propagating, cultivating, growing, or harvesting any species of plant which is a controlled substance or from which a controlled substance can be derived.
- (h) A kit specifically designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
- (i) A device, commonly known as a cocaine kit, that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body, and which consists of at least a razor blade and a mirror.
- (j) A device, commonly known as a bullet that is specifically designed to deliver a measured amount of controlled substances to the user.
- (k) A device, commonly known as a snorter that is specifically designed to carry a small amount of controlled substances to the user's nose.
- (l) A device, commonly known as an automotive safe that is specifically designed to carry and conceal a controlled substance in an automobile, including, but not limited to, a can used for brake fluid, oil, or carburetor cleaner which contains a compartment for carrying and concealing controlled substances.
- (m) A spoon, with or without a chain attached, that has a small diameter bowl and that is specifically designed for use in ingesting, inhaling, or otherwise introducing controlled substances into the human body.

2. As used in this Article controlled substance means any drug, substance or immediate precursor as defined in MCL 333.7101 *et. seq.*

### **Sec. 18-33. Regulation of Tobacco Products, Vapor Products, and Alternative Nicotine Products, including on School Property or at School Sponsored Activities**

- (A) A person under 18 years of age shall not possess or smoke cigarettes or cigars; or possess or chew, suck, or inhale chewing tobacco or tobacco snuff; or possess or use tobacco in any other form, on a public highway, street, alley, park, or other lands used for public purposes, or in a public place of business or amusement.
- (B) A person shall not sell, give, or furnish any cigarette, cigar, chewing tobacco, tobacco snuff or tobacco in any other form to a person under 18 years of age.
  1. It is an affirmative defense to a charge pursuant to Subsection (B) that the defendant had in force at the time of arrest and continues to have in force a written policy to prevent the sale of cigarettes, cigars, chewing tobacco, tobacco snuff, and other tobacco products to persons under 18 years of age, and that the defendant enforced and continues to enforce the policy. A defendant who proposes to offer evidence of the affirmative defense described in this Subsection shall file and serve notice of the



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defense, in writing, upon the court and the prosecuting attorney. The notice shall be served not less than 14 days before the date set for trial.

2. If the Township attorney proposes to offer testimony to rebut the affirmative defense described in Subsection (1) the Township attorney shall file and serve a notice of rebuttal, in writing, upon the court and the defendant. The notice shall be served not less than 7 days before the date set for trial, and shall contain the name and address of each rebuttal witness.

(C) A person violating Section (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Fifty Dollars (\$50.00) for each offense.

### **Sec. 18-34. Selling or Distributing Nitrous Oxide**

(A) No person shall sell, offer for sale or give away otherwise distribute to another person a device or container of nitrous oxide for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system.

(B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (**93**) days.

(Ord No. 2020-01 Adopted Date )

(C) Definitions.

For the purposes of this ordinance the following terms are defined as follows:

*School Property* means the land, buildings and related facilities owned, rented or occupied by a public school, charter school, parochial school or private school located in Flushing Township and used in any school related function or activity.

*School Sponsored Activity* means any activity, including by not limited to field trips, athletic events, band events, recreational events of any type involving minor students, students, parents of students, teachers or other school staff which is sponsored, sanctioned, approved or permitted by a school, where one or more of the participants or attendees is a minor student, regardless of the location of the activity, including transportation to and from the activity.

(D) Prohibited conduct.

1. A student, regardless of age, while on School Property or while attending a School Sponsored Activity shall not sell, give, or furnish a tobacco product, vapor product, or alternative nicotine product to another student or minor.
2. A student, regardless of age, while on School Property or while attending a School Sponsored Activity shall not purchase or attempt to purchase, possess or attempt to possess, use or attempt to use a tobacco product, vapor product or alternative nicotine product.
3. A student who violates (D) is responsible for a civil infraction punishable as follows:
  - (a) The first violation, the individual is responsible for a civil infraction and shall be fined not more than \$50. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual perform not more than 16 hours of community service.
  - (b) For the second violation, the individual is responsible for a civil infraction and shall be fined not more than \$100. The court may order the individual to

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participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual perform not more than 32 hours of community service.

- (c) If a violation occurs 2 or more prior judgments, the individual is guilty of a misdemeanor punishable by a fine of not more than \$200 for each violation.

(Ord. No. 2020-01 2-13-2020)

### **Article 7 False Reports and Alarms**

#### **Sec. 18-35. False Requests for Police, Fire or Medical Emergency Services**

(A) No person shall use the telephone system to request emergency services from the Police Department, the Fire Department or any agency assisting the Police or Fire Department in providing emergency services, when such a request is false and is deliberately made.

(B) As used in this Section:

1. "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of such property or life.
2. "Request for police, fire or medical emergency services" means a request in whatever form that is used to summon or obtain a response from the Police Department, the Fire Department or any agency assisting the Police or Fire Department in providing emergency services.
3. "Telephone system" means any device attached to the communications common carrier or 911 enhanced system that transmits a request for emergency services to the Police Department, the Fire Department or any agency assisting the Police or Fire Department in providing emergency services.

### **Article 8 Larceny and Related Offenses**

#### **Sec. 18-36. Larceny**

(A) No person shall commit the offense of larceny by stealing the personal property, including, but not limited to, money, goods or chattels, bank notes or bills, financial transaction devices such as credit or debit cards, bonds, promissory notes, due bills, drafts, books of account, deeds or other writing containing a conveyance of land, or process, or public records belonging to another.

(B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

#### **Sec. 18-37. Retail Fraud**

(A) No person shall, in a store or in its immediate vicinity:

1. While the store is open to the public, steal property from the store that was offered for sale;
2. While the store is open to the public, alter, transfer, remove and replace, conceal, or otherwise misrepresent the price at which property is offered for sale, with the intent not to pay for the property or to pay less than the price at which the property is offered for sale; or
3. With intent to defraud, obtain or attempt to obtain money or property from the store as a refund or exchange for property that was not paid for and belongs to the store.

4. Possess a laminated or coated bag or device that is intended to shield merchandise from detection by an electronic or magnetic theft detection device with the intent to commit or attempt to commit larceny.
5. Possess a tool or device designed to allow the deactivation or removal of a theft detection device from any merchandise with the intent to use the tool or device to deactivate a theft detection device on, or to remove a theft detection device from, any merchandise without the permission of the merchant or person owning or lawfully holding that merchandise.
6. Deactivate a theft detection device or remove a theft detection device from any merchandise in a retail establishment prior to purchasing the merchandise with the intent to commit or attempt to commit a larceny.

(B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-38. Break and Enter Coin Box**

No person shall break or enter into any coin operated or other coin device or depository box or other receptacle established and maintained for the convenience of the public wherein is contained money or other things of value or valuable property therein.

**Sec. 18-39. Break and Enter Without Permission**

No person shall break and enter, or shall enter without breaking, any dwelling house, tent, hotel, office, store, shop, warehouse, barn, factory or other building, boat, ship, railroad car, apartment, cottage, clubhouse, lodge, garage, or the out-buildings belonging thereto, or any other structure, whether occupied or unoccupied, without first obtaining permission to enter from the owner or occupant, agent or person having lawful control thereof.

**Sec. 18-40. Receive and Conceal Stolen Property**

- (A) No person shall buy, receive or aid in the concealment of any stolen, embezzled or converted money, goods, or property, knowing the same to have been stolen, embezzled or converted.
- (B) Any person being a dealer in or collector of any merchandise or personal property, or the agent, employee, or representative of a dealer or collector who fails to make reasonable inquiry that the person selling or delivering any stolen, embezzled, or converted property to him has a legal right to do so, or who buys or receives any such property which has a registration, serial or other identifying number altered or obliterated on any external surface thereof, shall be presumed to have bought or received such property knowing it to have been stolen, embezzled or converted. This presumption may, however, be rebutted by proof.
- (C) In any prosecution of the offense of buying, receiving or aiding in the concealment of stolen, embezzled or converted money, or other property, it shall not be necessary to aver, nor on the trial thereof to prove, that the person who stole, embezzled or converted such property has been convicted.
- (D) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-41. Embezzlement**

- (A) No person shall as the agent, servant or employee of another, or as the trustee, bailee or custodian of the property of another, of any partnership, voluntary association, public or private corporation, or of any county, city, village, township or school district within this state, fraudulently dispose of or convert to his own use, or take or secrete with intent to convert to his own use without the consent of his principal, any money or other personal property of his principal which shall have come to his possession. or shall be under his charge or control by virtue of his being such agent, servant, employee, trustee, bailee or custodian as aforesaid. In any prosecution under this Section the failure, neglect or refusal of such agent, servant, employee, trustee, bailee or custodian to pay, deliver or refund to his principal such money or property entrusted to his care upon demand shall be prima facie proof of intent to embezzle.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-42. Defraud by Written Instruments**

- (A) No person shall embezzle, fraudulently remove, conceal or dispose of any personal property held by him subject to any chattel mortgage or written instrument intended to operate as a chattel mortgage, or any lease or written instrument intended to operate as a lease, or any contract to purchase not yet fulfilled with intent to injure or defraud the mortgagee, lessor or vendor under such contract or any assignee thereof.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-43. Make, Draw, Utter or Deliver Check with Non-Sufficient Funds**

- (A) No person shall, with intent to defraud, make or draw or utter or deliver any check, draft or order for the payment of money, to apply on account or otherwise, upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivery, that the maker, or drawer has not sufficient funds in or credit with such bank or other depository, for the payment of such check, draft, or order, in full, upon its presentation, and no person, with the intent to defraud, shall make, draw, utter or deliver any check, draft or order for the payment of money to apply on account or otherwise, upon any bank or other depository and who shall not have sufficient funds for the payment for same when presentation for payment is made to the drawee, except where such lack of funds is due to garnishment, attachment, levy, or other lawful cause and such fact was not known to the person who made, drew, uttered or delivered the instrument at the time of so doing.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-44. Theft by False Token or False Pretense**

- (A) No person shall, with intent to defraud or cheat, designedly, by color of any false token or writing or by any false or bogus check or other written, printed or engraved instrument, by spurious coin or metal in the similitude of coin, or by means of any false weights or measures, or by any other false pretense, cause any person to grant, convey, assign, demise, lease or mortgage any land or interest in land, or obtain the signature of any person to any written instrument, the making whereof would be punishable as forgery, or obtain

from any person any money or personal property or the use of any instrument, facility or article or other valuable thing or service, or by any means of a false weight or measure obtain a larger amount or quantity of property than was bargained for, or by means of any false weights or measures sell or dispose of a lesser amount or quantity of property than was bargained for.

- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days

**Sec. 18-45. Defrauding Hotel or Restaurant**

No person shall put up at any hotel, motel, inn, restaurant or cafe as a guest nor procure any food, entertainment or accommodation without paying therefor, except when credit is given therefor by express agreement, with intent to defraud such keeper thereof out of the pay for the same. No person, with intent to defraud, shall obtain credit in any hotel, motel, inn, restaurant or cafe for such food, entertainment or accommodation, by means of any false show of baggage or effects brought thereto. No conviction shall be had under the provisions of this Section unless complaint is made within sixty (60) days of the violation hereof.

**Sec. 18-46. Obtaining Personal Identity Information**

- (A) A person shall not obtain or attempt to obtain personal identity information of another person with the intent to unlawfully use that information for any of the following purposes without that person's authorization:

1. To obtain financial credit.
2. To purchase or otherwise obtain or lease any real or personal property.
3. To obtain employment.
4. To obtain access to medical records or information contained in medical records.
5. To commit any illegal act.

- (B) This Section does not prohibit the person from being charged with, convicted of, or sentenced for any other violation of law committed by that person using information obtained in violation of this Section.

- (C) This Section does not apply to a person who obtains or attempts to obtain personal identity information of another person pursuant to the discovery process of a civil action, an administrative proceeding, or an arbitration proceeding.

- (D) As used in this Section:

1. Financial transaction device" means that term as defined in MCL 750.157m.
2. Medical records" includes, but is not limited to, medical and mental health histories, reports, summaries, diagnoses and prognoses, treatment and medication information, notes, entries, and x-rays and other imaging records.
3. Personal identity information" means any of the following information of another:
  - (a) A social security number.
  - (b) A driver license number or state personal identification card number.
  - (c) Employment information.

- (d) Information regarding any financial account held by another person including, but not limited to, any of the following:
  - (1) A savings or checking account number.
  - (2) A financial transaction device account number, including but not limited to a credit card number.
  - (3) A stock or other security certificate or account number.
  - (4) A personal information number (PIN) for an account described in subparagraphs (D.1.d.1) through (D.1.d.3).

**Sec. 18-47. Possession of Burglary Tools**

No person shall knowingly have in his possession or control any nitroglycerine, or other explosive, thermite, engine, machine, tool or implement, device, chemical or substance, adapted and designed for cutting or burning through, forcing or breaking open any building, room, vault, safe, motor vehicle, motor vehicle trunk or glove compartment, or other depository, or for starting the engine of a motor vehicle or driving away a motor vehicle without the regular key, in order to steal any money or other property, knowing the same to be adapted and designed for one or more of the purposes aforesaid, with intent to use or employ the same for one or more of the purposes aforesaid.

**Sec. 18-48. Break and Enter Automobile**

- (A) No person shall willfully break and enter, or shall enter without breaking any motor vehicle, house trailer, trailer, or semi-trailer to steal or unlawfully remove or take any wheel, tire, air bag, radio, stereo, clock, telephone, computer, other electronic device or any other property from it.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-49. Fraudulent Use of a Financial Transaction Device**

- (A) No person shall knowingly and with the intent to defraud, use a financial transaction device as defined in Sec. 18-46 to withdraw or transfer funds from a deposit account at any financial institution in violation of the contractual limitations imposed on the amount or frequency of withdrawals or transfers nor in an amount exceeding the funds then on deposit in the account, the amount of funds withdrawn or transferred.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-50. Fraudulent Access to Computer**

- (A) No person shall intentionally access or cause access to be made to a computer program, computer, computer system, or computer network as those terms are defined in Sec. 18-60 to devise or execute a scheme or artifice with the intent to defraud or to obtain money, property, or a service by a false or fraudulent pretense, representation, or promise.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

## Article 9     Littering

### **Sec. 18-51.     Dumping**

- (A) It is unlawful for a person, knowingly, without the consent of the public authority having supervision of public property or the owner of private property, to dump, deposit, place, throw, or leave, or cause or permit the dumping, depositing, placing, throwing or leaving of litter on public or private property or water other than property designated and set aside for such purposes. As used in this Section a dumpster placed on private property and paid for by a private owner or user of the property is not property designated for public dumping. As used in this Section, the phrase "public or private property or water includes", but is not limited to, the right-of-way of a road or highway, parking lots and parking areas, a body of water or watercourse, or the shore or beach thereof, including the ice above the water, a park, playground, building, refuge, or conservation or recreation area and residential or farm properties or timberlands. It is unlawful for a person who removes a vehicle, wrecked or damaged in an accident on a highway, road, or street, to fail to remove all glass and other injurious substances dropped on the highway, road, or street as a result of the accident.
- (B) The Court, in lieu of any other sentence that may be imposed, may direct a substitution of litter-gathering labor, including, but not limited to, the litter connected with the particular violation, under the supervision of the Court.

### **Sec. 18-52.     Littering From a Moving Vehicle**

- (A) No person shall knowingly cause any litter or any object to fall or to be thrown in the path of or to hit a vehicle traveling on public or private property or water.
- (B) Except as provided in Subsection (E), in a proceeding for violation of this Section involving litter from a motor vehicle or vessel, proof that the particular vehicle or vessel described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the registered owner of the vehicle or vessel at the time of the violation, constitutes in evidence a presumption that the registered owner of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.
- (C) The driver of a vessel or vehicle is presumed to be responsible for litter which is thrown, dropped, dumped, placed or left from the vehicle or vessel on public or private property, or water.
- (D) For purposes of this Section, "vehicle" means a motor vehicle as that term is defined in Act No. 300 of the Public Acts of 1949, as amended, being Sections 257.1 through Section 257.923 of the Michigan Compiled Laws; and "vessel" means a vessel as that term is defined in Act No. 451 of the Public Acts of 1994, as amended, being Section 324.80104q of the Michigan Compiled Laws.
- (E) In a proceeding for violation of this Article involving litter from a leased motor vehicle or leased vessel, proof that the particular vehicle or vessel described in the citation, complaint, or warrant was used in the violation, together with proof that the defendant named in the citation, complaint, or warrant was the lessee of the vehicle or vessel at the time of the violation, constitutes in evidence a presumption that the lessee of the vehicle or vessel was the driver of the vehicle or vessel at the time of the violation.
- (F) The Court, in lieu of any other sentence that may be imposed, may direct a substitution of litter-gathering labor, including, but not limited to, the litter connected with the particular violation, under the supervision of the Court.

## Article 10 **Morals**

### **Sec. 18-53. Indecent Exposure**

- (A) No person shall knowingly or intentionally appear in any public place, place open to the public, or place open to public view, while nude.
- (B) No person shall knowingly participate or intentionally engage in any live act for payment or promise of payment by any person including, but not limited to, payment or promise of payment of an admission fee, demonstration or exhibition in any public place, place open to the public, or place open to public view, while nude.
- (C) As used in this Section, "nude" means the display of the uncovered or less than opaquely covered:
  - 1. Male or female genitals;
  - 2. Anus;
  - 3. Female breast, nipple and areola
  - 4. Pubic area.

### **Sec. 18-54. Curfew Violations**

- (A) No person of the age of twelve (12) or less shall loiter, idle, congregate or be in any public street, highway, alley, park or other public place between the hours of 10:00 P.M. and 6:00 A.M. unless that person is accompanied by a parent or guardian.
- (B) No person of the age of thirteen (13) or fourteen (14) shall loiter, idle, congregate or be in any public street, highway, alley, park or other public place between the hours of 11:00 P.M. and 6:00 A.M. unless that person is accompanied by a parent or guardian.
- (C) No person of the age of fifteen (15), sixteen (16) or seventeen (17) shall loiter, idle, congregate or be in any public street, highway, alley, park or other public place between the hours of midnight and 6:00A.M. unless that person is accompanied by (i) a parent or (ii) a guardian or (iii) another adult over the age of twenty-one (21) who has been authorized by a parent or a guardian to accompany that fifteen, sixteen or seventeen year old person or (iv) unless that fifteen, sixteen or seventeen year old person is upon an errand or other legitimate business directed by a parent or a guardian.
- (D) No parent, legal guardian, legal custodian or other person having responsibility, care or custody of any person seventeen years of age or younger who, by overt act, failure to act, or failure to supervise, shall allow, permit, assist, aid, abet or encourage the person seventeen years of age or younger to violate Subsections (A), (B), or (C). The fact that a person seventeen years of age or younger is apprehended while on a public street, highway, alley, park or other public place during the hours prohibited by Subsections (A), (B) or (C) shall be prima facie proof of a violation of (D) by a parent, guardian or custodian or other person having responsibility for the person seventeen years of age or younger.
- (E) No parent, guardian, custodian or other person having legal responsibility for a person seventeen years of age or younger shall fail or refuse to collect from the Flushing Township Police Department custody said person seventeen years of age or younger within three hours after being notified that said person is in the custody of the Township Police Department.
- (F) No person older than seventeen years of age, who is not the parent, guardian, custodian, or legal representative of a person seventeen years of age or younger, by overt act, failure to



act, or failure to supervise, shall allow, permit, assist, aid, abet or encourage the person seventeen years of age or younger to violate Subsections (A), (B) or (C).

- (G) A person who violates any provision of this Section is responsible for a municipal civil infraction and a civil fine in an amount not to exceed \$500.00 plus costs shall be paid by a defendant who is responsible for each such violation. Violators will also be subject to sanctions, remedies and procedures as set forth in Ordinance 7006 and Act 236 of the Public Acts of 1961, as amended.

**Sec. 18-55. Prostitution**

- (A) No person shall commit, engage in, offer or agree to commit a lewd act or an act of prostitution, sexual intercourse, moral perversion, or do any act involving the touching or contacting of the genitals of another.
- (B) No person shall secure, offer, accost, solicit or invite another in from any building or vehicle, by word, gesture, or any other means, for the purpose of committing a lewd act or an act of prostitution or moral perversion.
- (C) No person shall be in or near any place frequented by the public, or any public place, for the purpose of inducing, enticing, or procuring another to commit a lewd act or an act of prostitution or moral perversion.
- (D) No person shall loiter in a place where prostitution is practiced or allowed.
- (E) No person shall make a meretricious display in or near any public place, any frequented by the public, or any place open to the public view.
- (F) No person shall knowingly transport any person to any place, building, trailer or vehicle for the purpose of committing any lewd act or act of prostitution or moral perversion.
- (G) No person shall knowingly receive or offer to receive or agree to receive any person into any place, building, trailer or vehicle for the purpose of performing a lewd act, or an act of prostitution or moral perversion, or to knowingly permit any person to remain in any place, building, trailer, or vehicle for any such purpose.
- (H) No person shall direct or offer to direct any person to any place, building, trailer or vehicle for the purpose of committing any lewd act or act of prostitution or moral perversion.
- (I) No person shall keep, maintain or operate, aid or abet in keeping, maintaining or operating a building, trailer or vehicle or place resorted to for the purpose of prostitution.
- (J) No person shall aid, abet, allow, permit, or participate in the commission of any of the acts prohibited in Subsection (A) through (I) above.
- (K) This Section does not apply to a police officer while in the performance of his or her duties

**Sec. 18-56. Disorderly Person**

It shall be unlawful hereunder for a person to be a disorderly person. A person is disorderly if the person is any of the following:

- (A) A vagrant;
1. The following persons shall be deemed vagrants:
    - (a) Any person having no lawful means of employment and having no lawful means of support realized solely from lawful occupations or sources; or, any person who lives idly and without visible means of support.

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- (b) Any person wandering about and begging; or any person who goes about from door-to-door of private homes or commercial and business establishments, or places himself in or upon any public way or public place to beg or receive handouts for himself.
  - (c) Any person found loitering or strolling in, or about, or upon any street, alley or other public way or public place, or at any public gathering or assembly, or in or around any store, shop, or business or commercial establishment, or on any public property or place without lawful business and conducting himself in a lewd, wanton or lascivious manner in speech or behavior.
  - (d) Any person who frequents or loafs, loiters, or idles in or around or is the occupant of or is employed in any gambling establishment or establishment where intoxicating liquor is sold without a license.
  - (e) Any person who keeps, operates, frequents, lives in, or is employed in any house or other establishment of ill fame, or who (whether married or single) engages in or commits acts of fornication or perversion for hire.
  - (f) Any person wandering about and occupying, lodging, or sleeping in any vacant or unoccupied barn, shed, shop, or other building or structure, or in any automobile, truck, railroad car, or other vehicle, without owning the same or without permission of the owner or person entitled to possession of the same, or sleeping in any vacant lot during the hours of darkness and not giving a satisfactory account of himself. Any person upon whose person or in whose possession shall be found any instrument, tool, or other implement for picking locks or pockets, or any implement that is usually employed or that reasonably may be inferred to have been designed to be employed in the commission of any felony, misdemeanor or the violation of any ordinance, and who shall fail to account satisfactorily for the possession of the same.
  - (g) Any person who keeps a place where lost or stolen property is concealed.
  - (h) Any person who wanders about the streets, alleys, or other public ways or places, or who is found abroad at late or unusual hours in the night without any visible or lawful business and not giving a satisfactory account of himself.
  - (i) Any person who shall engage in any fraudulent scheme, device, or trick to obtain money or other valuable thing from others; or any person who aids or assists such trick, device or scheme.
- (B) Be found looking into the windows or doors of any house, apartment or other residence, or in any building so constructed with a hole or opening in a wall, in such a manner as would be likely to interfere with the occupants reasonable expectation of privacy and without the occupant's express or implied consent;
- (C) Engaging in an illegal business or occupation;
- (D) Using vulgar, profane, or indecent language on any public street or other public place or in any public dance hall, club dance, skating rink, or place of business open to public patronage.
- (E) Be intoxicated in a public place and who is either directly endangering the safety of another person or persons or property, or who is acting in a manner that causes a public disturbance;
- (F) Engaging in obscene or indecent conduct in a public place;

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- (G) Jostling another person or persons in a crowd;
- (H) Disturbing lawful meetings or creating a disturbance in a public street or other public place;
- (I) Loitering in or about a police station, police headquarters building, county jail, hospital, court building, or other public building or place for the purpose of soliciting employment of legal services or the services of sureties upon criminal recognizances;
- (J) Loitering, loafing, wandering, standing or remaining idle in a public place so as to do either of the following:
  - 1. Obstruct a public street, highway, sidewalk, place or building by hindering, impeding or threatening to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians therein or thereon.
  - 2. Obstruct or interfere with the free and uninterrupted use of property or business lawfully conducted by anyone in, upon, facing or fronting any such public street, highway, sidewalk, place or building so as to prevent the free and uninterrupted ingress or egress thereto or there from; and who refuses or fails forthwith to obey an order by a police officer to cease such conduct and to move and disperse.

### **Sec. 18-57. Malicious Telecommunications**

No person shall maliciously use any service provided by a communications common carrier with intent to terrorize, frighten, intimidate, threaten, harass, molest or annoy any other person, or disturb the peace and quiet of any other person by any of the following:

- (A) Threatening physical harm or damage to any person or property in the course of a telephone conversation or electronic mail;
- (B) Falsely and deliberately reporting by telephone, telegraph message or electronic mail that any person has been injured, has suddenly taken ill, has suffered death, or has been the victim of a crime or of an accident;

### **Sec. 18-58. Sexual Conduct in a Vehicle**

- (A) No person shall, in the Charter Township of Flushing, perform any act of sexual conduct as defined in Subsection (B) in a vehicle when the vehicle is in motion, parked, stopped or standing:
  - 1. In a public place;
  - 2. In an area open to the public; or
  - 3. On private property when the interior of the vehicle is on view from a public area or an area open to the public. On view is defined for purposes of this Section as capable of being seen if the interior of the vehicle is lighted naturally or artificially, or if unlighted, capable of being seen if it becomes lighted naturally or artificially, whether the light originates from the interior or exterior of the vehicle. On view does not require that the interior of the vehicle actually be lighted or actually be seen.
- (B) For purposes of Subsection (A), sexual conduct shall include:
  - 1. Vaginal intercourse which has its ordinary meaning and occurs upon any penetration, however slight. Emission of semen is not required;
  - 2. Alternate intercourse, which means any sexual act involving the sex organs of one person and the mouth, hands, anus or breasts of another;

3. Sexual contact, which means the intentional touching of any sexual organ whether uncovered or covered by clothing covering the immediate areas of the person's intimate parts, if the intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification.

**Sec. 18-59. Contributing to the Delinquency of a Minor**

No person shall by any act, or by any word, encourage, contribute toward, cause or tend to cause any minor child under the age of 17 years to become neglected or delinquent so as to come or tend to come under the jurisdiction of the family division of the circuit court, whether or not such child shall in fact be adjudicated a ward of the court.

**Sec. 18-60. Unlawful Posting of Messages**

(A) A person shall not post a message through the use of any medium of communication, including the internet or a computer, computer program, computer system, or computer network, or other electronic medium of communication, without the victim's consent, if all of the following apply:

1. The person knows or has reason to know that posting the message could cause 2 or more separate non-continuous acts of unconsented contact with the victim.
2. Posting the message is intended to cause conduct that would make the victim feel terrorized, frightened, intimidated, threatened molested.
3. Conduct arising from posting the message would cause a reasonable person to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed or molested.
4. Conduct arising from posting the message causes the victim to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed or molested.

(B) This Section does not apply to an internet or computer network service provider who in good faith, and without knowledge of the specific nature of the message posted, provides the medium for disseminating information or communication between persons.

(C) The court may order a person convicted of violating this Section to reimburse this state or a local unit of government of this state for the expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under Section 1f of Chapter IX of the Code of Criminal Procedure, 1927 PA 175, MCL 769.1f.

(D) This Section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this Section.

(E) This Section does not prohibit constitutionally protected speech or activity.

(F) A person may be prosecuted in this Township for violating or attempting to violate this Section only if 1 of the following applies:

1. The person posts the message while in this Township.
2. Conduct arising from posting the message occurs in this Township.
3. The victim is present in this Township at the time the offense or any element of the offense occurs.
4. The person posting the message knows that the victim resides in this Township.

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(G) As used in this section:

1. "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.
2. "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.
3. "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a, harassed, or manner designed to provide or produce products or results from the computer, computer system or computer network.
4. "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.
5. "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic or other impulses.
6. "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.
7. "Internet" means that term as defined in Section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137,47 USC 230.
8. "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating or attempting to transfer, send, post, publish, disseminate, or otherwise communicate information, whether truthful or untruthful, about the victim.
9. "Victim" means the individual who is the target of the conduct elicited by the posted message or a member of that individual's immediate family.
10. "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes any of the following:
  - (a) Following or appearing within sight of the victim.
  - (b) Approaching or confronting the victim in a public place or on private property.
  - (c) Appearing at the victim's workplace or residence.
  - (d) Entering onto or remaining on property owned, leased or occupied by the victim.
  - (e) Contacting the victim by telephone.
  - (f) Sending mail or electronic communications to the victim through the use of any medium, including the internet or a computer, computer program, computer system, or computer network.

- (g) Placing an object on, or delivering or having delivered an object to, property owned, leased, or occupied by the victim.

**Sec. 18-61. Public Urination or Defecation**

No person shall knowingly urinate or defecate in any public or private place other than at an appropriate facility or urinal or toilet provided for that purpose.

**Article 11 Resisting Arrest and Obstruction of Justice**

**Sec. 18-62. Resist or Obstruct**

No person shall knowingly and willfully obstruct, resist or oppose any sheriff, code enforcement officer, medical examiner, process server, constable or police officer or person duly authorized in serving or attempting to serve or execute any process, rule or order made or issued by lawful authority, nor shall resist any such officer in the execution of any Article, ordinance, by-law or rule, order or resolution made, issued or passed by the Board of The Charter Township of Flushing nor shall assault, beat or wound any sheriff, code enforcement officer, medical examiner, process server, constable or person duly authorized in serving or attempting to serve or execute any process, rule or order made or issued by lawful authority duly authorized, while serving, or attempting to serve or execute any such process, rule, or order, or for having served or attempted to serve or execute the same, nor shall a person obstruct, resist, oppose any sheriff, code enforcement officer, medical examiner, process server, constable or police officer or person duly authorized in serving or attempting to serve or execute any process, rule or order made or issued by lawful authority, or any other person or persons authorized by law to maintain and preserve the peace, in their lawful acts, attempts and efforts to maintain, preserve and keep the peace.

**Sec. 18-63. Flee or Elude Police**

No driver of a motor vehicle, who is given by hand, voice, emergency light or siren, a visual or audible signal by a police or sheriff department officer, acting in the lawful performance of his duty, directing the driver to bring his motor vehicle to a stop, shall willfully fail to obey such direction, by increasing his speed, extinguishing his lights, or otherwise attempting to flee or elude the officer. An officer giving the signal shall be in uniform. A vehicle which gives the emergency signal by light or siren shall be adequately identified as an official police vehicle.

**Sec. 18-64. Refuse to Comply With Order of Police - Traffic Control**

No person shall refuse to comply with any order of a police officer when such officer, for public interest and safety, is guiding, controlling or regulating traffic on the highways of this Township.

**Sec. 18-65. Assisting Prisoner While in Police Custody**

No person shall offer or endeavor to assist any prisoner in escaping or attempting to escape the custody of a police officer, who has lawful custody of such prisoner.

**Sec. 18-66. Refusal to Identify Self**

No person shall fail to identify himself or herself to a police officer who detains that person under circumstances that reasonably indicate to the police officer that the person has committed, is committing or is about to commit a crime.

A police officer may detain a person pursuant to this Subsection only to ascertain his or her identity and the suspicious circumstances surrounding his or her presence abroad. Any person so detained shall identify himself or herself, but may not be compelled to answer any other inquiry of any police officer.

**Sec. 18-67. False Identification to Police**

No person shall knowingly and willfully interfere with any police officer or code enforcement officer by supplying false identification to such police or code enforcement officer to avoid detection, apprehension or prosecution of any criminal or civil offense.

**Sec. 18-68. Refusal to Allow Fingerprinting**

No person shall refuse to allow or resist the taking of his or her fingerprints if the fingerprints are being taken pursuant to an arrest for a misdemeanor for which the maximum imprisonment is ninety-three (93) days.

**Sec. 18-69. Hinder or Obstruct a Criminal Investigation**

No person shall hinder or obstruct a criminal investigation by providing or reporting information which is false or misleading, knowing the information provided or reported to be false or misleading.

**Sec. 18-70. Hinder or Obstruct Firefighter**

No person shall knowingly and willfully hinder, obstruct or interfere with any member of the fire department in the performance of his or her duties, or to willfully disobey any reasonable order, rule or regulation of the officer commanding any fire department while in the vicinity of any fire or alarm of fire.

**Sec. 18-71. Hinder or Obstruct Member of Emergency Medical Service**

No person shall knowingly and willfully hinder, obstruct or interfere with any member of the emergency medical service in the performance of his or her duties.

**Sec. 18-72. Harass or Interfere with Police Dog**

No person shall intentionally harass or interfere with a police dog lawfully performing its duties nor intentionally cause physical harm to a police dog.

## **Article 12 Trespass and Unlawful Assembly**

**Sec. 18-73. Trees, Vegetation and Natural Resources**

(A) No person shall willfully commit any trespass by cutting down or destroying any timber or wood standing or growing on the land of another, or by carrying away any kind of timber or wood cut down or lying on such land, or by digging up or carrying away any stone, ore, gravel, clay, sand, turf or mold from such land, or any roots, fruit or plant there being, or by cutting down or carrying away any grass, hay or any kind or grain standing, growing or being on such land, or by carrying away from any wharf or landing place, railroad depot or warehouse, any goods or property whatsoever in which he has no interest, without the license of the owner.

(B) No person shall willfully commit any trespass by entering upon the garden, orchard or other improved land of another, without permission of the owner thereof, and with intent to cut, take, carry away, destroy or injure the trees, grain, grass, hay, fruit or vegetable there growing or being.

**Sec. 18-74. Noise Control**

(A) No person, firm, corporation or business shall cause or create or permit to continue any unreasonable, improper or unnecessarily loud noise or disturbance, injurious to the health, peace or quiet of the residents or property owners of the Charter Township of Flushing.

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(B) 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 to be construed to exclude other violations of this Section not specifically enumerated:

1. The playing of any radio, phonograph, television or other electronic or mechanical sound-producing device, including any musical instrument, in such a manner or with such volume as to upset or disturb the quiet, comfort or repose of reasonable persons. There shall be a presumption established that a noise is unreasonable, unnecessary or improper upon submission of proof that such a device when used in the interior of any building emits such a volume of sound as to be heard on any public way or private property not owned by the maker of the noise.
2. The playing of any radio, stereo, compact disc player, or other electronic or mechanical sound-producing device upon or within any motor vehicle in such manner as to upset or disturb the quiet, comfort or repose of any reasonable person.
3. Yelling, shouting, hooting or singing on the public streets between the hours of 11:00 P.M. and 7:00 A.M., or at any time or place so as to upset or disturb the quiet, comfort or repose of any reasonable person.
4. The keeping of any animal, bird or fowl which emanates frequent or extended noise which disturbs the quiet, comfort or repose of any reasonable person.
5. The operation of any automobile, motorcycle or other vehicle so out of repair, so loaded or so constructed as to cause loud or unnecessary grating, grinding, rattling, exhausting or other unreasonable noise, which noise is clearly audible from a nearby property and disturbing to the quiet, comfort, or repose of a reasonable person.
6. The sounding of any horn or signal device on any motor vehicle unless necessary to operate said vehicle safely or to avoid an accident or collision or as required by the Michigan Motor Vehicle Code or any ordinance or Article adopted by the Charter Township of Flushing pursuant thereto.
7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises resulting there from. The modification of any noise abatement device on any such engine or the failure to maintain any noise abatement device on any such engine so that the noise emitted by such engine, vehicle or boat is increased above that emitted by such engine, vehicle or boat as originally manufactured shall constitute a violation of this Section.
8. The erection, excavation, demolition, alteration or repair of any building or premises in any part of the Charter Township of Flushing, including the streets and highways therein, in such a manner as to emanate noise which unreasonably disturbs the quiet, comfort or repose of another person, other than between the hours of 6 A.M. and sundown on weekdays, including Saturdays, except in cases of urgent necessity in the interest of public health or safety. In cases of urgent necessity in the interest of public health or safety a permit shall be obtained from the building inspector or an ordinance enforcement officer of the Charter Township of Flushing, which permit shall limit the periods that the activity may continue.
9. The emission or creation of any excessive noise on any street which unreasonably interferes with the operations of any school, church hospital or court.



## Charter Township of Flushing

10. The creation of any loud or excessive noise made in connection with the loading, unloading or repair of any vehicle, trailer, railroad car, or other carrier, or made in connection with the opening or destruction of bales, boxes, crates or other containers, which loud or excessive noise unreasonably disturbs the quiet, comfort or repose of any reasonable person.
  11. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale or display or other commercial purpose which, by such use, disturbs the quiet, comfort or repose of any reasonable person.
  12. The operation of any race track, proving ground, testing area, or obstacle course for motorcycles, motor vehicles, boats, racers, automobiles or vehicles of any kind or nature in any area of the Charter Township of Flushing not specifically zoned for such an operation and/or where the noise emanating there from disturbs the quiet, comfort or repose of any reasonable person.
  13. The operation of any loudspeaker or other sound amplifying device upon or within any vehicle on the streets of the Charter Township of Flushing for the purpose of advertising or for any other purpose where such vehicle, speaker or sound amplifying equipment emits loud and raucous noises easily heard from nearby adjoining residential property and which disturbs the quiet, comfort or repose of any reasonable person.
  14. The operation of any machinery, equipment or mechanical device so as to emit a loud noise which disturbs the quiet, comfort or repose of any reasonable person.
- (C) No person, firm or corporation shall create, cause or maintain any public nuisance within the Charter Township of Flushing by the unreasonable creation of dust, smoke, fly ash or noxious odors which are offensive or disturbing to any reasonable person.
- (D) A person who violates this Section shall be responsible for a civil infraction fine in an amount not to exceed \$500.00 plus costs shall be paid by a defendant who is responsible for each such violation. Violators will also be subject to sanctions, remedies and procedures as set forth in Ordinance 7006 and Act 236 of the Public Acts of 1961, as amended.

### **Sec. 18-75. Inciting Riot**

- (A) It is unlawful and constitutes the crime of riot for five (5) or more persons, acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.
- (B) It is unlawful and constitutes an unlawful assembly for a person to assemble or act in concert with four (4) or more persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain thereat with intent to advance such purpose

### **Sec. 18-76. Unlawful Picketing**

- (A) It is unlawful for any person engaged in lawful picketing or demonstrating to so picket or demonstrate in such manner or fashion to cause vehicular traffic to be impeded or blocked on any public street or private drive or parking lot.
- (B) It shall be further unlawful for any person engaged in lawful picketing or demonstrating to so picket or demonstrate in such a manner or fashion as to impede or block pedestrian traffic to any building, public or private, or along any sidewalk or walkway.

**Sec. 18-77. Making or Inciting a Disturbance**

No person shall make or incite any disturbance or contention in any tavern, store or grocery, manufacturing establishment or any other business place or in any street, lane, alley, highway, public building grounds or park, or at any election or other public meeting where citizens are peaceably and lawfully assembled.

**Sec. 18-78. Unauthorized Person at School**

No unauthorized person shall remain within any school or remain on any lands owned, occupied or used by any school, or immediately adjacent thereto, without first securing permission of the principal or person in charge of said school or owner of the premises; nor shall any person on such premises make or assist in making any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of any gathering or function upon such premises; nor shall any person while on such premises make profane, obscene, rude or insulting remarks in the hearing of another person.

**Sec. 18-79. Trespass on Private Property**

No person shall willfully enter upon the lands or premises of another without lawful authority after having been forbidden to do so by the owner or occupant, agent or servant of the owner or occupant. Further, no person upon the land or premises of another, after being notified to depart there from by the owner or occupant, the agent or servant of either, shall, without lawful authority, neglect or refuse to depart there from.

**Article 13 Weapons Offenses**

**Sec. 18-80. Throwing Objects**

No person shall throw or launch any stone, brick or other missile at any motor vehicle, train, building, streetlight, traffic control device or outdoor mechanical equipment belonging to another

**Sec. 18-81. Discharge of Firearms**

- (A) No person shall carelessly, recklessly, negligently or willfully cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal.
- (B) No person shall intentionally, without malice, point or aim any fire-arm at or toward any other person.
- (C) No person shall knowingly brandish a firearm in public.
- (D) Except as provided in Subsections (F) and (G), no person shall intentionally discharge a firearm at a facility that he or she knows or has reason to believe is a dwelling or an occupied structure.
- (E) Except as provided in Subsections (F) and (G), no person shall intentionally discharge a firearm in or from a facility that he or she knows or has reason to believe is a dwelling or an occupied structure; nor shall any person intentionally discharge a firearm within the safety zone, as that term is defined by the statutes of the State of Michigan, of a dwelling or an occupied structure.
- (F) Subsections (D) and (E) do not apply to a police officer of this state or another state, or of Flushing Township or of another local unit of government of this state or another state, or of the United States, performing his or her duties as a police officer.
- (G) Subsections (D) and (E) do not apply to an individual who discharges a firearm in self-defense or the defense of another person.

(H) Subsection (C) does not apply to any of the following:

1. A police officer lawfully performing his or her duties as an officer;
2. A person lawfully engaged in hunting;
3. A person lawfully engaged in target practice;
4. A person lawfully engaged in the sale, purchase, repair or transfer of that firearm.

**Sec. 18-82. Dangerous Instruments**

No person shall be in possession of a knife with a blade more than three inches (3) in length, or any other potentially dangerous instrument or tool, a shuriken, martial arts star, ninja star, throwing star, nunchaku or nunchucks in any street, alley, park, boulevard or other public property or school, nor in any dance hall, theater, amusement park, liquor establishment, store or other private property generally frequented by the public for the purpose of education, recreation, amusement, entertainment, sport or shipping. The prohibition contained in this Section shall not apply to any person in possession of any such knife, or other potentially dangerous instrument or tool, shuriken, martial arts star, ninja star, throwing star, nunchaku or nunchucks when it is used or carried in good faith as a tool of honest work, trade, business, sport or recreation, or when the person in possession of such knife, shuriken, martial arts star, ninja star, throwing star, nunchaku or nunchucks is actively engaged therein or actively engaged in going to or returning from such honest work, trade, business, sport or recreation.

**Sec. 18-83. Possession of a Firearm Under Influence of Intoxicants**

- (A) No person under the influence of intoxicating liquor or any exhilarating or stupefying drug shall carry, have in possession or under control, or use in any manner or discharge any firearm. With respect to liquor, under the influence means a blood alcohol content of at least 0.08.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-84. Use of BB Gun by Minor**

No person under 18 years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 caliber by means of spring, gas or air, outside the curtilage of his domicile unless he is accompanied by a person over 18 years of age.

**Sec. 18-85. Possession of Firearms in Restricted Areas**

- (A) Subject to Subsection (D), an individual licensed by the State of Michigan under MCL 28.421 *et. seq.* to carry a concealed pistol, or who is exempt from licensure under MCL 28.432a(f), shall not carry a concealed pistol on the premises of any of the following:
1. A school or school property except that a parent or legal guardian of a student of the school is not precluded from carrying a concealed pistol while in a vehicle on school property, if he or she is dropping the student off at the school or picking up the child from the school. As used in this Section, "school" and "school property" mean those terms as defined in MCL 750.237a.
  2. A public or private childcare center or day care center, public or private child caring institution, or public or private child placing agency.
  3. A sports arena or stadium.

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4. A bar or tavern licensed under the Michigan Liquor Control Code of 1998, MCL 436.1101 *et. seq.*, where the primary source of income of the business is the sale of alcoholic liquor by the glass and consumed on the premises. This Subsection shall not apply to an owner or employee of the business.
  5. Any property or facility owned or operated by a church, synagogue, mosque, temple, or other place of worship, unless the presiding official or officials of the church, synagogue, mosque, temple, or other place of worship permit the carrying of concealed pistol on that property or facility.
  6. An entertainment facility with a seating capacity of 2,500 or more individuals that the individual knows or should know has a seating capacity of 2,500 or more individuals or that has a sign above each public entrance stating in letters not less than 1-inch high a seating capacity of 2,500 or more individuals.
  7. A hospital.
  8. A dormitory or classroom of a community college, college, or university.
- (B) An individual licensed by the State of Michigan to carry a concealed pistol, or who is exempt from licensure under MCL 28.432a(f), shall not carry a concealed pistol in violation of R 432.1212 or a successor rule of the Michigan administrative code promulgated pursuant to the Michigan gaming control and revenue act, MCL 432.201 to 432.226.
- (C) As used in Subsection (A), "premises" does not include parking areas of the places identified under Subsection (A).
- (D) Subsection (A) does not apply to any of the following:
1. An individual licensed by the State of Michigan under MCL 28. 421 *et. seq.* to carry a concealed pistol who is a retired police officer or retired law enforcement officer.
  2. An individual who is licensed by the State of Michigan under MCL 28. 421 *et. seq.* to carry a concealed pistol and who is employed or contracted by an entity described under Subsection (A) to provide security services and is required by his or her employer or the terms of a contract to carry a concealed firearm on the premises of the employing or contracting entity.
  3. An individual who is licensed as a private investigator or private detective under the private detective license act, MCL 338.821 to 338.851.
  4. Any of the following who is licensed by the State of Michigan under MCL 28.421 *et. seq.* to carry a concealed pistol while on duty and in the course of his or her employment:
    - (a) A corrections officer of a county sheriff's department.
    - (b) A motor carrier officer or capitol security officer of the department of state police.
    - (c) A member of a sheriff's posse.
    - (d) An auxiliary officer or reserve officer of a police or sheriff's department.
    - (e) A parole or probation officer of the department of corrections.

### **Sec. 18-86. Using Self-defense Spray Device**

- (A) No person shall use a self-defense spray device to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum at another person.

- (B) No person shall sell a self-defense spray device to a minor.
- (C) If a person uses a self-defense spray device during the commission of a crime to eject, release, or emit orthochlorobenzalmalononitrile or oleoresin capsicum or threatens to use a self-defense spray device during the commission of a crime to temporarily or permanently disable another person, the judge who imposes sentence upon a conviction for that crime shall consider the defendant's use or threatened use of the self-defense spray device as a reason for enhancing the sentence.
- (D) Subsection (A) does not prohibit either of the following:
1. The reasonable use of a self-defense spray device by a law enforcement officer in the performance of the law enforcement officer's duty.
  2. The reasonable use of a self-defense spray device by a person in the protection of a person or property under circumstances which would justify the person's use of physical force.
- (E) As used in this Section "self-defense spray device" means a device to which all of the following apply:
1. The device is capable of carrying, and ejects, releases, or emits 1 of the following:
    - (a) Not more than 35 grams of any combination of orthochlorobenzalmalononitrile and inert ingredients.
    - (b) A solution containing not more than 2% oleoresin capsicum.
  2. The device does not eject, release, or emit any gas or substance that will temporarily or permanently disable, incapacitate, injure, or harm a person with whom the gas or substance comes in contact, other than the substance described in Subsection (E) (1) (a) or (b).

## **Article 14 Dogs, Cats and Other Domestic Animals**

### **Sec. 18-87. Definitions**

- (A) "Domestic Animal" means any dog, other than a vicious dog, cat or farm animal, including but not limited to: cattle, horses, mules, sheep, swine, goats and chickens.
- (B) "Vicious Dog" means
1. Any dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or other domestic animals; or
  2. Any dog which has previously attacked or bitten a human being or other domestic animal other than under what would be considered a justifiable circumstance; or
  3. Any dog which has behaved in such a manner that the owner thereof knows or should reasonably know that the dog is possessed of a tendency to attack or bite human beings or other domestic animals other than under what would be considered a justifiable circumstance.
- (C) "Ownership" includes the records of the Genesee County Treasurer's office showing the name of the owner and the license number issued to that owner, and proof that a tag with the same number was affixed to the collar of a dog shall be prima facie proof of ownership of that dog.
- (D) "Keeping" means allowing a dog to habitually remain and/or be lodged within a house, store, building, enclosure or premises.

**Sec. 18-88. Keeping of Certain Animals Prohibited**

(A) It shall be unlawful to keep, harbor, own or in any way possess:

1. Any warm-blooded, carnivorous or omnivorous, wild or exotic animal; or dangerous or undomesticated animal which is not of a species customarily kept as an ordinary household pet, but which would ordinarily be confined in a zoo, or one which would ordinarily be found in the wilderness or wild of this or any other country, or one which otherwise causes a reasonable person to be fearful of bodily harm or property damage, including, but not limited to, non-human primates, raccoons, skunks, foxes and wild and exotic cats, but excluding fowl, ferrets and small rodents of varieties used for laboratory purposes; or
2. Any animal having venomous bites.

(B) Any person in possession of a State of Michigan Department of Natural Resources Possession Permit or Game Breeder's License, or United States Department of the Interior, U.S. Fish and Wildlife Service Federal Fish and Wildlife License or Permit for an animal otherwise prohibited by this Section shall be allowed to keep, harbor own or possess the animal(s) specified in said permit or license; however, the permit or license shall not be amended to include any additional animal(s) prohibited by this Section.

**Sec. 18-89. Barking Dogs**

- (A) It shall be unlawful for any person to own, keep, harbor, or have charge of any dog which by loud, frequent or persistent barking, howling or yelping causes serious annoyance or disturbance to the neighborhood in which the dog is owned, kept or harbored or to persons passing upon the sidewalks, streets or highways.
- (B) This Section is not intended to interfere with the owning, keeping, harboring or having charge of a dog where such dog indulges in occasional or infrequent barking, howling or yelping, it being understood and recognized that any dog, no matter how well trained or kept, may occasionally bark, howl or yelp.

**Sec. 18-90. Domestic Animals Running at Large**

- (A) It shall be unlawful for any person owning, keeping, harboring or having charge of any domestic animal to suffer or permit the domestic animal to run at large.
- (B) A domestic animal shall be deemed to be running at large when the domestic animal shall wander unrestrained on any street, alley, park or public place or upon any private property other than that of the person owning, keeping, harboring or having charge of such domestic animal. A domestic animal shall be considered restrained if the domestic animal is on a leash no longer than eight (8) feet and that leash is held by a person of sufficient size to control the domestic animal.
- (C) It shall be lawful for any police officer of the Charter Township of Flushing to seize any domestic animal running at large in the Charter Township of Flushing in violation of this Section.

**Sec. 18-91. Domestic Animals that Trespass**

It shall be unlawful for any person to own, keep, harbor or have charge of any domestic animal, licensed or unlicensed, that by the destruction of property or trespassing on the property of another person, other than the person owning, keeping, harboring or having charge of such domestic animal, shall become a nuisance in the vicinity where so kept.

**Sec. 18-92. Creating Unsanitary Conditions**

- (A) It shall be unlawful for any person owning, keeping, harboring or having charge of any domestic animal to collect, confine, keep or harbor such animal in a structure, pen, coop, yard or otherwise so as to create an unsanitary, unwholesome, malodorous or other obnoxious or unclean condition.
- (B) Any person owning, keeping, harboring or having charge of any domestic animal shall keep the yard, pen, shelter or building provided and maintained for the confinement of such domestic animal or that is used for the housing, harboring or keeping of such domestic animal, clean by removing from the premises all manure and waste matter from which odors may arise or which may act as vermin harborage. Such cleaning shall occur at least once each day.

**Sec. 18-93. Standards for Keeping Vicious Dogs**

The keeping of vicious dogs will be subject to the following standards:

- (A) Leash and Muzzle. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than four (4) feet in length. No person shall permit such a dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless a person is in physical control of the leash. Such dogs may not be leashed to an inanimate object such as a tree, post or building. Any dog on a leash outside the dog's kennel must be muzzled by a muzzling device sufficient to prevent such dog from biting a person or other animal.
- (B) Confinement. A vicious dog shall be securely confined indoors or in a securely enclosed and locked pen or kennel, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to sides. All structures used to confine such dogs must be locked with a key or a combination lock when such animals are within the structure. Such a structure must have a secure bottom or floor attached to the sides of the pen or the sides of the pen must be embedded in ground to a depth of no less than two (2) feet. All structures erected to house such dogs must comply with all zoning and building regulations of the Township. All such structures must be adequately lighted, ventilated and kept in a clean and sanitary condition.
- (C) Confinement Indoors. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such house or structure on its own volition. In addition, no such animal may be kept in a house or structure where window screens or screen doors are the only obstacle preventing the dog from exiting the structure.
- (D) Signs. All owners, keepers or harborers of vicious dogs within the Charter Township of Flushing shall within ten (10) days of the effective date of this Article display in a prominent place on their premises a sign easily readable by the public using the words "Beware of Dog". In addition, a similar sign must be posted on the kennel or pen of such animals.

**Sec. 18-94. Reporting Requirements**

- (A) Insurance. All owners, keepers or harborers of vicious dogs must, within ten (10) days of the effective date of this Article provide to the Charter Township of Flushing proof of ownership of public liability insurance in a single incident amount of one hundred thousand dollars (\$100,000.00) for bodily injury to or death of any person or persons which may result from ownership, keeping or harboring of such animals. Such insurance policy shall provide that no cancellation of the policy will be made unless ten (10) days' written notice is first given to the Clerk of the Charter Township of Flushing.

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- (B) Identification Photographs. All owners, keepers or harborers of vicious dogs must provide the Clerk of the Charter Township of Flushing two color photographs of the registered animal clearly showing the color and approximate size of the animal.
- (C) Reporting of incidents. Any owner, keeper or harborer of a vicious dog must within one (1) day of the incident, report the following information in writing to the Clerk of the Charter Township of Flushing:
1. The removal from the Township or death of the vicious dog;
  2. The birth of offspring of a vicious dog;
  3. The new address of a vicious dog if the owner moves within the Township limits;
  4. The dog is on the loose, has been stolen or has attacked a person.

### **Sec. 18-95. Failure to Comply**

It shall be unlawful for the owner, keeper, or harborer of a vicious dog to fail to comply with the requirements and conditions set forth in this Article. Any dog found to be the subject of a violation of this Section shall be subject to immediate seizure and impoundment.

### **Sec. 18-96. Penalties**

Violation of this Section is hereby designated a civil infraction and a civil fine in an amount not to exceed \$500.00 plus costs shall be paid by a defendant who is found responsible for each such violation. Violators shall also be subject to sanctions, remedies and procedures as set forth in Ordinance 7006 and Act No. 236 of the Public Acts of 1961, as amended.

### **Sec. 18-97. Order to Show Cause, Killing or Confining of a Vicious Dog**

A District Court Judge or a Magistrate of the District Court shall issue a summons to show cause why a vicious dog should not be killed or confined upon a sworn complaint that any of the following exist:

- (A) A vicious dog, licensed or unlicensed, has destroyed property or habitually caused damage by trespassing on the property of a person who is not the owner;
- (B) A vicious dog, licensed or unlicensed, has attacked or bitten a person;
- (C) A vicious dog, licensed or unlicensed, has run at large contrary to Township ordinance.

### **Sec. 18-98. Authority of the Court**

After a hearing, a District Court Judge or a Magistrate of the District Court may order the vicious dog killed or may order the vicious dog confined to the premises of the owner or the Genesee County Animal Control Shelter. Failure to comply with the order of a District court Judge may result in the owner of the dog against which an order has been entered being punished by a fine of not more than five hundred dollars (\$500.00) or imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment. Court costs for such actions shall be taxed against the owner of the dog against whom the complaint was issued.

## **Article 15 Sex Offender Registration Violations**

### **Sec. 18-99. Failure to Comply with Reporting**

- (A) No person required to register under MCL 28.721, *et seq*, shall fail to comply with reporting requirements defined by MCL 28.725a.



- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Sec. 18-100. Failure to Sign Registration**

- (A) No person required to register under MCL 28.721, *et seq*, shall fail to sign his/her registration form as required by MCL 28.725a.
- (B) A person violating Subsection (A) of this Section shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety-three (93) days.

**Article 16 Parental Responsibility**

**Sec. 18-101. Definitions**

As used in this Article:

- (A) Delinquent acts means those acts which violate the laws of the United States, or the statutes of the State of Michigan or the ordinances of the Charter Township of Flushing or those acts which would cause or tend to cause the minor to come under the jurisdiction of the juvenile division of probate court as defined by MCL 712A.2, but does not include traffic violations.
- (B) Illegal drugs means controlled substances obtained without a legal prescription.
- (C) Juvenile delinquent means those minors whose behavior interferes with the rights of others or menaces the welfare of the community.
- (D) Necessary care means the obligation a parent fulfills by taking custody of a minor from law enforcement officials.
- (E) Minor means any person under the age of seventeen (17) years.
- (F) Parent means mother, father, legal guardian and any other person having the care or custody of a minor or any person acting in the parent's stead who has custody or control of the child.

**Sec. 18-102. Parental Duties**

- (A) It is the continuous duty of the parent of any minor to exercise reasonable control to prevent that minor from committing any delinquent act.
- (B) Included (without limitation) in this continuous duty of reasonable control are the following parental duties:
  - 1. To keep illegal drugs or illegal firearms out of the home and legal firearms locked in places that are inaccessible to the minor;
  - 2. To know the Charter Township of Flushing curfew ordinance and to require the minor to observe the curfew ordinance;
  - 3. To require that minor to attend regular school sessions and to forbid that minor to be absent from class without parental or school permission;
  - 4. To arrange proper supervision for that minor when the parent must be absent;
  - 5. To forbid that minor from keeping stolen property, illegally possessing firearms or illegal drugs, or associating with known juvenile delinquents, and to seek help from appropriate governmental authorities or private agencies in handling or controlling

the minor, when necessary; if it becomes known to the parent that the minor possesses stolen property, legal or illegal firearms, illegal drugs, or is associating with known juvenile delinquents.

**Sec. 18-103. Aiding and Abetting Delinquent Acts**

No person shall by any act, omission, or by any word, procure, counsel, aid, abet, encourage, contribute toward, cause or tend to cause any minor to become delinquent so as to come under or tend to come under the jurisdiction of the juvenile division of the probate court, as defined in MCL 712A.2, whether or not such child shall in fact be adjudicated a ward of the probate court.

**Sec. 18-104. Notification of Parents; Record of Notification**

Whenever a minor is arrested or detained for the commission of any delinquent act within the Charter Township of Flushing, the parent of that minor shall be immediately notified by the police department advising the parent of such arrest or detention, the reason therefor and the parent's responsibility under this Article.

A record of such notifications shall be kept by the police department.

**Sec. 18-105. Parental Abandonment**

No parent shall, being of sufficient ability, fail, neglect, or refuse to provide necessary care for his or her minor child.

**Sec. 18-106. Parental Violation and Penalty**

If a minor commits a delinquent act, the parent shall be guilty of a violation of this Article if it is proven that any act, word, or nonperformance of parental duty by the parent encouraged, contributed toward, caused, or tended to cause the commission of the delinquent act by the minor.

## **Article 17 Emergency Response Cost Recovery**

**Sec. 18-107. Purpose**

The Charter Township of Flushing has determined that a significant number of traffic arrests and traffic accidents in the Township involve drivers who are operating a motor vehicle while impaired by or under the influence of alcoholic beverages and/or controlled substances. In addition, the Township has determined that there is a greater likelihood of personal injury and property damage in traffic accidents involving drivers who were operating a motor vehicle while impaired by or under the influence of alcoholic beverages and/or controlled substances. As a result, an additional operational and financial burden is placed upon the Township's police, firefighting and rescue services by persons who are operating a motor vehicle while impaired by or under the influence of alcoholic beverages and/or controlled substances.

**Sec. 18-108. Definitions**

(A) Emergency Response" means either:

1. The providing, sending and/or utilizing of police, firefighting, emergency medical and/or rescue services by the Township, or by a private individual or corporation operating at the request or the direction of the Township, to an incident resulting in an accident involving one (1) or more motor vehicles operated by one (1) or more drivers who were impaired by or under the influence of an alcoholic and/or a controlled substance; or
2. The providing, sending and/or utilizing of police, firefighting, emergency medical and/or rescue services by the Township, or by a private individual or corporation

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operating at the request or direction of the Township, or an incident resulting in a traffic stop and arrest of a driver who was operating a motor vehicle while impaired by or under the influence of an alcoholic beverage and/or a controlled substance by a police officer.

- (B) "Expense" of emergency response includes the direct and reasonable costs incurred by the Township or by a private person or corporation operating at the request or direction of the Township in the course of emergency response to an incident, including the cost of providing police, firefighting, emergency medical and/or rescue services at the scene of the incident. These costs also include all the salaries and wages of Township personnel responding to the incident, all salaries and wages of Township personnel engaged in investigation, supervision and report preparation, all costs connected with the administration and preparation of all chemical test of the driver's blood, breath and/or urine, and all costs related to any prosecution of the person causing the incident.

### **Sec. 18-109. Liability for Expense of an Emergency Response**

- (A) Any person is liable for the expense of an emergency response if, while impaired by or under the influence of an alcoholic beverage or a controlled substance, or the combination of the two, such person's operation of a motor vehicle proximately causes any incident resulting in an emergency response.
- (B) For the purposes of this Section, a person is impaired by or under the influence of an alcoholic beverage or controlled substance, or a combination influence of an alcoholic beverage and controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with caution characteristic of a sober person of ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while impaired by or under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine and/or breath indicates that the amount of alcohol in his or her blood was in excess of seven-one hundredths of one percent (0.07%)

### **Sec. 18-110. Charge of Emergency Response**

- (A) The expense of an emergency response shall be a charge against the person liable for the expense under this Article. The charge constitutes a debt of that person and is collectible by the Township for incurring those costs in the same manner as in the case of an obligation under a contract expressed or implied.
- (B) The Township Board shall, by resolution, adopt a schedule of the cost included within the expense of an emergency response. This schedule shall be available to the public from either the Township Clerk or from the Chief of Police.
- (C) The Chief of Police, or the designee of the Chief of Police, may, within ten (10) calendar days of receiving an itemization of the expenses, or any part thereof, incurred for an emergency response, submit a bill for these expenses by first class mail, return receipt requested, or personal service to the person liable for the expense of the emergency response.
- (D) In the event a person is found guilty by judge or by jury or enters a plea of guilty or enters a plea of no contest to a violation of any statute of the State or ordinance of the Township which prohibits the operation of a motor vehicle under the influence of an alcoholic beverage or a controlled substance, or a combination thereof or to any lesser included offense, then at the time of imposition of a sentence by the court, the expense of the emergency response may be assessed by the court. The assessment of the expense of the emergency response shall

be in addition to any other costs assessed by the court under the provisions of any other statute or ordinance. The amount to be assessed by the court for expense of emergency response shall be set forth in an affidavit filed with the court by the Township prior to sentencing. The amount of any particular cost included within the expense of emergency shall not exceed the costs as adopted in the resolution referred to in Sec. 18-110(B). The assessment shall be paid to the Treasurer of the Charter Township of Flushing.

- (E) A failure to pay an assessment for the expense of emergency response within thirty calendar days of service shall be considered a default. In cases of default the Township shall have a lien upon the real and personal property owned by the person responsible for the expense of emergency response. The lien shall not take effect until notice of the lien has been filed or recorded as provided by law. A lien provided for in this Section does not have priority over any previously filed or recorded lien or encumbrance. The lien for the expense of emergency response shall be collected and treated in the same manner as provided for property tax Liens under the General Property Tax Act, being Act 206 of 1893 , as amended, or sections 211.1 *et. seq.* of the Michigan Compiled Laws. The Township may also commence civil suit to recover the expense of emergency response and any other costs allowed by law.

## **Article 18    Parking Upon Private Property**

### **Sec. 18-111.   Prohibition**

No person shall drive or park, or cause to be driven or parked, any motor vehicle, motorcycle or other licensed vehicle, including trailers, travel or otherwise, and mobile homes, or any unlicensed vehicle, including all off the road recreational vehicles and wheeled farm implements, upon the planted or sodded section of a street or roadway not set aside for traffic lanes, nor upon the sod or grass in any public park unless lawfully employed therein; nor upon any private property or parking lot or within any driveway unless he shall have the consent of the owner, tenant or other person in occupancy or possession of same, whether the same be posted or not.

### **Sec. 18-112.   Penalty**

A person who violates this Section shall be responsible for a civil infraction and a civil fine in an amount not to exceed \$500.00 plus costs shall be paid by a defendant who is responsible for each such violation. Violators will also be subject to sanctions, remedies and procedures as set forth in Ordinance 7006 and Act 236 of the Public Acts of 1961, as amended.

## **Article 19    Uniform Traffic Code and State Laws**

### **Sec. 18-113.   Title.**

This Article and the provisions of the Uniform Traffic Code and state laws adopted by reference, pursuant to authority granted charter townships by MCL 42.23, shall be collectively known and may be cited as the Flushing Charter Township Traffic Code.

### **Sec. 18-114.   Adoption of Uniform Traffic Code by Reference.**

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, MCL 24.201, *et seq.*, and made effective October 30, 2002, as amended and as may be amended from time to time in the future, is hereby adopted by reference. All references in the Uniform Traffic Code to a "governmental unit" shall mean the Charter Township of Flushing.

**Sec. 18-115. Adoption of Provisions of Michigan Vehicle Code by Reference.**

The following provisions of the Michigan Vehicle Code, as amended and as may be amended from time to time in the future, MCL 257.1, *et seq.*, are hereby adopted by reference:

- (A) Chapter I (Words and Phrases Defined), MCL 257.1-257.82.
- (B) Chapter II (Administration, Registration), MCL 257.225, 257.228, 257.243, 257.244, 257.255 and 257.256.
- (C) Chapter III (Operator's and Chauffeur's License), MCL 257.310e, 257.311, 257.312a, 257.324, 257.325, 257.326 and 257.328.
- (D) Chapter IV (Obedience to and Effect of Traffic Laws), MCL 257.601-257.601b, 257.602-257.606, 257.611-257.616, 257.617a-257.622, 257.624a-257.624b, 257.625 (except felony provisions), 257.625a, 257.625m, 257.626-257.626b, 257.627-257.627b, 257.629b, 257.631-257.632, 257.634-257.645, 257.647-257.655, 257.656-257.662, 257.667-257.675d, 257.676-257.682b, 257.683-257.710e, 257.716-257.724.
- (E) Chapter VIII (License Offenses), MCL 257.904-257.904a, 257.904e and 257.905

**Sec. 18-116. Adoption of Other State Laws by Reference.**

The following provisions of state law are hereby adopted by reference:

- (A) Section 3102 of the Michigan Insurance Code of 1956, as amended and as may be amended from time to time in the future, pertaining to required insurance, MCL 500.3102.
- (B) Subchapter 6 of Part 811 of the Natural Resources and Environmental Protection Act, as amended and as may be amended from time to time in the future, pertaining to off-road vehicles, MCL 324.81101-324.81147.
- (C) Part 821 of the Natural Resources and Environmental Protection Act, as amended and as may be amended from time to time in the future, pertaining to snowmobiles, MCL 324.82101-324.82158.
- (D) Section 703 of the Michigan Liquor Control Act, as amended and as may be amended from time to time in the future, pertaining to minors and alcoholic liquor, MCL 436.1703.
- (E) The Michigan Motor Carrier Safety Act of 1963, as amended and as may be amended from time to time in the future, MCL 480.11, *et seq.*

**Sec. 18-117. Citation.**

Citations to provisions of the Flushing Township Traffic Code shall be in the form of: the number 19 followed by the Michigan Compiled Laws provision to which the citation applies. For example, a traffic citation charging a violation of driving while intoxicated with reference Sec. 19-257. of the Traffic Code. All the articles are all that he wasn't in their wall articles is all in the web and is the city

**Sec. 18-118. Penalties.**

Penalties provided by the Uniform Traffic Code in the provisions of the state laws hereinabove adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this Ordinance.

## ORDINANCE VI

An ordinance to recodify Ordinance VI, being an ordinance to promote the public health, safety and welfare by regulating conduct relating to the acquisition and consumption of alcoholic beverages; assaultive conduct; attempts, conspiracies, and aiding in the commission of offenses; the destruction of property; controlled substances and paraphernalia related thereto; the reporting of false alarms and police reports; stealing, defrauding and embezzling of property; littering; immoral conduct including prostitution, indecent exposure, gambling and disorderly conduct, curfew violations, prohibited communications; resisting arrest and obstructing justice; trespass and unlawful assemblies; weapons offenses; dogs and certain other animals; forfeitures; sex offenders; and providing for the enforcement thereof and penalties therefore.

## Article 20 Criminal Code

### Sec. 18-119. Short Title

The Charter Township of Flushing hereby adopts Ordinance VI of its Compiled Ordinances as "The Criminal Code of the Charter Township of Flushing. The Criminal Code contains certain Articles which regulate conduct within the Charter Township of Flushing in order to further the public health, safety and welfare of its residents.

### Sec. 18-120. Gender

The masculine gender as used throughout this Code shall be deemed to refer to the feminine and neuter genders also. The feminine gender shall be deemed to refer to the masculine and neuter genders also. The neuter gender shall be deemed to refer to the masculine and feminine genders also. Also as used throughout this Code 'person' shall include both the singular and plural and shall include natural persons, corporations, public corporations, partnerships, joint ventures, groups, associations, and organizations.

### Sec. 18-121. Sections

- (A) The Articles, Sections, paragraphs, sentences and clauses of this Code are severable, and if any clause, sentence, paragraph, Section or Article shall be declared unconstitutional, unenforceable or otherwise invalid by any court or tribunal of competent jurisdiction, such unconstitutionality, unenforceability or invalidity shall not affect any of the remaining clauses, sentences, paragraph, Sections or Articles of this Code.
- (B) Titles and headings to Articles of this Code and the Sections and paragraphs contained herein are inserted for convenience of reference and are not intended to affect the interpretation or construction of this Code or its Articles.

### Sec. 18-122. Penalty

Whenever in this Code and the Articles contained herein any act is prohibited or is made or declared to be unlawful, or the doing of an is required, or the failure to do an act is declared to be unlawful, where no specific penalty is provided therefore, the violation of such provision shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the Genesee County Jail for a term not to exceed ninety (90) days or by both fine and imprisonment.

### Sec. 18-123. Repeal of Prior Inconsistent Ordinances

Any prior version of this Code or the Articles or Sections contained therein that is in conflict with this Ordinance is hereby repealed as of the effective date of this Ordinance. The repeal of those Articles or Sections does not affect or impair any act done, offense committed, or right accruing,

accrued or acquired or liability, penalty, forfeiture or punishment incurred prior to the time enforced, prosecuted or inflicted.

**Sec. 18-124. Intentionally Left Blank**

**Article 21 Motor Carriers**

**Sec. 18-125. Adoption of Michigan Motor Carrier Safety Act**

Pursuant to the authority granted by Public Act 246 of 1945, as amended, specifically MCL 42.23, The Charter Township of Flushing adopts by reference the Michigan Motor Carrier Safety Act of 1963, being Public Act 181 of 1963, as amended, MCL 480.11 *et. seq.* as amended and as it may be amended from time to time in the future. The adoption is subject to Chapter 18.

**Sec. 18-126. Numbering**

A violation of Section 7.1-1 of this Ordinance shall be numbered 7.1-2.1 *et. seq.*, the last number corresponding to the Section citation of the Michigan Motor Carrier Safety Act. 7.1-2 shall indicate that the violation is being prosecuted pursuant to Township Ordinance and not State law.

**Sec. 18-127. Penalty**

Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety (90) days if a violation of the corresponding Section of the Motor Carrier Safety Code is a misdemeanor. If the punishment of the violation of the corresponding section is 93 days, the punishment under this ordinance shall be 93 days. If a violation of the corresponding Section of the Michigan Vehicle Code is a civil infraction, then a violation of this Ordinance shall be a civil infraction. If a violation is a civil infraction a civil fine in an amount not to exceed \$500.00 plus cost shall be paid by a defendant who is found responsible for each such violation.

**Sec. 18-128. Severability**

Every Section of this Ordinance shall be considered severable and in the event that any word, phrase, sentence or paragraph is declared invalid, unenforceable or unconstitutional, the declaration shall not affect the remainder of the Ordinance nor the validity of the Ordinance as a whole.

**Sec. 18-129. Adoption of Michigan Vehicle Code**

Pursuant to the authority granted by Public Act 246 of 1945, as amended, specifically MCL 42.23, The Charter Township of Flushing adopts by reference the Michigan Vehicle Code, being Public Act 300 of 1949, as amended, MCL 257.1 *et seq.*, as amended and as it may be amended from time to time in the future. The adoption is subject to Section 8.1-2 and Section 8.1-3.

**Sec. 18-130. Numbering**

A violation of this ordinance shall be numbered 8.1-2 *et seq.*, the last number corresponding to the Section citation of the Michigan Vehicle Code. 8.1-2 shall indicate that the violation is being prosecuted pursuant to Township ordinance and not State law.

**Sec. 18-131. Penalty**

Any person violating this Ordinance shall be guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars (\$500.00) and/or imprisonment in the County jail for not more than ninety (90) days if a violation of the corresponding Section of the Michigan Vehicle Code is a misdemeanor. If the punishment of the violation of the corresponding section is 93 days, the punishment under this ordinance shall be 93 days. If a violation of the corresponding Section of the Michigan Vehicle Code is a civil infraction, then a violation of this Ordinance shall be a civil infraction. If a violation is a civil infraction a civil fine in an amount not to exceed \$500.00 plus cost shall be paid by a defendant who is found responsible for each such violation.

**Sec. 18-132. Severability**

Every Section of this Ordinance shall be considered severable and in the event that any word, phrase, sentence or paragraph is declared invalid, unenforceable or unconstitutional, the declaration shall not affect the remainder of the Ordinance nor the validity of the Ordinance as a whole.

**Article 23 Public Parking Regulations**

**Sec. 18-133. Definitions**

- (A) "Parking" as defined by MCL 27.38
- (B) "Vehicle" as defined by MCL 257.79
- (C) "Truck" as defined by MCL 257.75
- (D) "Trailer" as defined by MCL 257.73
- (E) "Truck Tractor" as defined by MCL 257.77
- (F) "Semi-Trailer" as defined by MCL 257.59
- (G) "Trailer Coach" as defined by MCL 257.74
- (H) "Bus" as defined by MCL 257.4b
- (I) "Special Mobile Equipment" as defined by 257.62

**Sec. 18-134. Regulations**

- (A) No vehicle used in the transportation of inflammable or explosive materials or substances shall be parked on any street, or other public place, except supervised public parking lots, between the hours of sunset to sunrise, provided, however, that this restriction shall not apply to the incidental stopping or parking of such vehicle in the carrying out of loading or unloading operations or in the performance of errands incidental to the business use of such vehicles if such vehicle is lighted with at least two white headlights and two red rear lights so constructed and so placed as to be observed under ordinary atmospheric conditions at a distance of not less than 500 feet.
- (B) No vehicle, truck, trailer, truck tractor, semi-trailer, trailer coach, bus, special mobile equipment or other such type of vehicle, whether running or not, shall be parked within the limits of any street or other public place, except public parking lots, between two o'clock (2:00 am) and seven o'clock (7:00 am) in the morning.
- (C) No truck or any other vehicle shall be parked within the limits of any street or other public place for the purpose of repairing, remodeling or otherwise working upon said vehicle.



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- (D) No truck or other vehicle shall be parked or allowed to stand; on the portion of street or highway between the curb or gutter and the sidewalk nor on any sidewalk or parkway except temporarily and during the process of loading or unloading.
- (E) No truck or other vehicle shall. be parked or allowed to stand within the limits of any street and in a perpendicular position to the curb except temporarily for loading or unloading.

### **Sec. 18-135. Penalties**

A person violating this Article shall be responsible for a civil infraction.

## **Chapter 19    Nuisances**

### **Article 1    In General**

#### **Sec. 19-1.    Definitions.**

For the purpose of this chapter, the word "nuisance" is hereby defined as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, commission, condition or thing either:

- (A) Injures or endangers the comfort, repose, health or safety of others; or
- (B) Offends decency; or
- (C) Is offensive to the senses; or
- (D) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (E) In any way renders other persons insecure in life or the use of property; or
- (F) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

Cross reference-Definitions and rules of construction. generally, § 1-2.

#### **Sec. 19-2.    Illustrative enumeration.**

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- (A) Noxious weeds and other rank vegetation.
- (B) The storage upon any property of building materials unless there is in force a valid building permit issued by the township for construction upon such property and such building materials are intended for use in connection with such construction; building materials shall include but shall not be limited to lumber, bricks, concrete or cinder blocks, plumbing materials, electrical wiring or equipment, shingles, mortar, concrete or cement, nails, screws, or any other materials used in constructing any structure (all unused building materials shall be removed from the premises by the contractor prior to issuance of any occupancy permit or final acceptance of the building inspector).
- (C) The storage or accumulation of junk, trash, rubbish or refuse of any kind, except domestic refuse stored in such a manner as not to create a nuisance. The term "junk" shall include parts of machinery or motor vehicles, unused stoves or other appliances stored in the open, remnants of wood, metal or any other material or other cast-off material of any kind whether or not the same could be put to any reasonable use.
- (D) Storage of any property of junk vehicles except in a completely enclosed building; for the purpose of this chapter the term "junk vehicle" shall include any motor vehicle which is inoperative for any reason such as being in a state of disassembly, disrepair, stripped, dismantled, unregistered or unlicensed.

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- (E) The existence of any structure or damaged partial structure which because of fire, wind or other natural disaster, or physical deterioration is no longer habitable if a dwelling, nor useful of any other purpose for which it may have been intended.
- (F) The existence of any vacant building, garage or other outbuilding unless such buildings are kept securely locked, windows kept glazed or neatly boarded up and otherwise protected to prevent entrance thereto by vandals.
- (G) The existence of any incomplete structures unless such structure is in the course of construction in accordance with a valid and subsisting building permit issued by the township and unless such construction is completed within a reasonable time.
- (H) Any condition which provides harborage for rats, mice, snakes and other vermin.
- (I) All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- (J) All disagreeable or obnoxious odors and stenches, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stenches.
- (K) The carcasses of animals or fowl not disposed of within a reasonable time after death.
- (L) The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- (M) Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- (N) Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- (O) Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

### **Sec. 19-3. Prohibited.**

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of a nuisance within the township.

### **Sec. 19-4. Notice to abate.**

Whenever a nuisance is found to exist within the township, the chief of police or his designee shall give ten (10) days' written notice to the owner or occupant of the property upon which the nuisance exists or upon the person causing or maintaining the nuisance.

### **Sec. 19-5. Contents of notice.**

The notice to abate a nuisance issued under the provisions of this chapter shall contain:

- (A) An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances.
- (B) The location of the nuisance, if the same is stationary.
- (C) A description of what constitutes the nuisance.
- (D) A statement of acts necessary to abate the nuisance.
- (E) A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the city will abate such nuisance and assess the cost thereof against such person.

### **Sec. 19-6. Service of notice.**

The notice to abate a nuisance shall be served as any other legal process may be served pursuant to law.

**Sec. 19-7. Abatement by township.**

Upon failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this chapter to abate the same, the chief of police shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

**Sec. 19-8. Emergency abatement by township.**

When, in the opinion of the chief of police, there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the chief of police is hereby authorized and empowered, without any notice or hearing, to order and require such premises to be vacated. The chief of police shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

**Sec. 19-9. Township's costs.**

Any and all costs incurred by the township in the abatement of a nuisance under the provision of this chapter shall constitute a lien against the property upon which such nuisance existed, which costs shall be collected as ad valorem taxes.

**Sec. 19-10. Violation.**

A violation of Chapter 20Article 2 of the Code shall be a township civil infraction.

(Ord. No. 61-3-94, § 4, 10-27-94)

**Secs. 19-11 – 19-35. Reserved.**

## Article 2 Noise

**Sec. 19-36. Title.**

This article shall be known as "Anti-Noise Ordinance".

(Ord. No. 47-B, § 1, 8-26-93)

**Sec. 19-37. Definitions.**

The following terms used in this article are defined as follows:

*dB(A)* means the sound pressure level in decibels as measured on the "A" scale of a standard sound level meter having characteristics as defined by the American National Standards Institute, Publication Ansi sl. 4-1971.

*Decibel* is a unit used to express the magnitude of sound pressure and sound intensity. It is a unit used to express the relative difference and power of sound, usually between the acoustic or the electric signal, equal to ten (10) times the common logarithm of the two (2) levels.

*Commercial area* means a parcel of land zoned C-1, C-2 or C-3 in accordance with Chapter 36 of the Code of Ordinances.

*Construction* means any sight preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.

*Daytime*, unless otherwise specifically noted, means the hours from 7 a.m. to sundown.

*Demolition* means any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

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*Emergency* means any occurrence or set of circumstances involving actual or imminent physical trauma, or property damage which demands immediate or necessary action to protect public health, safety and welfare.

*Industrial area* means a parcel of land zoned M-1 or M-2 in accordance with Chapter 36 of the Code of Ordinance.

*Noise* means any sound occurring on either a perpetual, continuous, intermittent or implosive basis. It also means the intensity, frequency, duration and character of sound, including sound and vibration of subaudible frequencies.

*Person* means any individual, association, partnership or corporation.

*Real property boundary* means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one (1) person from that owned by another person, but not including intrabuilding real property divisions.

*Residential area* means a parcel of land zoned RA, RSA, RV-1, RV-2, RV-3 or RV-4 in accordance with Chapter 36 of the Code of Ordinances.

(Ord. No. 47-B, § 3, 8-26-93)

### **Sec. 19-38. Anti-noise regulations.**

- (A) General regulation. No person, firm or corporation shall cause or create any unreasonable or unnecessary loud noise or disturbance, injurious to the health, peace or quiet of the residents and property owners of the township.
- (B) Specific violations. The following noise and disturbances are hereby declared to be a violation of this article; provided however, that the specification of the same is not to be construed as excluding other violations of this article not specifically enumerated, but which never-the-less violate its intent and protections.
1. The playing of any radio, phonograph, television or other electronic or mechanical sound producing device, including any musical instrument, in such a manner or with such volume so as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
  2. Yelling, shouting, hooting or singing so as to unreasonably upset or disturb the quiet, comfort or repose of other persons.
  3. The emission or creation of any excessive noise which unreasonably interferes with the operation of any school or church.
  4. The keeping of any animal, bird or fowl, which emanates frequent or extended noise which shall unreasonably disturb the quiet, comfort or repose of any person in the vicinity, such as allowing any dog to bark repeatedly in an area where such barking can be clearly heard from nearby residential property.
  5. The operation of any automobile, motorcycle or other vehicle so out of repair, or so loaded, or constructed as to cause loud and unnecessary grating, grinding, rattling or other unreasonable noise, including the noise resulting from exhaust, which is clearly audible from nearby properties and unreasonable disturbing to the quiet, comfort and repose of other persons. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain the same so that the noise emitted by such vehicle or engine is increased above that as emitted by the vehicle or engine as originally manufactured shall be a violation of this section.

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6. The sounding of any horn or other device on any motor vehicle unless necessary to operate said vehicle safely or as required by the Michigan Motor Vehicle Code.
7. The discharging outside of any enclosed building of the exhaust of any steam engine, internal combustion engine, motor vehicle or motor boat engine except through a muffler or other similar device which will effectively prevent loud or explosive noises. The modification of any noise abatement device on any motor vehicle or engine, or the failure to maintain the same so that the noise emitted by such vehicle or engine is increased above that emitted by such vehicle or engine as originally manufactured shall be in violation of this section.
8. The erection, excavation, demolition, alteration or repair of any building, or premises in any part of the township, and including streets and highways, in such a manner so as to emanate noise, or disturbance unreasonably annoying to other persons, other than between the hours of 7:00a.m., and sundown on any day, except in cases of urgent necessity in the interest of public health and safety. In such case, a permit shall be obtained from the building inspector, or ordinance enforcement officer of the township, which permit shall limit the periods that the activity may continue.
9. The creation of a loud or excessive noise unreasonably disturbing to other persons in the vicinity in connection with the operation, loading or unloading of any vehicle, trailer, railroad car or other carrier or in connection with the repair of such vehicle in or near residential areas.
10. The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention to any performance, show, sale display or for any commercial purpose, whether for advertising or not, which, by the creation of said noise, shall be unreasonably disturbing to other persons in the vicinity.
11. The operation of any loudspeaker or other sound amplifying device upon any vehicle on the streets of the township, whether for the purpose of advertising or not, where such vehicle, speaker or sound amplifying device emits loud and raucous noises readily heard from nearby adjoining residential properties.
12. The operation of any machinery, equipment or mechanical device so as to emit unreasonably loud noise which is disturbing to the quiet comfort, and repose of any person.

(C) Exceptions. None of the prohibitions hereinbefore enumerated shall apply to the following:

1. Any police vehicle, ambulance, fire engine or emergency vehicle while engaged in necessary emergency activities.
2. Excavation or repair of bridges, streets or highways, or other property by or on behalf of the State of Michigan, the County of Genesee or the Charter Township of Flushing, between sundown and 7:00a.m., where the public health, safety, welfare and convenience render it impossible to perform such work during other hours.
3. Warning devices emitting sound for warning purposes as authorized by law.
4. The use of any drum, loudspeaker or other instrument or device used at the premises at which goods are sold in commemoration or celebration of, or in connection with a public holiday or occasion, where said use is not interspaced with advertising, and the display or sale of goods or merchandise is not being promoted by the use of said devices.

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5. The use of loudspeaker, musical instrument or other sound amplifying device in connection with any athletic event, school marching band exercise (both practice and competitive), or recreational event, or parade held on public playgrounds, athletic fields, streets or public parks, where the event or parade is held with the consent of township authorities or the authority of any school board. Notwithstanding this provision, band practice shall not be held past 9:00 p.m.

6. Aircraft and trains.

(Ord. No. 47-B, § 4, 8-26-93)

Note-In addition to those specified violations of this article as contained in Sec. 1-4 hereinabove, any noise in excess of the maximum decibel limits according to the regulations stated below is also deemed to be a violation of this article.

### **Sec. 19-39. Anti-noise regulations based upon dB(A) criteria.**

- (A) Regulations for decibel measurements of noise originating from private properties. Noise radiating from all properties or buildings, as measured from the real property boundaries, which is in excess of the dB(A) established for the zoning district and times herewith listed shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this article. Violations shall exist when the source or sources of noise exceed the following limitations:

<i>Zoning Districts</i>	<i>Limitations 7a.m.-10p.m.</i>	<i>Limitations 10p.m.-7a.m.</i>
Residential (and any area within 500 ft. of any dwelling under separate ownership)-	55 dB(A)	50 dB(A)
Agricultural (where at least 500 feet from any dwelling under separate ownership commercial and industrial)-	65 dB(A)	55 dB(A)

Where property is partly in two (2) zoning districts or adjoins the boundary of a zoning district, the dB(A) levels of the zoning district of the property where the noise emanating from shall control.

The following exceptions shall apply to these regulations under subsection (A):

1. Construction projects shall be subject to the maximum permissible noise levels specified for industrial districts as long as a valid building permit has been issued by the township and is currently in effect.
2. Noises occurring between 7:00 a.m. and sundown caused by home or building repairs, or from maintenance of grounds are excluded, provided said noise does not exceed the limitations specified in subsection (A) by more than 20 dB(A).
3. Noises emanating from the discharge of firearms are excluded, provided the discharge was authorized under Michigan Law and all local ordinances.
4. Any commercial, agricultural or industrial use of property which exists now or in the future as a legal nonconforming use (as defined in the township zoning ordinance, section 20-70) shall be allowed to emit noise in excess of these limitations for the particular zoning classification where the use is located, provided that such noise does not exceed either of the following limitations:
  - (a) A noise level emitted by such use at the time it became a legal nonconforming use as a result of the enactment of an amendment of the township zoning ordinance, if available.

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- (b) The limitations contained herein based upon such a use being located in the highest zoning district (either commercial, industrial or agricultural) where such a use is specifically allowed as a permissible use.

(B) Regulations for decibel measurement of motor driven vehicles on public roads. All noise emitted from motor driven vehicles upon public roads shall be measured whenever possible at a distance of at least fifty (50) feet from a noise source located within the public right-of-way. If measurement at fifty (50) feet is not feasible, measurement may be made at twenty-five (25) feet and if this is done, six (6) dB(A) shall be added to the limits as provided below. All such noise in excess of the dB(A) as provided herein shall be prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area and is therefore in violation of this article.

<i>Vehicle</i>	<i>Weight</i>	<i>Limitations</i>
Trucks and buses	over 10,000 lbs. GVW	82 dB(A)
Trucks and buses	under 10,000 lbs. GVW	74 dB(A)
Passenger cars	any weight	74 dB(A)
Motorcycles, snowmobiles & minibikes	any weight	82 dB(A)
All other self-propelled motor vehicles	any weight	74 dB(A)

(C) Measurement of noise. All measurements of dB(A) according to subsection (A) and (B) of this section shall be made by using a sound level meter of standard design and operated on the "A" weight scale, with "slow" meter response.

(Ord. No. 47-B, § 5, 8-26-93)

### **Sec. 19-40. Violation.**

A violation of Chapter 16 of the Code shall be a township civil infraction.

(Ord. No. 61-3-94, § 5, 10-27-94)

### **Sec. 19-41. Violation where responsible party cannot be determined.**

If the person responsible for the activity which violates this chapter cannot be determined, the owner, lessee or occupant of the property of which the activity is located shall be deemed responsible for the violation. A person found responsible under this section for a violation of this chapter shall be guilty of a township civil infraction.

(Ord. No. 61-3-94, § 6, 10-27-94)

### **Secs. 19-42 - 19-60. Reserved.**

## Article 3     **Junk**

### **Sec. 19-61. Legislative findings.**

It is hereby determined that there exists on privately owned parcels of land within the township accumulations of junk, junk cars and/or garbage and such accumulation of junk, junk cars and/or garbage constitute a hazard to the public health, safety and welfare of the residents of the township for the reasons that they provide a habitat conducive to breeding and nesting of rats, mice and other vermin and also that they contain objects with sharp edges and other hazards which could injure small children who would be attracted to play thereon without appreciating the danger thereof, and that the regulations contained in this article are the minimum regulations required to eliminate the foregoing undesirable conditions and protect the public health, safety and welfare.

(Or d. No. 54,-§ I, 9-28-89)



**Sec. 19-62. Definitions.**

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

*Garbage* means any accumulation of trash, refuse or litter, specifically including, but not limited to, containers once containing edible, drinkable or usable materials, as well as dead animals (or parts thereof) and discarded edible or drinkable items.

*Junk* means any unused or unusable building materials, furniture, machinery, appliances, or parts thereof, including junk motor vehicles.

*Junk motor vehicle* means any motor vehicle which is in such condition of disrepair that it shall not be legally operable upon public roads of this state or which is unlicensed for a period of six (6) months or longer after the last days of licensing of motor vehicles in the state.

*Recreational vehicle* means any vehicle which is not an automobile, truck, or other device primarily used for transport on public highways, including but not limited to, boats, motorhomes, travel trailers, recreational vehicle trailers, campers, truck toppers, ATVs, snowmobiles, jet skis, motorcycles, motor bikes, and motorized carts.

(Ord 12-62 of 2014)

*Rubbish* means wastepaper, tinware, or aluminum ware, tin or aluminum cans, tin or aluminum cuttings, boxes, glass, straw, shavings, barrels, lumber, paper cartons, brush, lawn cuttings and hedge trimmings.

(Ord. No. 54, § II, 9-28-89)

**Sec. 19-63. Storage of junk.**

No owner, occupant or possessor of land within the township shall keep or permit to be kept, at any time, on such parcel any accumulation of junk, unless the same is within a completely enclosed building.

(Ord. No. 54, § III(A), 9-28-89; Ord. No. 54-B, 2-25-93; Ord. No. 54-D, 1-13-94)

**Sec. 19-64. Storage of rubbish and garbage.**

No owner, occupant or possessor of land in the township shall keep or permit to be kept at any time on such parcel any rubbish or garbage unless the same is kept within a closely covered can or other metal, plastic or rubber container designed for same and sufficient to prevent entry of rats, mice or other vermin.

(Ord. No. 54, § III, 9-28-89)

**Sec. 19-65. Storage of junk motor vehicles (automobiles) restricted.**

(A) Except as provided below, no junk motor vehicle (automobile) shall be kept for any period of thirty (30) days or longer upon any premises within the township, which premises are not a licensed junk yard of which premises are not a public motor vehicle repair garage regularly used and occupied, as a legal commercial public motor vehicle repair garage.

(B) This section shall not prohibit the keeping of farm tractors or other motorized farm equipment upon any farm on which such tractor or farm equipment is regularly used for farming operations nor shall it prohibit the keeping of motorized construction equipment upon commercial premises legally devoted to such construction business if such construction equipment is regularly used or in a usable condition.

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- (C) No owner, occupant or possessor of land within the Township shall keep or permit to be kept at any time on such land, any recreational vehicle unless the recreational vehicle is properly stored, as provided in this ordinance. In addition, a recreational vehicle may be kept in the rear yard (as defined in Sec. 36-200 of the Charter Township of Flushing Zoning Ordinance) and only in the rear yard if the frontage of the property is less than 125 feet. If the frontage of the property is equal to or more than 125 feet, the recreational vehicle may be kept in the rear yard or the side yard as defined in the zoning ordinance. A recreational vehicle may be kept on a driveway for a period of appropriate seasonal use, provided, as located on the driveway, the recreational vehicle is a minimum of one hundred (100) feet from any window or door of any residence adjoining or across the street from the property where the vehicle is kept. Any violation of Section 19-65 (C), as amended, shall be a misdemeanor punishable by fine not to exceed Five Hundred Dollars (\$500) and/or imprisonment not to exceed 90days.

(Ord 12-63(3) of 2014)

- (D) The owner, occupant or possessor of land within the township may keep and store no more than four (4) junk motor vehicles (automobiles) upon the following conditions:

1. The owner, occupant or possessor of the land on which the junk vehicles (automobiles) are stored intends to repair or restore same or to use all or part of the stored junk vehicles (automobiles) in the repair or restoration of other vehicles (automobiles).
2. The issuance of a permit by the township police department setting forth that the junk vehicles (automobiles), as described in the permit, may be stored within an area enclosed by a six-foot high privacy fence, which prevents the junk motor vehicles (automobiles) from being visible outside the storage area.

Note-Fence construction requires permit from the building department.

3. The storage area shall consist of an area no larger than eight hundred (800) square feet, located in the back yard of the premises and located a minimum of twenty-five (25) feet from the back lot line and each side lot line of the premises.
4. Requests for a permit shall be submitted annually in writing to the police department and shall include the applicant's name, address and telephone number, and proof of ownership; a description of the junk motor vehicles (automobiles) to be stored including VIN number; the address of the premises where the junk motor vehicles are to be stored and a diagram of the specific area on the premises where the junk motor vehicles are to be stored; and a statement as to the intended final disposition of each junk motor vehicle. A non-refundable application fee established by the Township Board shall be paid to the township police department when the application is submitted. Fees shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
5. Upon receipt of the application, the township police department shall review the application and inspect the premises and storage area and, if the police department finds the junk motor vehicles to be stored within the proposed storage area will not be visible from the outside of the storage area and that the storage of the junk motor vehicles will not pose a threat to the public health, safety and welfare, the township police department may issue a permit. The permit shall be good for a period of one (1) year. The permit may be renewed at the discretion of the police chief, but only, if

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reasonable progress toward the repair or restoration of the junk motor vehicles was made during the period of the prior permit.

(Ord. No. 54, § IV; 9-28-89; Ord. No. 54-D, 1-13-94)

### **Sec. 19-66. Abandoned vehicles.**

Abandoned vehicles are covered under state law, MCL 257.252a, MSA 9.1952(1).

(Ord. No. 54-A, 11-9-89)

### **Sec. 19-67. Violation.**

A violation of Sec. 19-61 through Sec. 19-66 of the Code shall be a township civil infraction.

(Ord. No. 61-3-94, § 7, 10-27-94)

## **Chapter 20**

### **Civil Infractions, Generally**

#### **Article 1      General**

##### **Sec. 20-1. Pistol license.**

As of the effective date of this section [April 1, 1992], the chief of police of the township police department may issue to any qualified applicant a license to purchase, carry, or transport a pistol. To obtain such a license, the applicant must meet the criteria set forth in MCL 28.422 of Michigan State Statutes, and any other laws or regulations which govern the issuance of such licenses and shall pay to Flushing Township a fee, not to exceed five dollars (\$5.00) with each application submitted for such license, for the actual and necessary expense of processing such application. All aspects of the licensing process shall be conducted in conformity with the requirements of MCL 28.422 and any laws or regulations governing such licensing procedures.

(Ord. No. 53-A, § 1, 2-13-92)

##### **Sec. 20-2. - 20-80. Reserved.**

#### **Article 2      Civil Infractions**

##### **Sec. 20-81.      Definitions.**

As used in this article:

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

*Authorized township official* means a township police officer, the township building inspector, the zoning administrator, the code enforcement official, the township supervisor or any other township employee specially designated in writing by the township supervisor to issue township civil infraction citations or township civil infraction violation notices.

*Bureau* means the township ordinance violations bureau as established by this article.

*Township civil infraction action* means a civil action in which the defendant is alleged to be responsible for a township civil infraction.

*Township civil infraction citation* means a written complaint or notice prepared by an authorized township official, directing a person to appear in court regarding the occurrence or existence of a township civil infraction violation by the person cited.

*Township civil infraction violation notice* means a written notice prepared by an authorized township official, directing a person to appear at the ordinance violations bureau and to pay the fine and costs, if any, prescribed for the violation by the schedule of civil fines adopted by the township, as authorized under section 8396 and 8707(6) of the act.

(Ord. No. 61-1-94, § 1, 10-27-94)

##### **Sec. 20-82.      Township civil infraction action; commencement.**

A township civil infraction action may be commenced upon the issuance by an authorized township official with respect to an ordinance violation designated a civil infraction, of (1) a township civil infraction citation directing the alleged violator to appear in court; or (2) a township civil infraction violation notice directing the alleged violator to appear at the ordinance violations bureau.

(Ord. No. 61-1-94, § 2, 10-27-94)

**Sec. 20-83. Township civil infraction citations-Issuance and service.**

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

- (A) The time for appearance specified in a citation shall be within a reasonable time after the citation is issued.
- (B) The place for appearance specified in a citation shall be the district court.
- (C) Each citation shall be numbered consecutively and shall be in a form approved by the state court administrator. The original citation shall be filed with the district court. Copies of the citation shall be retained by the township and issued to the alleged violator as provided by section 8705 of the act.
- (D) A citation for a township civil infraction signed by an authorized township official shall be treated as made under oath if the violation alleged in the citation occurred in the presence of the official signing the complaint and if the citation contains the following statement immediately above the date and signature of the official: "I declare under the penalties of perjury the statements above are true to the best of my information, knowledge and belief."
- (E) An authorized township official who witnesses a person commit a township civil infraction shall prepare and subscribe, as soon as possible and as completely as possible, an original and required copies of a citation.
- (F) An authorized township official may issue a citation to a person if:
  - 1. Based upon investigation, the official has reasonable cause to believe that the person is responsible for a township civil infraction; or
  - 2. Based on investigation of a complaint by someone who allegedly witnessed the person commit a township civil infraction, the official has reasonable cause to believe that the person is responsible for an infraction and if the prosecuting attorney or township attorney approved in writing the issuance of the citation.
- (G) Township civil infraction citations shall be served by an authorized township official as follows:
  - 1. Except as provided by subsection 2. below, an authorized township official shall personally serve a copy of the citation upon the alleged violator.
  - 2. If the township civil infraction action involves the use or occupancy of land, a building or other structure, a copy of the citation does not need to be personally served upon the alleged violator, but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the citation shall be sent by first-class mail to the owner of the land, building or structure at the owner's last known address.

(Ord. No. 61-1-94, § 3, 10-27-94)

**Sec. 20-84. Same-Contents.**

- (A) A township ordinance citation shall contain the name and address of the alleged violator, the township civil infraction alleged, the place where the alleged violator shall appear in court, the telephone number of the court, and the time at or by which the appearance shall be made.
- (B) Further, the citation shall inform the alleged violator that he or she may do one of the following:

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1. Admit responsibility for the township civil infraction by mail, in person, or by representation, at or by the time specified for appearance.
2. Admit responsibility for the township civil infraction "with explanation" by mail by the time specified for appearance or, in person, or by representation.
3. Deny responsibility for the township civil infraction by doing either of the following:
  - (a) Appearing in person for an informal hearing before a judge or district court magistrate, without the opportunity of being represented by an attorney, unless a formal hearing before a judge is requested by the township.
  - (b) Appearing in court for a formal hearing before a judge, with the opportunity of being represented by an attorney.

(C) The citation shall also inform the alleged violator of all of the following:

1. That if the alleged violator desires to admit responsibility "with explanation" in person or by representation, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time for an appearance.
2. That if the alleged violator desires to deny responsibility, the alleged violator must apply to the court in person, by mail, by telephone or by representation within the time specified for appearance and obtain a scheduled date and time to appear for a hearing, unless a hearing date is specified on the citation.
3. That a hearing shall be an informal hearing, unless a formal hearing is requested by the alleged violator of the township.
4. That at an informal hearing the alleged violator must appear in person before a judge or district court magistrate, without the opportunity of being represented by an attorney.
5. That at a formal hearing the alleged violator must appear in person before a judge with the opportunity of being represented by an attorney.

(D) The citation shall contain a notice in boldfaced type that the failure of the alleged violator to appear within the time specified in the citation or at the time scheduled for a hearing or appearance is a misdemeanor and will result in entry of a default judgment against the alleged violator on the municipal civil infraction.

(Ord. No. 61-1-94, § 4, 10-27-94)

### **Sec. 20-85. Township ordinance violations bureau.**

- (A) *Established.* The Charter Township of Flushing hereby establishes an ordinance violations bureau ("bureau") as authorized under section 8396 of the act to accept admissions of responsibility for township civil infractions in response to township civil infraction violation notices issued and served by authorized township officials, and to collect and retain civil fines and costs as prescribed by this Code or any ordinance.
- (B) *Location; supervision; employees; rules and regulations.* The bureau shall be located at the Flushing Township Hall and shall be under the supervision and control of the township supervisor. The township supervisor, subject to the approval of the township board, shall adopt rules and regulations for the operation of the bureau and appoint any necessary qualified township employees to administer the bureau.

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- (C) *Disposition of violations.* The bureau may dispose only of township civil infraction violations for which a fine has been scheduled by ordinance and for which township civil infraction violation notice (as compared with a citation) has been issued. Nothing in this article shall prevent or restrict the township from issuing a township civil infraction citation for any violation or from prosecuting any violation in a court of competent jurisdiction. No person shall be required to dispose of a township civil infraction violation at the bureau and the alleged violator may have the violation processed before a court of appropriate jurisdiction. The unwillingness of any person to dispose of any violation at the bureau shall not prejudice the person or in any way diminish the person's rights, privileges and protection accorded by law.
- (D) *Bureau limited to accepting admissions of responsibility.* The scope of the bureau's authority shall be limited to accepting admissions of responsibility for township civil infractions and collecting and retaining civil fines and costs as a result of those admissions. The bureau shall not accept payment of a fine from any person who denies having committed the offense or who admits responsibility only with explanation, and in no event shall the bureau determine or attempt to determine, the truth or falsity of any fact of matter relating to an alleged violation.
- (E) *Township civil infraction violation notices.* Township civil infraction violation notices shall be issued and served by authorized township officials under the same circumstances and upon the same persons as provided for citations as provided in Sec. 20-83(F) and (G) of this article. In addition to any other information required by this article, the notice of violation shall indicate the time by which the alleged violator must appear at the bureau, the methods by which an appearance may be made, the address and telephone number of the bureau, the hours during which the bureau is open, the amount of the fine scheduled for the alleged violation, and the consequences for failure to appear and pay the required fine within the required time.
- (F) *Appearance; payment of fines and costs.* An alleged violator receiving a township civil infraction violation notice shall appear at the bureau and pay the specified fine and costs at or by the time specified for appearance in the township civil infraction violation notice. An appearance may be made by mail, in person or by representation.
- (G) *Procedure where admission of responsibility not made or fine not paid.* If an authorized township official issues and serves a township ordinance violation notice and if an admission of responsibility is not made and the civil fine and costs, if any, prescribed by the schedule of fines for the violation are not paid at the bureau, a township civil infraction citation shall be filed with the district court and a copy of the citation may be served by first-class mail upon the alleged violator at the alleged violator's last known address. The citation filed with the court does not need to comply in all particulars with the requirements for citations as provided by sections 8705 and 8709 of the act, but shall consist of a sworn complaint containing the allegations stated in the township ordinance violation notice and shall fairly inform the alleged violator of how to respond to the citation.

(Ord. No. 61-1-94, § 5, 10-27-94)

Cross references-Ordinance enforcement officer, § 2-56 *et seq.*; boards and commission, § 2-81 *et seq.*

### **Sec. 20-86. Penalty.**

Civil fines for township civil infractions whether paid at the ordinance violations bureau upon an admission of responsibility or upon a formal or informal hearing before a judge or district court magistrate shall be set forth by ordinance. Failure of an alleged violator to appear within the

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time specified in the citation or at the time scheduled for hearing or appearance shall be a misdemeanor and the penalty shall be as provided in Sec. 1-10 of the Code of Ordinances of the Charter Township of Flushing.

(Ord. No. 61-1-94, § 6, 10-27-94)

**Secs. 20-87 - 20-100. Reserved.**





## **Chapter 21      Offences on School Property**

### **Sec. 21-1.      Defacing buildings.**

No person shall mark with any substance, or in any other manner deface or do damage to any building owned, occupied, or otherwise used as a school within the township.

(Ord. No. 24, § 1, 3-8-73)

State law reference-Malicious mischief, MCL 750.377 *et seq.*, MSA 28.609 *et seq.*

### **Sec. 21-2.      Damage to fixtures.**

No person shall mark with any substance, or in any other manner deface or do damage to any fence, tree, lawn or other fixture situated on lands owned, occupied or otherwise used by a school within the township.

(Ord. No. 24, § 2, 3-8-73)

State law reference-Malicious mischief, MCL 750.377 *et seq.*, MSA 28.609 *et seq.*

### **Sec. 21-3.      Disturbing schools.**

No person, while on public or private grounds adjacent to any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such school session or class thereof.

(Ord. No. 24, § 3, 3-8-73)

State law reference-Disturbing public places, MCL 750.170, MSA 28.367.

### **Sec. 21-4.      Disturbing gatherings.**

No person while on public or private lands adjacent to any building or lands owned, occupied or otherwise used by a school within the township in or on which any gathering or function is in progress, whether in the day or nighttime, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to disturb the peace, quiet or good order of such gathering or function.

(Ord. No. 24, § 4, 3-8-73)

State law reference-Disturbing public places, MCL 750.170, MSA 28.367.

### **Sec. 21-5.      Indecent language.**

(A) No person, while in any building owned, occupied or otherwise used by a school within the township shall utter any profane, indecent or unlawful language towards any person or while within the hearing of any other person.

(B) No person, while on any lands owned, occupied or otherwise used by a school within the township shall utter any profane, indecent or unlawful language towards any person or while within the hearing of any other person.

(Ord. No. 24, §§ 5, 6, 3-8-73)

State law reference-Indecent language, MCL 750.103, 750.337.

### **Sec. 21-6.      Admission restricted.**

(A) No person, who is not a student required to be in attendance at that school, a teacher, administrator, custodian or employee of the school, shall, during school hours, remain within

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the school or upon school grounds without securing the permission of the principal or person in charge of the school.

- (B) No person, student or otherwise, shall remain upon school grounds or within a school owned, occupied or used by any school within the township after being ordered to leave by any teacher or administrator of the school or other person given such authority by the board of education administering the school.

(Ord. No. 24, §§ 7, 8, 3-8-73)

State law reference-Trespassing, MCL 750.546 *et seq.*

### **Sec. 21-7. Parking.**

No person shall cause a motor vehicle to be parked or to remain standing upon the grounds of any school located within the township, unless the person, at the time of causing the motor vehicle to be parked or to remain standing upon the school grounds, is attending to activities which are a part of the school's operations, or attending to other activities authorized by school officials which are taking place upon the school grounds.

(Ord. No. 24-A, §Sa, 1-24-83)

### **Sec. 21-8. Loitering.**

No person, except those persons attending to activities which are a part of school operations or attending other activities authorized by school officials and taking place upon school grounds, shall remain loitering or standing upon the school grounds of any school located within the township.

(Ord. No. 24-A, § Sb, 1-24-83)

State law reference-Certain loiterers deemed disorderly persons, MCL 750.167.

### **Sec. 21-9. Alcoholic liquor.**

No person shall consume alcoholic liquors or beer upon the school grounds of any school located within the township and it shall be unlawful for any person to have in his possession or under his control any alcoholic liquors or beer while upon the grounds of any school located within the township without first securing permission of school authorities.

(Ord. No. 24-A, § Sc, 1-24-83)

### **Sec. 21-10. Violation as civil infraction.**

Violation of Sec. 21-7, Sec. 21-8 or Sec. 21-9 shall be a civil infraction punishable by a fine not to exceed one hundred dollars (\$100.00). The penalties set forth in Sec. 21-11 shall apply to violations of this chapter.

(Ord. No. 24-A, § Sd, 1-24-83)

### **Sec. 21-11. Penalty.**

Any person or persons violating any of the provisions of this article shall, upon conviction thereof, be sentenced to pay a fine not exceeding five hundred dollars (\$500.00) or by imprisonment for not more than ninety (90) days in the county jail, or by both such fines and imprisonment, in the discretion of the court.

(Ord. No. 24, § 9, 3-8-73)

### **Sec. 21-12. 21-50. Reserved.**

## **Chapter 22     Solicitation**

### **Sec. 22-1.     Purpose.**

- (A) For purposes of this Ordinance “business” is defined as the sale of goods or services or any marketing activity conducted for the sale of goods or services. Business does not include the sale or marketing of goods or services undertaken by a school, school students, or parents of students, police department, fire department, or other governmental entity or any recognized non-profit or charitable organization, if the sale of goods or services is undertaken as a fund raiser for the benefit of the governmental entity, non-profit or charitable organization.

### **Sec. 22-2.     Permit process.**

- (A) No individual, group, or entity shall conduct or solicit business door-to-door in Flushing Township without first obtaining a permit from the Township Clerk.
- (B) An application for a permit under this Ordinance shall be made at the Township Clerk's office upon forms provided by the Township. The application shall be dated and signed by an adult and filed with the Township Clerk at least 24 hours prior to the time in which the permit applied for shall become effective. The application shall require the following information:
1. The name and permanent address or headquarters of the person applying for the permit.
  2. If the applicant is not an individual, the names and addresses of the applicant's principal officers and managers.
  3. The name and address of the person or persons who will be in direct charge of conducting the door-to-door business activity.
  4. The dates and times at which the business solicitation will be conducted and the locations within the Township at which the business solicitation will be conducted.
  5. A brief description of the nature of the business solicitation.
- (C) The Township Clerk shall examine each application filed under this Ordinance for a permit and shall make such further investigation on the application and the applicant as the Township Clerk shall deem necessary. The Township Clerk shall issue the permit only if the Township Clerk is satisfied the information set forth on the application is true and accurate and the applicant is not engaged in any fraudulent transaction or enterprise.
- (D) Before a permit is issued, the applicant shall pay to the Township a permit fee in an amount to be established by resolution of the Board, as adopted from time to time. Permits shall be effective for six months from date of issuance. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
- (E) Government, non-profit, or charitable organization.
- (F) Any governmental, non-profit, or charitable organization which engages in any door-to-door sales or other fund raising activity shall notify the Township Clerk, in writing, at least 24 hours prior to the start of the fund raising activity. The written notice shall provide the Clerk with the name of the organization; name, address and telephone number of the individual within the organization who will be in charge of the fund raising activity; estimated number of persons who will be engaged in the fund raising activity; a brief statement of the nature of

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the fund raising activity; the area of the Township in which the fund raising activity will be conducted; and, the dates and times during which the fund raising activity will be conducted. The notice shall not exceed an effective period of fourteen (14) days.

- (G) Any individual or entity which distributes printed material or other information door-to-door, or seeks to poll or otherwise obtain information door-to-door, or which goes door-to-door for any purpose, except the purposes identified in Section H of this Ordinance, shall notify the Township Clerk, in writing, at least 24 hours prior to the start of the door-to-door activity. The notice shall set forth the same information as required in Section F of this Ordinance. The notice shall not exceed an effective period of fourteen (14) days.
- (H) Except for Section J, the requirements of this Ordinance shall not apply to the following:
1. Going door-to-door for purposes of providing or obtaining information regarding any political campaign, ballot question, or any other matter reasonably related to any aspect of government, public affairs, or matters of general public concern.
  2. Going door-to-door to provide information or to solicit information regarding any church or religion.
  3. Any door-to-door activity which is not related to the conduct of business and which does not involve knocking on the door or otherwise attempting to cause the occupants to come to the door. For example, leaving flyers door-to-door advertising an event conducted by a non-profit or charitable organization.
- (I) This Ordinance shall not be interpreted to prohibit or to require permits or prior notification of any door-to-door contacts or solicitation by an individual or group engaged in religious expression.
- (J) No door-to-door activity shall be conducted prior to 10:00 a.m., or after 7:00 p.m. No business activity shall be conducted at any time on Sunday, or on the following holidays: New Years Day, President's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day, and New Years Eve.
- (K) Violation of this Ordinance shall be a misdemeanor, conviction of which shall subject the violator to a maximum fine not to exceed five hundred dollars (\$500) and/or up to ninety (90) days in the county jail.
- (Ord. No. 17-2 8-10-2017)

## Chapter 23     Fireworks

### **Sec. 23-1.     Name**

This Ordinance shall be known as the 2020 Flushing Township Fireworks Ordinance.

### **Sec. 23-2.     Purpose**

In the interest of maintaining public health, safety and the general welfare, Flushing Township hereby provides for the regulation and use of fireworks in Flushing Township, as provided in PA 256 of 2011, as may be amended, MCL 28.451, et seq., and repeals all ordinances or parts of ordinances in conflict, including Sec. 23-9 of the Code of Ordinances.

### **Sec. 23-3.     Definitions**

For purposes of this Ordinance, the following definitions apply:

- (A) Articles pyrotechnic: Pyrotechnic devices for professional use that are similar to consumer fireworks in the chemical composition and construction, but not intended for consumer use, that meet the weight limits for consumer fireworks, but are not labeled as such, and that are classified as UN0431 or UN0432 under 49 CFR 172.101.
- (B) APA: American Pyrotechnics Association
- (C) Consumer fireworks: 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.
- (D) Department: Department of Licensing and Regulatory Affairs (LARA), for the State of Michigan.
- (E) Display fireworks: Large fireworks devices that are explosive materials intended for use in fireworks displays and are designed to produce visible or audible effect by combustion, deflagration, or detonation as provided in 27 CFR 555. 11, 49 CFR 162 and APA standard 87-1, 4.1
- (F) Firework or fireworks: Any composition or device, except for a starting pistol, a flare gun or flare, designed for the purpose of producing a visible or audible effect by combustion, deflagration or detonation. Fireworks consist of consumer fireworks, homemade fireworks, low-impact fireworks, articles pyrotechnic, display fireworks and special effects.
- (G) Homemade fireworks. Any composition or device designed for the purpose of producing visible or audible effects by combustion, deflagration, or detonation that is not produced by commercial manufacturer or does not comply with construction, chemical composition, and labeling regulations of the United States Consumer Product Safety Commission under 16 CFR Parts 1515 and 1507.
- (H) Low-impact fireworks means ground and handheld sparkling devices as that phrase is defined under APA standard 87-1, 3.1, 3.1.1.1 to 3.1.1.8 and 3.5.
- (I) Minor: Individual who is less than 18 years old.
- (J) National holiday: A national holiday is defined in 5 USC 6103 and includes: New Year's Day, Martin Luther King, Jr., Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day and Christmas Day.
- (K) NFPA: National Fire Protection Association.

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(L) Novelties: As defined under APA Standard 87-1, 3.1, 3.2.1, 3.2.2, 3.2.3, 3.2.4 and 3.2.5 and all of the following:

1. Toy or paper caps for toy pistols in sheets, strips, roles or individual caps containing not more than .25 of a grain of explosive content per cap, in packages label to indicate the maximum explosive content per cap.
2. Toy pistols, toy cannons, toy canes, toy trick noisemakers and toy guns in which toy caps as described in the above paragraph are used, that are constructed so that the hand cannot come in contact with the cap when in place for the explosion, and that are not designed to break apart or be separated so as to form a missile by the explosion.
3. Flitter Sparklers and paper tubes not exceeding 1/8 inch in diameter.

(M) Person: Individual, agent, association, charitable organization, company, limited liability company, corporation, labor organization, legal representative, partnership, unincorporated organization or any other legal or commercial entity.

(N) Special effects: A combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere and designed and intended to produce an audible, visual, mechanical or thermal effect as an integral part of a motion picture, radio, television, theatrical or opera production or live entertainment.

### **Sec. 23-4. Novelties**

This ordinance does not apply to and does not regulate the use of Novelties.

### **Sec. 23-5. Consumer Fireworks. Possession, Use, Ignition or Discharge of Fireworks.**

(A) Permitted Times of Use. A person shall not ignite, discharge or use fireworks except on the following days after 11 AM:

1. December 31 until 1 AM on January 1
2. The Saturday and Sunday immediately preceding Memorial Day until 11:45 PM on each of those days.
3. June 29 through July 4, at 11:45 PM on each of those days
4. July 5, if that date is a Friday or Sunday, until 11:45 PM
5. The Saturday and Sunday immediately preceding Labor Day until 11:45 PM on each of those days.

(B) Minors. A Minor shall not possess, ignite, discharge or use fireworks.

(C) Prohibited Locations. A person shall not ignite, discharge or use consumer fireworks on public property, school property, church property, or property of another person, without the organization's or person's express permission to be on or use fireworks on that property.

(D) Use Under the Influence Prohibited. An individual shall not possess, ignite, discharge or use fireworks under the influence of alcoholic liquor, a controlled substance, or any substance or substances that affects the individual's ability to properly handle fireworks.

(E) Reckless Use Prohibited. An individual shall not possess, ignite, discharge or use fireworks to damage or destroy property, or use the same in a reckless disregard for the safety of other persons or property.

**Sec. 23-6. Articles Pyrotechnic and Display Fireworks**

- (A) The Township Board may permit articles pyrotechnic, display fireworks and special effects fireworks in Flushing Township, pursuant provisions of MCL 28.451, et seq., and this Ordinance.
- (B) Any person wishing to conduct an articles pyrotechnic, display fireworks or special effects display shall, at least 45 days prior to any display, submit an application on a form furnished by the Township, pay the required fee and shall secure permission from the Township Board prior to any such fireworks display. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
- (C) A site plan of the area where the articles pyrotechnic, display fireworks and special-effects displays are to be conducted shall be submitted with the application. The site plan shall set forth all structures in the area and within the discharge site fallout area and accurately depict the distance separating any fireworks storage and ignition areas from any spectator viewing areas. The site plan shall be forwarded to the Fire Chief and/or his designated alternate for approval, including any recommended conditions, prior to coming before submission of the application to the Township Board for approval.
- (D) A copy of any required state or federal permit for the fireworks display shall be submitted with the application.
- (E) Proof of insurance conforming to the requirements of this Ordinance and 2013 PA 65 shall be submitted with the application.
- (F) The application shall include information as to the competency and qualifications of the fireworks display operator, as required by NFPA 1123.
- (G) The Township Board may approve an application for an articles pyrotechnic, display fireworks or special effects display if it finds all of the following standards are satisfied:
  - 1. The application and accompanying documentation are complete and conform to the requirements of this Ordinance.
  - 2. The operator of the fireworks display is competent and qualified to conduct the display, pursuant to NFPA 1123.
  - 3. The Fire Chief and/or his/her designated alternate has approved the application and site plan.
  - 4. The fireworks display will not have an adverse effect upon public safety.
  - 5. The time, duration, location of the fireworks are special-effects display will not, due to noise and other factors, unreasonably disturb the peace of persons residing within the vicinity or otherwise violate the Township's nuisance ordinance.
  - 6. The Township Board, in approving an application, shall have the authority to impose such conditions as it determines reasonably necessary to assure the fireworks display will satisfy the above standards.
- (H) An articles pyrotechnic, display fireworks or special effects display shall conform to the following requirements:
  - 1. The person conducting the display shall follow NFPA 1123 and/or the Township requirements set forth in this Ordinance or, as a condition to grant of the application, whichever is more restrictive.



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2. A minimum safe area of 250 feet radius, plus an additional 70 feet radius for each inch by which the fireworks shell exceeds 3 inches in diameter shall be required. The Township Board shall have the authority to grant a variance from this requirement where it determines, in its sole discretion, that, given the nature of the site, the nature of the surrounding area and/or the nature of the proposed fireworks display, that a variance will not have a material adverse impact on public safety. In no event, however, shall the applicant fail to comply with the minimum requirements of NFPA 1123.
3. The applicant shall maintain personal injury liability insurance/property damage liability insurance in the amount of \$1 million for each event. The Township shall be named as an additional insured on the insurance policy.
4. The Township board shall not issue a permit to a nonresident person until the person has appointed, in writing, a member of the State Bar or a resident agent to be the person's legal representative upon whom all process in an action or proceeding against the person may be served.
5. The applicant shall be responsible for all shells being fired. In the event one or more shells does not explode, the applicant shall secure the area until the unexploded shell(s) is found and properly disposed of.
6. The consumption of alcohol immediately prior to and during the fireworks display by any person involved in conducting the display is prohibited.
7. A fireworks display conducted hereunder shall conform with all specifications set forth in the approved application and site plan, as well as any conditions imposed by the Township Board in granting such approval.
8. The applicant shall cause the site of the fireworks display to be cleaned up within 24 hours after the fireworks display is ended.
9. A permit is not transferable and shall not be granted to a minor.

### **Sec. 23-7. Penalties.**

A violation of Sec 20-55(A) of this Ordinance is a civil infraction, punishable by a fine of \$1000, \$500 of which shall be paid to the Charter Township of Flushing. A violation of Sec 20-55 (B), (C), (D) or (E) shall be a civil infraction punishable by a fine of not more than \$100 for a first offense, of not more than \$250 for a second offense, and not more than \$500 for a third offense.

### **Sec. 23-8. Severability**

If any section, clause or provision of this Ordinance is declared to be invalid by a court of competent jurisdiction, such determination shall not affect the validity of the provisions of the ordinance not expressly determined invalid.

### **Sec. 23-9. Repeal of Conflicting Ordinances**

All ordinances or part of ordinances in conflict with this Ordinance, including but not limited to Section 13 – 60 of the Code of Ordinances are hereby repealed.

### **Sec. 23-10. Effective Date**

This ordinance shall take effect 30 days after publication following its adoption.

### **Sec. 23-11. – 23-80 Reserved**

## **Chapter 24 Traffic and Motor Vehicles**

### **Article 1 In General**

#### **Sec. 24-1. Definitions.**

*Vehicle* means every devise in, upon, or by which any person or property is or may be transported or drawn up on a highway.

*Police department* means the Police Department of the Township of Flushing.

Registered owner means the person who holds the legal title and/or registration to a vehicle.

*Impoundment* means taking possession of a vehicle within the township and arranging for its removal to and storage at an appropriate location.

*Township* means the Township of Flushing.

(Ord. No. 66-98, § I, 4-23-98)

#### **Sec. 24-2. Fee.**

The township shall charge an impoundment fee to the registered owner of a vehicle, which has been impounded to defray the administration cost of processing and arranging for impoundment of a vehicle. The fee shall be in an amount from time to time established by resolution approved by the township board of trustees. The fee shall be collected by the custodian of the storage location at the time the vehicle is released to the registered owner. The custodian of the storage location shall remit the fee to the township.

(Ord. No. 66-98, § II, 4-23-98)

#### **Sec. 24-3. Waiver of fee.**

The fee provided in Sec. 24-2 may be waived by the chief of police or his designee in those instances where the vehicle was impounded by order of the police department under circumstances involving no unlawful activity.

(Ord. No. 66-98, § III, 4-23-98)

#### **Sec. 24-4. Vehicle release.**

Once a vehicle has been impounded, it shall only be released to the registered owner upon presentation of proof of ownership to the custodian at the storage location. In the event of any dispute relating to release of the vehicle, the registered owner or custodian of the storage location shall contact the police department prior to release of the vehicle.

(Ord. No. 66-98, § IV, 4-23-98)

#### **Sec. 24-5. Impounding of motor vehicles used or under the control of persons charged with certain alcohol related offenses.**

(A) A motor vehicle used or under the immediate control of any person charged with or suspected of committing a violation of Sec. 18-9(A) of the Code of Ordinances (operation of a motor vehicle by a person less than twenty-one (21) years of age with any bodily alcohol content) or a violation of Sec. 18-11 of the Code of Ordinances (the purchase or attempt to purchase, the consumption or attempt to consume, the possession or attempt to possess alcohol by a person less than twenty-one (21) years of age) shall be subject to forfeiture in accordance with the provisions of this section.

- (B) An officer who has reason to believe a motor vehicle is under the control of or is immediately accessible to a person charged with or suspected of violating Sec. 18-15(A) or subsection Sec. 24-5 of the Code of Ordinances may impound such vehicle, if in the opinion of the officer, it would promote the safety of the person charged, the suspect, or the public at large to impound the vehicle. Prior to impound of the vehicle, the officer shall check the vehicle's current registration. If the vehicle is registered to someone other than the person charged with violation of Sec. 18-15(A) or Sec. 24-5; the officer shall attempt to contact the registered owner to make arrangements for the registered owner to take immediate possession of the vehicle. If arrangements cannot be made with the registered owner to take immediate possession of the vehicle or to make other satisfactory arrangements regarding the vehicle, the vehicle may be impounded.
- (C) In the event a vehicle is impounded pursuant to this section, release of the vehicle and payment of impound fees shall be made in accordance with Sec. 24-1 through Sec. 24-4 of this chapter.
- (D) The registered owner of an impounded vehicle, who believes impound of the vehicle was not justified or that mitigating circumstances warrant the owner being excused, in whole or in part, from payment of the impound fee, may request the police chief to waive all or part of the impound fee. The request shall be submitted to the police chief, in writing, no later than thirty (30) days following the date of impound. The police chief shall have the authority to waive all or part of the impound fee. The police chief shall notify the owner in writing of his decision following receipt of the owner's request for review.

(Ord. No. 58-99-2, 11-18-99)

**Sec. 24-6. - 24-25. Reserved.**

## **Article 2 Traffic Codes**

### **Sec. 24-26. Adoption of Uniform Traffic Code by reference.**

The Uniform Traffic Code for Cities, Townships, and Villages as promulgated by the Director of the Michigan Department of State Police pursuant to the Administrative Procedures Act of 1969, 1969 Public Act 306, as amended (MCL 24.201 et seq) and made effective October 30, 2002, including the corrective amendments of November 2003, is hereby adopted by reference. All references in the Uniform Traffic Code to a "governmental unit" shall mean the Charter Township of Flushing.

(Ord. No. 58-5-04, § II, 3-11-04)

### **Sec. 24-27. Adoption of provisions of Michigan Vehicle Code by reference.**

The following provisions of the Michigan Vehicle Code, 1949 Public Act 00, as amended, including, but not limited to the amendments implemented by Public Acts Nos. 61, 134 and 165 of 2003, (MCL 257.1 et seq) are hereby adopted by reference:

- (A) Chapter I (Words and Phrases Defined): MCL 257.1-257.82.
- (B) Chapter II (Administration, Registration): MCL 257.225, 257.228, 257.243, 257.244, 257.255, 257.256.
- (C) Chapter III (Operator's and Chauffeur's License): MCL 257.310e, 257.311, 257.312a, 257.324, 257.325, 257.326, 257.328.
- (D) Chapter VI (Obedience to and Effect of Traffic Laws): MCL 257.601-257.601b, 257.602-257.606, 257.611-257.616, 257.617a-257.622, 257.624a-257.624b, 257.625 (except felony provisions), 257.625a, 257.625m, 257.626-257.626b, 257.627-257.627b, 257.629b,

257.631-257.632, 257.634-257.645, 257.647-257.655, 257.656-257.662, 257.667-257.675d, 257.676-257.682b, 257.683-257.710e, 257.716-257.724.

(E) Chapter VIII (License Offenses): MCL 257.904-257.904a, 257.904e, 257.905.

(Ord. No. 58-5-04, § III, 3-11-04)

**Sec. 24-28. Adoption of other state laws by reference.**

The following provisions of state law are hereby adopted by reference:

(A) Section 3102 of the Michigan Insurance Code of 1956, 1956 Public Act 218, as amended, pertaining to required insurance (MCL 500.3102).

(B) Subchapter 6 of Part 811 of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, pertaining to off-road vehicles (MCL 324.81101-324.81147).

(C) Part 821 of the Natural Resources and Environmental Protection Act, 1994 Public Act 451, as amended, pertaining to snowmobiles (MCL 324.82101-324.82158).

(D) Section 703 of the Michigan Liquor Control Act, 1998 Public Act 58, as amended, pertaining to minors and alcoholic liquor (MCL 436.1703).

(Ord. No. 58-5-04, § IV, 3-11-04)

**Sec. 24-29. Penalties.**

The penalties provided by the Uniform Traffic Code and the provisions of the state laws hereinabove adopted by reference are hereby adopted as the penalties for violations of the corresponding provisions of this article.

(Ord. No. 58-5-04, § V, 3-11-04)

**Sec. 24-30. - 24-70. Reserved.**

### **Article 3 Parking, Stopping, and Standing**

**Sec. 24-71. Definitions.**

Whenever in this article the following terms are used, they shall have the meanings respectively ascribed to them in this section:

*Double parking* means parking a vehicle next to another legally or illegally parked vehicle, in such a manner as to block or impede normal traffic flow.

*Park* means to stand a vehicle, whether occupied or not, for a period of time greater than is reasonably necessary for the actual loading or unloading of persons.

(Ord. No. 34, § 2, 11-1-78)

**Sec. 24-72. Payment of tickets.**

When a parking violation ticket is issued, the violator may present the same, within the time limit stated thereon, to the 67th District Court for the Flushing District, for payment of the prescribed penalty and no further arrest or prosecution of that person shall be had in respect to that particular violation for which the penalty was paid.

(Ord. No. 34, § 1, 11-1-78)

**Sec. 24-73. No parking zones.**

(A) At any time it shall be unlawful to permit any vehicle to park in any of the following manners or places on school properties located in the township.

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1. In any area designated as a "no parking" area by a sign erected by school authorities.
2. In designated fire lanes.
3. Within fifteen (15) feet of a fire hydrant.
4. In any intersection.
5. On sidewalks.
6. In any place where the vehicle would block the use of a driveway.
7. In any place where the vehicle would block a designated emergency exit.
8. In any place designated for handicapped parking.

(B) Fines for violation of this section shall be imposed at the rate of ten dollars (\$10.00) for each separate violation.

(Ord. No. 34, § 3, 11-1-78)

### **Sec. 24-74. Handicapped parking.**

(A) *Generally.* A vehicle shall not be parked in a space clearly identified by an official sign as being reserved for use by handicappers which is on public property or private property available for public use, unless the driver of the vehicle is a handicapper as described in section 19A of the Michigan Vehicle Code (MCL 257.19(a), or unless the person is parking the vehicle for the benefit of a handicapper. In order for the vehicle to be parked in the parking space, the vehicle shall display one of the following:

1. A certificate of identification issued under section 675(5) of the Michigan Vehicle Code (MCL 257.675(5) to a handicapper in the lower left corner of the front windshield.
2. A special registration plate issued under section 803(d) of the Michigan Vehicle Code (MCL 257.803(d) to a handicapper.
3. A similar certificate of identification issued by another state to a handicapper.
4. A similar special registration plate issued by another state to a handicapper.
5. A special registration plate to which a handicapper tab is attached issued pursuant to the provisions of the Michigan Vehicle Code.

(B) *Issuance of citations.* The police chief, or his designee, may implement and administer a program to authorize and utilize persons other than police officers as volunteers to issue citations for violations of subsection (A) above. Before authorizing and utilizing persons other than police officers to issue such citations, the chief of police, or his designee, shall implement a program to train the persons to properly issue citations as provided in this section. A person who successfully completes a program of training implemented pursuant to this section may issue citations as provided in this section and as authorized by the chief of police or his designee.

(C) *Penalty.* A person who violates the provisions of subsection (A) of this ordinance shall be guilty of a civil infraction and shall be fined one hundred dollars (\$100.00).

(Ord. No. 55, §§ 1-3, 12-13-90)

Editor's note-Ordinance No. 55, adopted Dec. 13, 1990, did not specifically amend this Code; hence, inclusion of §§ 1 and 2 of said ordinance as § 21-74 was at the discretion of the editor.

**Sec. 24-75. - 24.85. Reserved.**

**Article 4     Parking Regulations of Vehicles**

**Sec. 24-86.     Title.**

This division shall be known and cited as the "Charter Township of Flushing Parking Ordinance."

(Ord. No. 64, § 1, 2-22-96)

**Sec. 24-87.     Definitions.**

The word "parking" wherever used in this division is defined to mean allowing a vehicle to remain standing with the engine running or engine stopped.

(Ord. No. 64, § 2, 2-22-96)

**Sec. 24-88.     Regulations.**

- (A) No vehicle used in the transportation of inflammable or explosive materials or substances shall be parked within the limits of any road, street or other public place, except supervised public parking lots provided, however, that this restriction shall not apply to the incidental stopping or parking of such vehicle in the carrying out of loading or unloading operations or in the performance of errands incidental to the business use of such vehicles if such vehicle is lighted with at least two (2) white headlights and two (2) red rear lights to constructed and so placed as to be observed under ordinary atmospheric conditions at a distance of not less than five hundred (500) feet.
- (B) No truck, trailer, semi-trailer tractor or other such type vehicle shall be parked at any time within the limits of any road, street or other public place, except public parking lots, for a period greater than one (1) hour, except in cases where actively engaged in the carrying out of loading or unloading operations or in the performance of errands incidental to the business use of such vehicles and only if such vehicle is lighted with two (2) white headlights and two (2) red rear lights so constructed and so placed as to be observed under ordinary atmospheric conditions at a distance of not less than three hundred (300) feet.
- (C) No automobile, truck or other vehicle shall be parked within the limits of any road, street or other public place for the purpose of repairing, remodeling or otherwise working upon such vehicle.
- (D) No automobile, truck or other vehicle other than fire trucks, ambulances or vehicles of law enforcement agencies during the performance of their respective duties, shall be parked or permitted to stand within fifteen (15) feet of any fire hydrant nor nearest curb or edge of the pavement of any intersecting street, nor in front of any crosswalks or driveways, nor in any passenger bus loading zones.
- (E) No automobile, truck or other vehicle shall be parked or allowed to stand within the limits of any street and in a perpendicular position to the curb, except temporarily for loading or unloading.
- (F) No automobiles, trucks or other vehicles shall be parked or permitted to stand within the boundaries of any road or street and within five hundred (500) feet of any building on fire.
- (G) No automobiles, trucks or other vehicles shall be parked further than two (2) feet from the curb line if there is one, and if there is no curb, they shall not be parked within the main traveled portion of the street or roadway.

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- (H) No automobile, truck or other vehicle shall be parked or permitted to stand unless the brakes thereon are in good working order and properly set, nor shall such vehicle be parked or permitted to stand with its motor running, unless a competent operator is in charge and at the controls thereof.
- (I) When signs have been erected by any competent authority designating a "no parking" zone, the parking of any automobile, truck or other vehicle contrary thereto shall be a violation of this division.
- (J) No automobile, truck or other vehicle shall be parked or allowed to stand on the portion of street or roadway between the curb or gutter and the sidewalk nor on any sidewalk or parkway, except during the process of loading and unloading.

(Ord. No. 64, § 3, 2-22-96)

### **Sec. 24-89. Violation; penalties.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this division shall be guilty of a civil infraction and pay a fine not to exceed seventy-five dollars (\$75.00).

(Ord. No. 64, § 4, 2-22-96)

### **Sec. 24-90. – 24-95 Reserved.**

## **Article 5 Speed Limits**

### **Sec. 24-96. General restriction.**

- (A) The maximum rate of speed on any street, highway, expressway or freeway in the township shall not be in excess of the speed limit stated on signs erected beside the street, highway, expressway or freeway and if no sign is erected establishing a maximum speed limit, the maximum rate of speed shall not be more than fifty-five (55) miles per hour.
- (B) It shall be prima facie unlawful for any person to exceed any of the speed limitations set forth in subsection (A) above.
- (C) A person who violates this section is responsible for a civil infraction as defined in the uniform traffic code adopted by the township.

(Ord. No. 41-A, § III, 5-19-82)

### **Sec. 24-97. Reasonable, prudent rule.**

The driver of a vehicle in a mobile home park as defined in section 2 of Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2301 et seq., MSA 19.855(101) et seq.), as amended, shall drive at a careful and prudent speed which is reasonable and proper, having due regard for the traffic, surface, width of the roadway, and any other conditions existing, and not greater than a speed which will permit a stop within the assured clear distance ahead. It shall be prima facie unlawful for the driver of a vehicle to drive at a speed exceeding fifteen (15) miles an hour in a mobile home park.

(Ord. No. 41-C, § 5.10, 7-9-87)

**Sec. 24-98. - 24-110. Reserved.**

## **Article 6 Emergency Response**

### **Sec. 24-111. Findings of fact.**

The township finds that a significant number of traffic arrests and traffic accidents in the township involve drivers who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances. In addition, the township finds that there is a greater likelihood of personal injury and property damage in traffic accidents involving drivers who were operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances. As a result, an additional operational and financial burden is placed upon the township's police, fire fighting and rescue services by persons who are operating a motor vehicle while under the influence of alcoholic beverages and/or controlled substances.

(Ord. No. 57, § 1, 12-13-90)

### **Sec. 24-112. Definitions.**

When used in this article, the following terms shall have the following meanings:

*Emergency response.*

- (A) The providing, sending and/or utilizing of police, fire fighting, emergency medical and/or rescue services by the township, or by private individual or corporation operating at the request or direction of the township, to an incident resulting in an accident involving one (1) or more motor vehicles operated by one (1) or more drivers who were impaired by or under the influence of an alcoholic beverage and/or a controlled substance; or
- (B) The providing, sending and/or utilizing of police, fire fighting, emergency medical and/or rescue services by the township, or by a private individual or corporation operating at the request or direction of the township, or an incident resulting in a traffic stop and arrest of a driver who was operating a motor vehicle while impaired by or under the influence of an alcoholic beverage and/or controlled substance by a police officer.

*Expenses of an emergency response.* The direct and reasonable costs incurred by the township or by a private person or corporation operating at the request or direction of the township in the course of emergency response to the incident, including the costs of providing police, fire fighting, emergency medical and/or rescue services at the scene of the incident. These costs further include all the salaries and wages of township personnel responding to the incident, all salaries and wages of township personnel engaged in investigation, supervision and reporting preparation, all costs connected with the administration and preparation of all chemical tests of the driver, blood, breath or urine, and all costs related to any prosecution of the person causing the incident.

(Ord. No. 57, § 2, 12-13-90)

### **Sec. 24-113. Liability and expense of an emergency response.**

(A) Person responsible.

1. A person is liable for the expense of an emergency response, is while impaired by or under the influence of an alcoholic beverage or controlled substance, or the combined influence of an alcoholic beverage and a controlled substance, such person's operation of a motor vehicle proximately causes any incident resulting in an emergency response.



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2. For the purpose of this article, a person is impaired by or under the influence of an alcoholic beverage or a controlled substance, or the combined influence of an alcoholic beverage and controlled substance, when his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle with the caution characteristics of a sober person or ordinary prudence. Further, it shall be presumed that a person was operating a motor vehicle while impaired by or under the influence of an alcoholic beverage if a chemical analysis of his or her blood, urine, or breath indicates that the amount of alcohol in his or her blood was in excess of seven one hundredths of one percent (0.07).
- (B) *Charge against person.* The expense of an emergency response shall be a charge against the person liable for the expenses under this ordinance. The charge constitutes a debt of that person and is collectible by the township in the same manner as in the case of an obligation under an expressed or implied contract.
- (C) *Alternative method of collection of expenses of emergency response in form of collection of costs at the time of sentencing.* In the event that a person is found guilty by a judge or jury of, enters a plea of guilty to, or enters a plea of "no contest" to a violation of any statute of the state, or ordinance of the township, prohibiting the operation of a motor vehicle under the influence of an alcoholic beverage or a controlled substance, or a combination thereof, or of any lesser included offense, than at the time of imposition of a sentence by the court, the costs shall be assessed by the court, in addition to cost assessed under the provisions of any other statute or ordinance, in an amount of equal to the expenses of an emergency response at the time of the incident for which the person is being sentenced. The amount of such costs shall be set forth in an affidavit filed by the township with the court prior to sentencing. The charges for the individual items of expense shall not exceed those set forth in the schedule of costs adopted by the township pursuant to subsection (D) below. Such costs shall be paid to the clerk of the court for transmittal to the treasurer of the township in accordance with the procedures to be established by mutual agreement.
- (D) *Cost and recovery schedule.* The township board shall, by resolution, adopt a schedule of the costs included in an emergency response. Such schedule shall be available to the public from either the township clerk or the police department.
- (E) *Billing.* The chief of police, or his or her designee, may, within ten (10) days of receiving itemized costs, or any part thereof, incurred for an emergency response, submit a bill for these costs by first class mail or personal service to the person liable for the expenses as enumerated under this article, unless such costs to be taxed by a court pursuant to subsection (D) above. The bill(s) shall require full payment withing thirty (30) days from the date of service.
- (F) *Failure to pay.* Any failure by the person described in this article as liable to pay the bill for the expense of an emergency response within thirty (30) days of service shall be considered in default. In case of default, the township may commence civil suit to recover such expenses plus any costs allowed by law.

(Ord. No. 57, § 3, 12-13-90)

## **Chapter 25 Streets, Sidewalks, and Other Public Places**

### **Article 1 Driveway Culverts**

#### **Sec. 25-1. Installation required.**

It shall be unlawful for any person to construct or maintain a driveway approach or other obstruction leading from any street or road to a lot or parcel of land abutting thereon which may in any way obstruct or interfere with the free and continuous flow or passage of water, in, through or along any public gutters, watercourse, drain or ditch in such street or road, without first placing in the bottom of such gutter, watercourse, drain or ditch, a culvert pipe as hereinafter provided and maintaining the same safe and unobstructed.

(Ord. No. 30, § I, 5-27-76; Ord. No. 40-1-94, § I, 1-13-94)

#### **Sec. 25-2. Installation specifications.**

Any culvert pipe installed in any public street or road shall be approved by the board of county road commissioners and shall be installed in a manner approved by the board of county road commissioners in a location, at a grade and at such elevation that it will not obstruct or interfere with the free and continuous flow or passage of water in the direction designated by the established grade of such gutter, watercourse, drain or ditch and shall be covered with material of the same character as the traveled portion of the roadway adjacent or other approved material suitable for the use intended.

(Ord. No. 30, § I, 5-27-76; Ord. No. 40-1-94, § I, 1-13-94)

#### **Sec. 25-3. Application for permit.**

Whenever any person shall desire to construct a driveway or obstruction in a gutter, watercourse, drain or ditch, he shall make application to the board of county road commissioners for a permit for such installation. If there appears to be no objection to such installation by the applicant, the board or county road commissioners will issue a permit for the installation, in accordance with its regulations and shall make a record of such permit.

(Ord. No. 30, § II, 5-27-76; Ord. No. 40-1-94, § II, 1-13-94)

#### **Sec. 25-4. Notice to conform to specifications.**

Whenever any street, road or alley in the township has been graded, ditched or paved without curbs or whenever any existing culvert has not been maintained or because of its condition is interfering with the free and continuous flow or passage of water, it shall be the duty of the township clerk, to serve or cause to be served, a written notice upon the owner or agent of any lot or parcel of land abutting said street, road, lane or alley, which has a driveway approach or other obstruction leading from said lot or parcel of land to the traveled portion of the street, road, land or alley requiring him or them to install culvert pipes in all such driveways, approaches or obstructions in accordance with Sec. 17-36 through Sec. 17-42 within ten (10) days after the service of said notice. It shall further be the duty of the said clerk to serve or cause to be served with notice above mentioned upon the owner or agent of any lot or parcel of land abutting any street, road, lane or alley in the township who has not complied with the conditions specified in Sec. 17-36 through Sec. 17-42. In case the township clerk or other authorized agent or employee shall be unable to find within the township, the owner or agent of any such lot or parcel of land abutting such street, road, lane or alley, then such notice may be served by posting in some conspicuous place on said lot or premises.

(Ord. No. 30, § III, 5-27-76; Ord. No. 40-1-94, § III, 1-13-94)

**Sec. 25-5. Enforcement of notice.**

In case the owner or agent of any lot or parcel of land, when ordered by the township clerk in the manner aforesaid, shall refuse or neglect to install culvert pipes under the driveways, approaches or obstruction within ten (10) days from the date of service of the notice provided for in section 19-29, the township board may cause such driveway, approach or obstruction to be constructed and installed and assess the cost thereof on the lot or parcel of land benefited, such assessment to be collected in the same manner as provided for the collecting of special assessments and such tax shall be and remain a lien upon such lot or parcel of land until the same is paid.

(Ord. No. 30, § IV, 5-27-76; Ord. No. 40-1-94, § IV, 1-13-94)

**Sec. 25-6. Penalties.**

Any person or persons violating any of the above provisions of this article shall upon conviction thereof, be sentenced to pay a fine not exceeding three hundred dollars (\$300.00) or by imprisonment for not more than ninety (90) days in the county jail or by both such fine and imprisonment in the discretion of the court.

(Ord. No. 40-1-94, § V, 1-13-94)

**Sec. 25-7. -25-50. Reserved.**

## **Article 2 Use of and Construction on Roadways**

**Sec. 25-51. Definitions.**

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

*Streets* means a road, alley, street or public way which can be and is used for travel.

*Utility company* means any person whose purpose it is to transmit and maintain any appurtenance for the use of any transmission of a utility, including but not limited to sewer, water, electricity, telephone, telegraph, television, gas, steam or power.

(Ord. No. 22, § 1, 1-6-72)

Cross reference-Definitions and rules of construction. generally, § 1-2.

**Sec. 25-52. Permit required.**

It shall be unlawful for any person to use, enter upon, excavate, construct, lay out or use for the construction and maintenance, any roadway or street for any telegraph, telephone or power lines, pipelines, wires, cables, poles, conduits, sewers and like structures upon, over, across or under any public road, bridge, street or public place in the township unless before the commencement of any of the work of construction or erection for such utility service the person shall first obtain a permit from the township authorizing such lines, poles, sewers, wires, cables, conduits or such like structures to be constructed and erected in the place, manner and location set forth in such permit.

(Ord. No. 22, § 2, 1-6-72)

**Sec. 25-53. Removal of noncomplying installation.**

Lines, poles, sewers, wires, cables, conduits or such like structures constructed or erected without the necessary permit or in violation thereof, shall be removed. Lines, poles, sewers, wires, cables, pipes, conduits or such like structures constructed or erected under terms of the permit or prior to the requirement for a permit, which the township board shall determine to be

located in a position or manner which unreasonably interferes with use or placement of another utility or with use of the public roadway right-of-way shall be removed, altered or relocated at the expense of the person owning or operating such interfering utility upon request of the township. In the event of failure to remove, alter or relocate within sixty (60) days following request in writing, the township may remove, alter or relocate such utility and charge the owner or operator thereof for the costs incurred.

(Ord. No. 22, § 3, 1-6-72)

**Sec. 25-54. Plans of work to be done.**

(A) The applicant for a permit required by this article shall submit two (2) sets of complete design plans along with proof of approval of the county road commission to the township, and upon approval and issuance of a permit by the township board, the applicant shall display its county road commission permit to any designated official of the county or the township upon request. A permit issued by the township shall allow construction in accordance with the original plans submitted by the applicant or as required to be altered by the township.

(B) Ninety (90) days from the date of completion, the applicant shall submit the reproducible finished set of plans of the project as constructed to the township.

(Ord. No. 22, § 4, 1-6-72)

**Sec. 25-55. Duties of permittee; liability of township.**

It shall be the duty of any permittee under this article to do the construction, maintenance, erection, etc., in a workmanlike manner and to repair and replace as near as possible the roadway in as near the same condition prior to construction as is possible and shall do the work on condition that such shall be considered as an agreement on their part with the township to keep the same in good repair and condition at all times during their control thereof, to indemnify and save the township harmless from any and all damages, actions, claims at law which may arise or be brought by reason of such control, use, construction and maintenance of the utility. Issuance of such construction permit shall not in any manner be deemed to render the township responsible for the construction or liable in any manner for damages that may occur as a result thereof.

(Ord. No. 22, § 5, 1-6-72)

**Sec. 25-56. Enforcement.**

The building inspector is hereby designated as the enforcement officer of this article and it shall be his duty to perform all the acts necessary and appropriate for the enforcement of this article. The township may designate some other person to serve at the pleasure of the township board as its agent under this article, in which case, such designated agent shall act as the enforcement officer for this article, and it shall be his duty to perform all the acts necessary and appropriate for its enforcement.

(Ord. No. 22, § 7, 1-6-72)

## **Chapter 26    Reserved**

## Chapter 27 Utilities

### Article 1 Water

#### Sec. 27-1. Definitions.

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

*Charges for water supply services* or *charges* means the amount charged to each premises in the township for water supply services.

*Connection fee* or *availability fee* means the amount charged at the time and in the amount hereinafter provided, to each premises in the township for connecting directly or indirectly to the system.

*Inspection and approval fee* means the amount charged to each applicant by the district at the time an application is made to the county to connect such premises in the township to the system to cover the cost of the water meter, the cost of installing the line from the main to the curb box, the cost of inspecting and approving the physical connection from the curb box to the meter and the issuance of a connection permit.

*System* means the water supply system as now or hereafter established and constructed by the county with the consent of the township to serve the residents of the township.

*Unit* means any premises or portion of premises to which there is available or delivered that quantity of water ordinarily used in or needed for the occupancy of a residence building by a single family. Equivalent units shall be determined in accordance with the "Table of Unit Factors" in Sec. 27-16.

*Water supply district* or *district* means the county water supply district in the township.

*Water supply services* means the transportation, metering, pumping and delivery of potable water to the properties now or hereafter connected directly or indirectly to the water supply system.

*Water supply system* means the county water supply system in the township, established and constructed by the county under agreements with the township.

(Ord. No. 38, § 1.01, 2-5-80)

Cross reference-Definitions and rules of construction. generally, § 1-2.

#### Sec. 27-2. Scope of, compliance with article.

The system shall be used for the transportation and delivery of potable water only. Connections to the system, directly or indirectly, and the use of water therefrom for all purposes, shall be only in compliance with this article and with the standards and regulations of the county and the township applicable thereto, all of which shall apply.

(Ord. No. 38, § 2.01, 2-5-80)

#### Sec. 27-3. Supervision of system.

The operation and maintenance of the county water supply system in the township shall be under the immediate supervision and control of the township. The township may delegate the same to the county as its agent. The county, if so appointed as such agent, acting through its duly designated agency, shall collect the connection fee or availability fee payment pursuant hereto.

(Ord. No. 38, § 11.01, 2-5-80)

**Sec. 27-4. Enforcement.**

The provisions of this article shall be enforceable through the bringing of appropriate action for injunction, mandamus or otherwise in any court having jurisdiction. Any violation of this article is deemed to be a nuisance per se.

(Ord. No. 38, § 12.01, 2-5-80)

**Sec. 27-5. Connection required.**

Permits to improve parcels of land within the water supply district which are adjacent to a public water main shall not be approved and none of such lots or parcels shall be improved by the erection of a building thereon unless such parcel shall connect to and use the water main. New subdivisions or plats located within the water supply district will not be approved unless each lot in such subdivision or plat shall connect to the public water supply system, except in roadside plats wherein for each lot there shall be deposited in escrow with the township a sum of money equal to the connection fee and inspection and approval fee to be paid to the water supply district at the time water is available there.

(Ord. No. 38-A, § 3.01, 6-26-80)

**Sec. 27-6. Inspection, approval fee.**

- (A) Owners of premises within the township in which water is used and for which direct connection to the system is available, shall pay an inspection and approval fee in the amount established from time to time by the Genesee County Department of Water and Waste. The fees shall be paid at the time application is made for a permit to connect the premises to the system.
- (B) In addition to the fees charged by the county, the owners of the premises shall pay an additional ten dollars (\$10.00) to the county, which sum shall be transmitted to the township.
- (C) Any owner of the premises within the district for which direct connection to the system is available, but in which water was not used who improves the same by erection of a building thereon, shall pay an inspection and approval fee as set forth above.

(Ord. No. 38, §§ 4.01, 4.02, 2-5-80; Ord. No. 38-J, § 2, 2-28-91; Ord. No. 38-M-05, 7-1-05)

**Sec. 27-7. Fee.**

- (A) The fee to connect a residential single dwelling to the municipal water system shall be as indicated in the fee schedule adopted by the Township Board, if the dwelling is not assessed for any part of the cost of water lines.
- (B) There shall be no fee to connect a residential single dwelling to the municipal water system if the dwelling is assessed for any part of the cost of water lines.
- (C) The fee to connect a residential single dwelling located on a platted lot, with all installation costs paid by the developer shall be as described in the fee schedule adopted by the Township Board.

(Ord. No. 38-H, 8-24-89; Ord. No. 38-I, 1-11-90; Ord. of 2-12-98; Ord. No. 38-M-05, 7-1-05)

**Sec. 27-8. Tap-in by adjacent property owners.**

- (A) Owners of property adjacent to or across from an existing water line, who wish to tap-in, shall be required to sign an agreement to the following:

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1. The tap-in fee shall be as described in the fee schedule adopted by the Township Board.
2. If, after the tap-in fee is paid, the property becomes part of a water line assessment district, the property owner shall be required to participate; however, a credit of described in the fee schedule adopted by the Township Board. will be applied to the assessment charges. The property owner shall remain obligated for the balance of the special assessment that described in the fee schedule adopted by the Township Board. The township shall not be required to return any part of the tap-in fee if the assessment is less than the amount of the tap-in fee.

(B) Special assessments shall be governed by the provisions of MCL 41.721 et seq.

(C) A property owner may request that a specific property be excused from the requirement to tap into the water system or be included in a special assessment district due to the unique characteristics of the property, e.g. the property is not buildable; the installation of water lines is not practical etc. A request to excuse or include a particular property shall be made in writing to township water and waste committee. The committee shall evaluate the request and make a recommendation to the township board for final determination.

(Ord. No. 38-6-1, 9-14-89; Ord. No. 38-M-05, 7-1-05)

### **Sec. 27-9. Assessment information.**

(A) A resident can combine property lots into one (1) lot providing the situation is presented to the township board prior to the petition being delivered to the township board.

(B) The following steps are to be used in the procedure for establishing and approving interest charge start dates:

1. Treasurer is to establish and recommend an interest charge start date.
2. Recommendation from the treasurer is to be evaluated by the township water and waste committee.
3. Recommendation from the township water and waste committee must be presented to the township board for final approval.

(Ord. No. 38-6-1, 9-14-89)

### **Sec. 27-10. Charges established; billing.**

(A) Charges for water supply services to each premises within the township connected with the water supply system shall be determined as follows:

Inch Meter Size	Monthly Minimum Cubic Fee	Monthly Minimum Charge
5/8	400	\$ 15.00
1	1,200	35.58
1 1/2	2,600	69.26
2	4,800	113.52
3	10,500	220.66
4	19,000	377.38
6	44,000	809.16

For all water used over the monthly minimum. For the difference in water used over the monthly minimum and three thousand five hundred (3,500) cubic feet, the rate shall be one dollar and fifteen cents (\$1.15) per one hundred (100) cubic feet.



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For all water used in excess of three thousand five hundred (3,500) cubic feet, the rate shall be one dollar and eight cents (\$1.08) per one hundred (100) cubic feet.

- (B) No free service shall be furnished by the system to the township or to any person or to any public agency or instrumentality. The township shall pay for all water used by it at the foregoing rates, except for fire hydrant services. The charge shall be five dollars (\$5.00) per year for each fire hydrant.
- (C) Charges for services furnished by the system to any premises shall be billed and collected monthly. The first such charges for each premises shall be due and payable on the first day of the calendar month following by at least one (1) month, the date such premises are connected to the system and successive charges to be due and payable on the fifteenth day of each month thereafter. Charges shall be billed at least fifteen (15) days before their due date.

(Ord. No. 38-D, § 7.01, 10-23-86)

### **Sec. 27-11. No charge for voluntary discontinuance of service.**

There shall be no charge to any property owner who desires to have his water service discontinued for any reason other than the sale of the property or change of accounts, and no charge to have the water service reestablished.

(Ord. No. 38-F, § 7.02, 2-9-89)

### **Sec. 27-12. Penalties for nonpayment.**

If any charges are not paid on or before the due date a penalty of ten (10) percent of the current charge shall be added thereto, and commencing ninety (90) days after such due date such charges and penalty shall draw interest at a rate of eight (8) percent. In the event that the charges for any such services furnished to any premises shall not be paid within one hundred twenty (120) days after the date thereof, then all services furnished by the water supply may be discontinued. Service so discontinued shall not be restored until all sums then due and owing, including penalties and interest, shall be paid, plus a turn-on charge of fifty dollars (\$50.00).

(Ord. No. 38-E, § 8.01, 8-12-82)

### **Sec. 27-13. Lien for charges.**

Charges for services furnished by the system to any premises shall be a lien thereon as of the due date thereof, and on June first of each year the township shall certify any such charges which have been delinquent ninety (90) days or more, plus penalties and interest accrued, to the supervisor who shall enter the same upon the next tax roll against the premises to which such services shall have been rendered. Such charges, with penalties and interest accrued thereon, shall be collected and such lien shall be enforced in the same manner as provided in respect to taxes assessed upon such roll. In addition to such lien, the township may order the county to discontinue further service to the premises and may at the option of the township direct the county to refuse recommencement of service until all past bills have been paid, plus a reasonable deposit.

(Ord. No. 38, § 9.01, 2-5-80)

### **Sec. 27-14. Unlawful consumption of water.**

- (A) Any person who shall connect to the water supply system without installation of a water meter as required by this article or, after installation of a water meter, shall render same inoperable or shall reconnect to the system, bypassing the water meter, and drawing unmetered water from the water supply system, shall be guilty of a misdemeanor and, upon

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conviction thereof, shall be subject to a fine not to exceed five hundred dollars (\$500.00) and or a jail term not to exceed ninety (90) days. Each day any such violation continues shall be considered a separate offense.

(B) The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(C) Nothing contained in this section shall prevent the township from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 39-D, § 9.02, 9-22-83)

### **Sec. 27-15. Fiscal year.**

The system shall be operated upon the basis of a fiscal year beginning on April first of each year and ending on March thirty-first of the next year.

(Ord. No. 38, § 10.01, 2-5-80)

### **Sec. 27-16. Table of unit factors.**

The following shall be used in the determination of equivalent units for the purposes of this article:

<i>Usage</i>	<i>Unit Factor</i>
Auto dealers, per 1,000 sq. ft. ....	.40
Barbershops, per chair.....	.08
Bars, per seat.....	.06
Beauty shops, per booth .....	.30
Boardinghouses, per person .....	.20
Bowling alleys (no bars or lunch facilities), per alley .....	.20
Car washes, single production line .....	10.00
Churches, per seat.....	.01
Cleaners (pick up only), per employee.....	.06
Cleaners (pressing facilities), per press .....	1.25
Clinics (minimum assignment 1.00 unit per profession), per doctor.....	.65
Convalescent homes, per bed .....	.30
Convents, per person.....	.25
Country clubs, per member .....	.10
Drugstores (with fountain service), per seat.....	.10
Factories (exclusive of excessive industrial use), per 1,000 sq. ft. ....	.50
Fraternal organizations (members only), per hall.....	1.25
Fraternal organizations (members and rentals), per hall.....	2.50
Grocery stores and supermarkets, per 1,000 sq. ft. ....	1.10
Hospitals, per bed .....	1.40
Hotels (private baths, 2 persons per room), per bed.....	.25
Laundry (self service), per washer .....	.50
Motels, per bed .....	.25
Multiple-family residence, per unit.....	1.00
Office buildings, per 1,000 sq. ft.....	.60
Public institutes (other than hospitals), per employee.....	.40
Restaurants (dinner and/or drinks), per seat.....	.16

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Roominghouses (no meals), per person .....	.167
Schools (cafeteria without showers and/or pool), per classroom .....	1.50
Schools (showers and/or pool), per classroom .....	2.00
Schools (showers, gym, cafeteria), per classroom .....	2.5
Service stations, per pump.....	.30
Snack bars, drive-ins, per seat and/or stall .....	.10
Stores (other than specifically listed), per employee.....	.20
Swimming pools, per 1,000 sq. ft. ....	3.50
Theaters (drive-ins), per space .....	.01
Theaters (inside with air conditioning) x weekly hours of operation x seats.....	.0001
Tourist courts (individual bath units), per cubical .....	.27
Trailer parks (central bathhouses), per trailer .....	.35
Trailer parks (individual baths), per unit .....	1.00
Trailer parks (individual baths-seasonal only), per unit.....	.50
Warehouses, per 1,000 sq. ft. ....	.10

### **Sec. 27-17. Temporary emergency sprinkling restrictions.**

(A) Whenever the Supervisor of Flushing Township receives notification from Genesee County Water and Waste in conjunction with the Water and Radiological Protection Division of Michigan Department of Environment, Great Lakes, and Energy (EGLE) that the supply or pressure demand for water cannot be accommodated and general welfare is likely to be endangered, or conditions within the water system of the township is likely to endanger the general welfare of the township, the supervisor shall determine that a state of emergency exists and prescribe the following emergency regulations which shall apply in the township for all properties connected to the township water system:

1. Sprinkling of lawns and landscaping, and all outdoor water use shall only be allowed for properties with even-numbered addresses on odd-numbered dates within a month.

(B) Whenever the Supervisor of Flushing Township receives notification from Genesee County Water and Waste in conjunction with the Drinking Water and Radiological Protection Division of Michigan Department of Environment, Great Lakes, and Energy (EGLE) that provisions in subsection (A) are not sufficient, or conditions within the water system of the township is likely to endangered the general welfare of the township, the following emergency regulations shall apply in the township for all properties connected to the township water system:

1. Sprinkling of lawns and landscaping and all outdoor water use shall not be allowed.

(C) The township and the Genesee County Water and Waste shall, within twenty-four (24) hours of notification, cause these regulations to be posted at the township office and publicly announced by means of broadcasts or telecasts by the stations with a normal operating range, and may cause such announcement further declared in newspapers of general circulation when feasible.

1. The regulations shall become effective immediately after notice of enforcement of the ordinance as posted at the township office.
2. Upon notification from the Genesee County Water and Waste in conjunction with the Drinking Water and Radiological Protections Division of the Michigan Department of Environment, Great Lakes, and Energy (EGLE) that the emergency regulations are not longer necessary, the township shall announce lifting the water restrictions.

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(D) Any person, firm or corporation violating any provision of this section shall be deemed responsible for a civil infraction and will be responsible to pay a fine not to exceed five hundred dollars (\$500.00) for each violation.

(E) It shall be the responsibility of the township to enforce this section.

(Ord. No. 38-97, § 1, 8-14-97)

**Sec. 27-18. - 27-60. Reserved.**

## Article 2 Sewer System

### Division 1 Generally

#### **Sec. 27-61. Definitions.**

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

*B.O.D.* (denoting biochemical oxygen demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Celsius, per liter.

*Building drain* means that part of lowest horizontal piping of a drainage system which receives the discharge from soil and waste pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet outside of the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal

*County agent* means the county drain commissioner.

*County sewer* means the Genesee County Sanitary Sewage Disposal System No. 6- South Section or any other sewer constructed by the county and the possession, control and operating responsibility of which is not vested in the township.

*Garbage* means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and the handling, storage and sale of produce.

*Industrial wastes* means the liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

*pH* means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*Properly shredded garbage* means wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, and no particles greater than one-half inch in any dimension.

*Public sewer* means any county sewer or township sewer located within the township.

*Sanitary sewer* means a sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

*Sewage* means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments.

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*Sewage treatment plant* means any arrangement of devices and structures used for treating sewage.

*Sewage works* means all facilities for collecting, pumping, treating and disposing of sewage.

*Sewer* means a pipe or conduit for carrying sewage.

*Storm drain* (sometimes referred to as "storm sewer") means a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Suspended solids* means solids that either float on the surface of, or are in suspension in water, sewage or other liquids, and which are removable by laboratory filtering.

*Township sewer* means any sewer constructed which the township has or shall have possession, control and operating responsibility.

*Unit* means that measure of potential sewage production which is equivalent to the quantity of sewage produced by or emanating from a single-family residence occupied by an average family. The number of units assigned to a premises of various types shall be as established from time to time by the county division of water and waste services, a copy of which shall be kept on file by the township clerk.

*User* means any premises connected to a public sewer and includes appurtenant land and improvements.

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

(Ord. No. 39, art. I, 4-10-80)

Cross reference-Definitions and rules of construction. generally, § 1-2.

### **Sec. 27-62. When connection required.**

(A) All premises in the township upon which there exists presently, or at any time hereafter, a building or structure in which water is used or available for use, shall be connected to a public sewer if such public sewer is available to such premises. Such connection shall be made, in the case of premises upon which such a building or structure presently exists, when the public sewer first becomes available to such premises. However, regarding such premises upon which a building or structure presently exists and for which the public sewer is presently available or, if such premises is within a proposed district for which a petition for installation of public sewers has been received by the township prior to the effective date of this section, such premises shall connect to the public sewer when the existing septic system fails to operate in accordance with standards promulgated by the Michigan Department of Health, the Genesee County Health Department, Flushing Township or any agencies duly authorized to promulgate regulations regarding septic systems. Such premises shall connect to the public sewer within the thirty (30) days of the date of the Township Building Inspector provides written notice of the property owner of record that the premises is to be connected to the public sewer.

Connection shall be made, in the case of future improvement to the premises so as to require connection to a public sewer as above provided, prior to occupancy or use of the building or structure. No plat of a new subdivision shall hereafter be approved unless the developer or subdivider shall agree to install in such subdivision, at his own expense, an approved system or lateral sewers and to connect the same to a public sewer.

(B) A public sewer shall be deemed to be available to any premises if it is located in a right-of-way, easement, highway, street or public way which crosses or adjoins or abuts upon the premises, and which right-of-way, easement, highway, street or public way passes not more than two hundred (200) feet distant from the building or structure of such premises in which water is used or is available for use.

(Ord. No. 39, Art. VIII, § 1, 4-10-80; Ord. No. 39-J, 2-13-92)

**Sec. 27-63. Conflicts of requirements.**

Compliance by any owner of any premises or by any other person with any requirements or regulations of the county agent or with the terms of any permit issued by the county agent shall not relieve such owner or other person of the obligation of complying with all requirements and regulations of the township even though the latter may be more restrictive than those of the county agent.

(Ord. No. 39, Art. VIII, § 2, 4-10-80)

**Sec. 27-64. No exemption from charges.**

No premises, public or private, shall be exempt from payment of the established connection charges and sewage disposal and treatment charges. The township shall pay all such charges with respect to township property connected to public sewers.

(Ord. No. 39, art. VIII, § 3, 4-10-80)

**Secs. 27-65 - 27-75. Reserved.**

**Division 2      *Public Sewers and Connections***

**Sec. 27-76. Permit required; payment of county fee.**

Neither the township nor any other person shall connect any public sewer or system of public sewers to any county sewer, or to any township sewer which is connected directly or indirectly to any county sewer, without first obtaining a permit therefor from the county; and no person other than the township shall connect any public sewer or system of public sewers to any county sewer or to any township sewer without also first obtaining written approval therefor from the township. Each such connection permit shall show the location and extent of the work, information regarding the owner, the contractor and the engineer, and any other pertinent information as shall be determined to be necessary. The county permit shall be obtained from the office of the county agent, for which a fee of one hundred dollars (\$100.00) will be charged by the county (except where the connection is made as part of a sewer construction program of the township) to cover the cost of inspection of the connection and to verify the result of the infiltration test.

(Ord. No. 39, art. II, § 1, 4-10-80)

**Sec. 27-77. Test for water infiltration.**

A test for water infiltration into a public sewer or system of public sewers shall be performed by the owner or contractor, after completion thereof, in accordance with procedures established by the county agent. When such party has determined that the sewer or system meets the following requirements for maximum infiltration, then he shall arrange for results of such tests to be verified by the county agent. Groundwater infiltration at any time shall not exceed two hundred fifty (250) U.S. gallons per inch of pipe diameter per mile of sewer per twenty-four-hour period. It shall be the responsibility of the township or other party constructing the sewer or system to make whatever corrections may be necessary to the same to meet the infiltration requirements prior to using the county sewers or the township sewers to which connection is

made. If, in the opinion of the county agent, groundwater conditions at the time of the test would not provide a conclusive test of the extent of infiltration, then an exfiltration test shall be required. If an infiltration test is determined to be necessary, the maximum exfiltration rate shall be the same as that permitted for infiltration.

(Ord. No. 39, art. II, § 2, 4-10-80)

**Sec. 27-78. Check valve required; new, existing installations.**

- (A) New installations. No structure or property shall be connected to the municipal sanitary sewer system, unless the installation includes an approved check valve designed and installed to prevent the back flow of sewage from the sanitary sewer system beyond the check valve to the structure or property connecting to the sanitary sewer system.
- (B) Existing installations. If subsequent to the effective date of this section, an existing connection to the sanitary sewer system requires service or repair such that the structure or property is disconnected from the sanitary sewer system, reconnection to the sanitary sewer system shall include an approved check valve designed and installed to prevent the back flow of sewage from the sanitary system beyond the check valve to the structure or property served by the connection to the sanitary sewer system.
- (C) Penalty for violation. Violation of this section shall constitute a misdemeanor punishable by ninety (90) days in jail and/or fine not to exceed five hundred dollars (\$500.00).

(Ord. No. 39-K, §§ 1-3, 9-14-00)

**Secs. 27-79 - 27-90. Reserved.**

**Division 3      *Building Sewers and Connections***

**Sec. 27-91. Permit required; fees.**

- (A) Public sewer system. No building sewer shall be directly connected to any county or township sewer by any person without first obtaining a permit therefor from the county. The county agent shall collect the township sewer connection charges as provided in Division 6 of this article, and refund the same to the township at intervals not greater than every three (3) months. The permit shall be obtained from the office of the county agent, upon payment of the township's sewer connection charges as provided in Division 6 of this article plus the fee of fifteen dollars (\$15.00) charged by the county. The party to whom such permits are issued shall be responsible for notifying the county agent's office at least twenty-four (24) hours in advance of the date and time when such a connection is to be made so that proper inspection of the same can be made.
- (B) Private sewer systems. Applicants for approval of a private sewer system shall apply to the county health department for that permit.

(Ord. No. 39, art. III, § 1, 4-10-80; Ord. No. 39, § 3, 8-9-90)

**Sec. 27-92. Workmanship generally.**

All connections to county sewers and township sewers shall be made in a workmanlike manner and in accordance with the procedures established by the county agent.

(Ord. No. 39, art. III, § 2, 4-10-80)

**Sec. 27-93. Specifications generally.**

The size, slope alignment, material of construction of a building sewer, and the methods to be used in excavating, placing of pipe, jointing, testing and backfilling the trench, shall all conform

to the regulations and standard specifications of the county and other applicable rules and regulations of the state.

(Ord. No. 39, art. III, § 6, 4-10-80)

**Sec. 27-94. Specifications for building sewers.**

(A) Building sewers from lateral sewer in street or easement to within five (5) feet from the house shall be:

1. Four-inch or six-inch diameter C-200 vitrified sewer pipe with (tylox type B) wedgelock (types 1 and 3) or amvit joints or other county agent approved joint, or
2. Four-inch or six-inch diameter Class 2400 asbestos cement pipe with ringtite or county agent approved joint, or
3. Four-inch or six-inch diameter, service strength, cast-iron soil pipe with hot poured lead joint, nonhub coupling (neoprene seal with stainless steel shield or approved equal).

(B) Four-inch or six-inch PVC (polyvinyl chloride), shall meet the standards CS 272 and ASTM 2665, and listed with the National Sanitation Foundation with wall thickness not less than Schedule 40. Only approved solvent cements, fittings and transitions shall be used. The pipe shall bear the "hallmark" -nsf-DWV

(C) All joints shall be tight and when tested for infiltration, shall not exceed two hundred fifty (250) U.S. gallons per inch of diameter, per mile, per twenty-four (24) hours. All sewer lines within fifty (50) feet of private well and seventy-five (75) feet of a semipublic well shall be cast-iron soil pipe with hot poured lead joints, or approved equal.

(D) The crock-to-iron joint shall be sealed by an approved bituminous joint filler, encased in concrete to provide a watertight seal. The iron pipe inside the building shall be plugged and watertight until such time as the plumbing is carried on to the first floor, the basement backfilled and roof is on the building, thereby providing that no water from the excavated basement will enter the sanitary sewer.

(Ord. No. 39, art. III, § 3, 4-10-80)

**Sec. 27-95. Liability for expenses.**

All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the county or township from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

(Ord. No. 39, art. III, § 4, 4-10-80)

**Sec. 27-96. Separate connections required.**

A separate and independent building sewer shall be provided for every building.

(Ord. No. 39, art. III, § 5, 4-10-80)

**Sec. 27-97. Point of connection.**

Whenever possible, the building sewer should be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. No. 39, art. III, § 7, 4-10-80)



**Sec. 27-98. Protection of public.**

All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the county and the township.

(Ord. No. 39, art. III, § 8, 4-10-80)

**Secs. 27-99 - 27-110. Reserved.**

**Division 4      *Discharges***

**Sec. 27-111. Surface runoff prohibited.**

No person shall connect or cause to be connected any downspouts, foundation drains, yard drains, areaway drains, catchbasins or groundwater to any public sewers or to any building sewer or drain which is connected to a public sewer; nor shall any person discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process water into any public sewer or into any public sewer or drain which is connected to a public sewer. Provided however, weep tile or perimeter drains may be connected to the building sewer from homes existing prior to January 1, 1967, if written approval is secured from the county agent and also from the township.

(Ord. No. 39, art. IV, § 1, 4-10-80)

**Sec. 27-112. Control of surface runoff.**

- (A) The discharge of surface runoff water from around the foundations and from the roofs of structures onto public streets creates the following unsafe and hazardous conditions in the township:
1. Discharged water freezes upon the streets during cold periods of the year creating patches of ice of varying sizes and thicknesses and posing a hazard to vehicular and pedestrian traffic.
  2. Discharged water seeps into natural cracks and openings in road surfaces contributing to "freeze thaw" damage, spalling, surface deterioration, undermining of road surfaces and the creation of "potholes." Such deteriorated road surfaces create dangerous conditions to vehicular and pedestrian traffic and increase the cost of road maintenance to residents on the streets affected and to the township at large.
- (B) It shall be unlawful to construct or install any conduit, pipe, drain, or device to collect water from the roof or from around or under the foundation of any structure with the intent or purpose to discharge the collected water into the gutter or upon the surface of any public street within the township. Furthermore, it shall be unlawful for the owner of property within the township to permit the discharge of water collected from the roof or from around or under the foundation of any structure located on such property into the gutter or upon the surface of any public street within the township, irrespective of the date of construction of such structure.
- (C) This section is not intended to prohibit the discharge of unpolluted stormwater into open roadside ditches.
- (D) The township board is hereby authorized to seek injunctive relief in a court of competent jurisdiction from continued violations of this section by the owners of structures within the township. In addition to injunctive relief, the township board is authorized to request a court

of competent jurisdiction to permit the township to abate the continued discharge of water upon the streets and into the gutters of the township, and to assess the cost of procedures necessary for abatement against the property from which the discharge emanates, and to collect such charges in the same manner as taxes levied against such property are collected.

- (E) Violation of this section shall be treated as a civil infraction pursuant to Flushing Township Ordinance 61-1-94 as amended from time to time, being Sec. 20-81 through Sec. 20-86 of the township's Code of Ordinances with penalties for violation to be imposed in accordance with Sec. 1-10 of the township's Code of Ordinances, as amended from time to time.

(Ord. No. 26-B, §§ 1-5, 7-25-85; Ord. No. 61-4-96, § 1, 3-14-96)

**Sec. 27-113. Unpolluted drainage restricted.**

Stormwater and other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the county agent and the township. Industrial cooling or unpolluted process waters may be discharged, upon approval of the county agent and the township, to a storm sewer, or natural outlet.

(Ord. No. 39, art. IV, § 2, 4-10-80)

**Sec. 27-114. Prohibited wastes.**

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (A) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
- (B) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity (either singly or by interaction with other wastes) to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant (including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer).
- (C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

(Ord. No. 39, art. IV, § 3, 4-10-80)

**Sec. 27-115. Restricted discharges.**

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely, in the opinion of the county agent or the township, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance:

- (A) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Celsius).

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- (B) Any waters or wastes containing fats, wax, grease or oil, whether emulsified or not, in excess of one hundred (100) mg/l; or containing substances which may solidify or become viscous at temperatures below thirty-two (32) degrees Fahrenheit.
- (C) Any garbage that has not been properly shredded. The installation and operation of any garbage shredded equipment with a motor of three-fourths hp or greater shall be subject to the review and approval of the county agent and the township.
- (D) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions whether neutralized or not.
- (E) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances; or wastes exerting excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the county agent or the township for such materials.
- (F) Any waters or wastes containing phenols or other taste- or odor-producing substances, in such concentrations exceeding limits which may be established by the county agent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.
- (G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the county agent in compliance with applicable state or federal regulations.
- (H) Any wastes or water having a pH in excess of 9.5.
- (I) Materials which exert or cause:
  - 1. Unusual concentrations of inert suspended solids (such as, but not limited to, fuller's earth, lime slurries and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - 2. Excessive discoloration (such as, but not limited to, dye wastes, vegetable tanning solutions).
  - 3. Unusual B.O.D., chemical oxygen demand or chloride requirements in such quantities as constitute a significant load on the sewage treatment works.
- (J) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(Ord. No. 39, art. IV, § 4, 4-10-80)

### **Sec. 27-116. Discretionary authority of county agent.**

- (A) If waters or wastes are discharged or are proposed to be discharged to the public sewers, which contain the substances or possess the characteristics enumerated in Sec. 27-115, and which in the judgment of the county agent or the township may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the county agent may:
  - 1. Reject the wastes.
  - 2. Require pretreatment to an acceptable condition for discharge to the public sewers.
  - 3. Require control over the quantities and rates of discharge.

4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes and sewer charges.

(B) If the county agent permits the pretreatment of equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the county agent.

(Ord. No. 39, art. IV, § 5, 4-10-80)

**Sec. 27-117. Control manhole.**

When required by the county agent or the township, the owner of any property serviced by building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such a manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the county agent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Ord. No. 39, art. IV, § 6, 4-10-80)

**Sec. 27-118. Measurements, tests, etc.**

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in these regulations shall be determined in accordance with "Standard Methods for the Examination of Water and Sewage" and shall be determined at the control manhole provided for, or upon suitable samples taken at the control manhole. In the event that no special manhole in the public sewer has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which a building sewer is connected.

(Ord. No. 39, art. IV, § 7, 4-10-80)

**Sec. 27-119. Special arrangements.**

No statement contained in this divisions shall be construed as preventing any special agreement or arrangement between the county and the township and any industrial waste of unusual strength or character may be accepted by the county for treatment, subject to payment therefor, by the industrial concern.

(Ord. No. 39, art. IV, § 8, 4-10-80)

**Secs. 22-120 - 22-130. Reserved.**

**Division 5      *Inspection and Protection of Sewers***

**Sec. 27-131. Right of entry.**

The county agent and other duly authorized employees of the county agent or the township bearing proper credentials and identification, shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing.

(Ord. No. 39, art. V, § 1, 4-10-80)

**Sec. 27-132. Nonliability of owner, proprietor.**

While performing the necessary work in private properties referred to in Sec. 27-131, the duly authorized employees of the county or the township shall observe all safety rules applicable to the premises established by the owner or proprietor, who shall be held harmless for injury or death to such employees, and the county or the township shall indemnify such owner or

proprietor against loss or damage to his property by such employees and against liability claims and demands for personal injury or property damage asserted against such owner or proprietor and growing out of the gauging and sampling operation, except as such as may be caused by negligence or failure of such owner or proprietor to maintain safe conditions as required in Sec. 27-117.

(Ord. No. 39, art. V, § 2, 4-10-80)

**Sec. 27-133. Damage to system.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the county or township system.

(Ord. No. 39, art. V, § 3, 4-10-80)

**Secs. 27-134 - 27-145. Reserved.**

**Division 6      *Connection Charges***

**Sec. 27-146. Payment required.**

Each user whose premises are hereafter connected to a public sewer shall pay the township's connection charge as provided in this division and based upon the unit factors as may be from time to time established by the county division of water and waste service.

(Ord. No. 39, art. VI, § 1, 4-10-80)

**Sec. 27-147. Special assessments and connection charges.**

(A) The sewer connection charges for residential single dwelling shall be:

1. Sewer connection charge for residential single dwelling \$2,000.00
2. Plotted lots for all installations paid for by developer      500.00
3. In all other cases each connection to the public sewer directly, or to a lateral, or to a developer's installation      500.00

(B) If a residential single-family dwelling is within a district for which the cost of the installation of a public sewer is to be paid for by special assessment the amount of the special assessment for to each single family dwelling shall be a pro rata share of the total actual cost for installation of the public sewer in the district, reduced by the amount of the tap in fee.

(Ord. No. 39-F, 8-24-89; Ord. No. 39-G, 1-11-90; Ord. No. 39-H, 4-12-90; Ord. No. 39-I, 3-28-91; Ord. No. 39-J, 2-13-92)

**Sec. 27-148. Manner of payment.**

(A) The foregoing connection charges may be paid in cash when the connection permit is issued by the county agent or the user has the option of paying the connection charges in installments as follows: Ten (10) percent of the total connection charge shall be paid when the connection permit is issued by the county and the balance shall be paid in ten (10) equal annual installments together with interest at eight (8) percent per annum on the declining balance from the date when the connection permit is issued.

(B) The first installment and accrued interest shall be due and payable on the next December first, which is more than three (3) months after the date when the connection permit is issued, and subsequent installments with accrued interest shall be due and payable on

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December first, annually thereafter, and all installments with accrued interest shall be subject to the same interest, fees and penalties as the township taxes on such premises. The balance of any connection charge from time to time remaining unpaid may nevertheless be paid in cash at any time before due, together with accrued interest to the date of payment. The balance due on a connection charge for a given premises shall be paid in full at the time such premises change ownership.

(Ord. No. 21-H, 2-8-90)

### **Sec. 27-149. Declared lien.**

All connection charges and all installments thereof, together with interest, fees and penalties, shall constitute a lien upon the premises connected to the sewer and such lien shall be enforced in the same manner as are liens for township taxes.

(Ord. No. 39, art. VI, § 4, 4-10-80)

### **Secs. 27-150 - 27-160. Reserved.**

## **Division 7      *Treatment Charges***

### **Sec. 27-161. Payment required.**

Each user whose premises are connected to a public sewer shall pay to the township a monthly charge for sewage disposal and treatment as provided in this division.

(Ord. No. 39-A, § 1, 2-12-81)

### **Sec. 27-162. Basis of charges.**

(A) Where individual water meter readings are available, the readings shall be used as the basis for payment. The rate charge shall be based on the water consumption measured by the accumulation of these individual water meter readings and shall be as prescribed by resolution of the township board from time to time. Copies of such legislation shall be on file in the township hall.

(B) For all other connections having an unmetered water supply, the rate shall be as prescribed by resolution of the township board from time to time based upon the table of unit factors in Sec. 27-165.

(Ord. No. 39-D, §§ 1, 2, 8-27-87)

### **Sec. 27-163. Billing procedures.**

The charges imposed under this division shall be billed and collected monthly or quarterly as the township board shall determine. Such charges shall become due on the fifteenth day of the month following the end of each billing period, and if such charges are not paid on or before that date, a penalty of ten (10) percent shall be added thereto. In the event that the charges for any billing period shall not be paid within the next succeeding billing period, then the water supply to such premises shall be disconnected. Service so disconnected shall not be restored until all sums then due and owing, including penalties, shall be paid, plus a water turn-on charge of twenty dollars (\$20.00).

(Ord. No. 39-A, § 4, 2-12-81)

### **Sec. 27-164. Declaration of lien.**

The charges imposed under this division, including penalties, payable for sewage disposal and treatment service to any premises shall be a lien on such premises, and on August first of each year the person or agency charged with the collection of such charges shall certify to the

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township assessor any charges which have been delinquent for six (6) months or more, who shall enter the same upon the next tax roll against such premises. Such charges and penalties shall be collected, and such lien enforced, in the same manner as provided in respect to township taxes assessed upon such roll. When a tenant is responsible for the payment of such charges for service to any premises, and the board is so notified in writing, with a true copy of the lease of the affected premises (if there be one) attached, then no such charge shall become a lien against such premises from and after the date of such notice. However, in the event of the filing of such notice, no further service shall be rendered to such premises until a cash deposit equal to twice the average monthly or quarterly bill to such premises shall have been made as security for payment of charges for service to such premises.

(Ord. No. 39-A, § 5, 2-12-81)

### **Sec. 27-165. Table of unit factors.**

The following table shall be used for the purposes of this article:

<i>Usage</i>	<i>Unit Factor</i>
Auto dealers, per 1,000 square feet .....	.40
Barbershops, per chair .....	.08
Bars, per seat .....	.06
Beauty shops, per booth.....	.30
Boardinghouses, per person .....	.20
Boarding schools, per person .....	.35
Bowling alleys (no bars/lunch facilities), per alley .....	.20
Car washes, per single production line.....	10.00
Churches, per seat .....	.01
Cleaners (pick-up only), per employee .....	.06
Cleaners (pressing facilities), per press .....	1.25
Clinics (minimum assignment 1.00 unit/profession), per doctor.....	.65
Convalescent homes, per bed .....	.30
Convents, per person .....	.25
Country clubs, per member .....	.10
Drugstores (with fountain service), per 1,000 square feet.....	.50
Fraternal organizations (members only), per hall .....	1.25
Fraternal organizations (members & rentals), per hall	2.50
Grocery stores & supermarkets, per 1,000 square feet	1.10
Hospitals, per bed.....	1.40
Hotels (private baths, 2 persons/room), per bed .....	.25
Laundries (self-service), per washer .....	.50
Multiple-family residences, per unit .....	1.00
Motels, per bed.....	.25
Office buildings, per 1,000 square feet.....	.60
Public institutes (other than hospitals), per employee .	.40

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Restaurants (dinner and/or drinks), per seat .....	.16
Roominghouses (no meals), per person .....	.167
Schools (cafeteria without showers and/or pool), per classroom.....	1.50
Schools (showers and/or pool), per classroom .....	2.00
Schools (gym & cafeteria), per classroom .....	2.50
Service stations, per pump .....	.30
Snack bars, drive-ins, per seat and/or stall .....	.10
Stores (other than specifically listed), per employee ...	.20
Swimming pools, per 1,000 square feet .....	3.50
Theaters (drive-ins), per car space.....	.01
Theaters (inside with air conditioning), x weekly hours of operation x seats.....	.0001
Tourist courts (individual bath units), per cubical .....	.27
Trailer parks (central bathhouses), per trailer.....	.35
Trailer parks (individual baths), per unit .....	1.00
Trailer parks (individual baths seasonal only), per unit	.50
Warehouses, per 1,000 square feet .....	.10

(Ord. No. 39-D, 8-27-87)



## **Chapter 28      Consumers Energy Company Gas and/or Electrical Franchise**

### **Sec. 28-1.      Grant, Term.**

The CHARTER TOWNSHIP OF FLUSHING, GENESEE COUNTY, MICHIGAN, hereby grants to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," the right, power, and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers, and other electrical appliances on, along, around and under the highways, streets, alleys, bridges, waterways, and other public places, and to do a local gas and/or electric business in the CHARTER TOWNSHIP OF FLUSHING, GNESESS COUNTY, MICHIGAN, for a period of thirty years.

### **Sec. 28-2.      Consideration.**

In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

### **Sec. 28-3.      Conditions.**

No street, alley, bridge, highway, waterways, or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highway. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

### **Sec. 28-4.      Hold harmless.**

Said Grantee shall at all times keep and save the Charter Township free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the Charter Township and save it free and harmless from all loss, cost, and damages arise out of such negligent construction and maintenance.

### **Sec. 28-5.      Franchise not exclusive.**

The rights, power and authority herein granted are not exclusive. The right to do a gas business and the right to do an electric business hereunder are several, and such rights may be separately exercised, owned, and transferred. Either manufactured or natural gas may be furnished hereunder.

### **Sec. 28-6.      Extensions.**

Said Grantee shall from time to time extend its gas and electric systems to and within said Charter Township, and shall furnish gas or electricity to applicants residing therein in accordance with applicable laws, rules and regulations.

### **Sec. 28-7.      Rates.**

The Grantee shall be entitled to charge the inhabitants of said Charter Township for gas and/or electricity furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate gas and

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electric rates and rules regulating such service in said Charter Township, are hereby granted. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Charter Township acting by its Charter Township Board, or said Grantee.

### **Sec. 28-8. Revocation.**

The franchise granted by this Ordinance is subject to revocation upon sixty (60) days written notice by the party desired such revocation.

### **Sec. 28-9. Michigan public services commission, jurisdiction.**

Said Grantee shall, as to all other conditions and elements of service, both gas and electric, not herein fixed, be and remain subject to reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to gas or electric service in said Charter Township.

### **Sec. 28-10. Repealer.**

This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of a gas and/or electric ordinance adopted by the Charter Township Board on June 11, 1987 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power, and authority to lay, maintain and operate gas mains, pipes and services, and to construct, maintain and commercially use electric lines consisting of towers, masts, poles, cross arms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, along, across and under the highways, streets, alleys, bridges and other public places, and to do a local gas and/or electric business in the TOWNSHIP OF FLUSHING, GENESEE COUNTY MICHIGAN for a period of thirty years.

And amendments, if any, to such ordinance whereby a gas and/or electric franchise was granted to Consumers Energy Company.

(Ord. No. 17-1 6-25-2017)

## **Chapter 29    Reserved**

## Chapter 30 Parks and Recreation

### Sec. 30-1. Definitions

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

*Commission* as used in Sec. 30-2 through Sec. 30-13 of this Ordinance shall mean the Flushing Township Parks and Recreation Committee, which shall serve at the discretion of the Township Board in accordance with policies and procedures established by the Township Board. Except as otherwise provided by the Township Board through duly adopted policies or procedures, all authority regarding the establishment, administration, and operation of any park within the Township is reserved to the Board.

(Ord. No. 01-11 6-9-2011)

*Commission property or township park property* shall mean all lands, waters, and property administered by or under the jurisdiction of the Flushing Township Parks and Recreation Commission.

*Person or person[s]* shall mean individuals, male or female, singular or plural; firms, corporations, or any group or gathering of individuals.

*Camping* means the overnight lodging or sleeping of person or persons on the ground or in any manner, or in any sleeping bag, tent, trailer-tent, trailer coach, vehicle camper, motor vehicle, boat or in any other conveyance erected, parked or placed on the premises or waters within any park or recreation area administered by the commission.

*Rules* shall mean the rules adopted by the Flushing Township Parks and Recreation Commission applicable to all property administered by or under the jurisdiction of the said commission and all amendments thereto.

(Ord. No. 68-98, § 2, 8-27-98)

Cross reference-Sports and recreation district, 20-341 et seq.

### Sec. 30-2. Public uses and hours.

*General public* means any person desiring to use or who uses any park. A group or gathering, as used in this article, means twenty-five (25) or more persons attending a park together. A group may use certain areas of a park to the exclusion of others by permit granted by the Flushing Township Parks and Recreation director or the director's designated representative.

(A) Permits.

1. Applications for permits for reserved park space shall be made upon forms to be furnished by the Flushing Township Parks and Recreation Department as approved by the commission.
2. The commission or its agent may, upon written application, grant specific use permits for special uses when in the opinion of the commission or its agent, special consideration is warranted.
3. Application shall be made in advance of the time of the reservation request sufficient to allow at least seventy-two (72) hours posted notice of reservation of space.
4. In the event more applications for reserved space are received than spaces available, such applications shall be considered in the chronological order received.

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### (B) *Fee and charges.*

1. Fees and charges may be assessed by the commission for the use of any facility, land, area, or program on township park property.
2. It shall be unlawful for any person to use any facility, land or area for which a fee or charge has been established by the commission without payment of such fee or charge.

### (C) *Hours.* No person or vehicle shall remain upon property administered by or under the jurisdiction of the commission between posted closing times and sunrise excepting at designated fishing sites, camp areas and other special use areas, provided, however, that upon application to the commission or its authorized agent, said hours may be extended.

(Ord. No. 68-98, § 3, 8-27-98)

### **Sec. 30-3. Protection of property.**

#### (A) Destruction of buildings, markers, monuments and other properties shall be prohibited, and no person shall, on township park property;

1. Willfully destroy, deface, alter, change or remove any monument, stone marker, benchmark, stake, post or blaze, marking, or designating any boundary line, survey line, or reference point.
2. Cut, break, mark upon or otherwise injure any building, equipment, bridge, drain, wall, fountain, lamppost, fence, gate, hedge, or other structure.
3. Deface, destroy, or remove any placard, notice or sign, whether permanent or temporary, posted or exhibited within or upon park property.
4. Appropriate, excavate, injure or destroy any historical or prehistorical ruin or any object of antiquity, without permission of the commission or its agent.

#### (B) Destruction of plant life and natural surroundings shall be prohibited and no person shall:

1. Cut, remove, or destroy any tree, sapling, seedling, bush or shrub, whether alive or dead, or chip, blaze, box, girdle, trim or otherwise deface or injure any tree or shrub, or break or remove any branch, foliage, flower, or any tree or shrub, or pick, gather, uproot, remove or destroy any flower, plant or grass.
2. Remove or cause to be removed any sod, earth, humus, peat, boulders, gravel, or sand, without written permission of the commission or its agent.

#### (C) The following rules shall apply to fires on township park property:

1. No person shall willfully set or cause to be set on fire any tree, woodland, brushland, grassland or meadow within or upon the property of the commission.
2. No person shall build any fire upon commission property except within the fireplaces, receptacles or, by permit, in open spaces approved and designated by the commission for such purpose.
3. No person shall drop, throw or otherwise scatter lighted matches, burning cigars, cigarettes, tobacco paper or other flammable materials within or upon any property of the commission.
4. Fires shall not be left unattended. All fires shall be extinguished upon leaving the immediate vicinity.

(Ord. No. 68-98, § 4, 8-27-98)

**Sec. 30-4. Protection of wildlife.**

It shall be unlawful for any person while on township park property to:

- (A) Cause any animal or fowl to run at large.
- (B) Bring, drive or lead any animal into township park property; excepting that horses and other beasts of burden and draft animals may be ridden by persons in charge thereof, or driven before a vehicle attached thereto, on such portions of township park property as may be designated.
- (C) Bring, drive, lead or carry any dog or other animal or pet which is unleashed, or upon a leash more than six (6) feet in length, except for animals used in a designated dog show or field trial areas. All such animals must be under the immediate control of a competent person at all times.

A violation of this subsection shall subject the violator to a civil infraction fine of fifty dollars (\$50.00), unless the offense occurs during the period from April 1 through June 30, in which case, the fine shall be one hundred dollars (\$100.00).

- (D) Suffer his dog or pet to enter any public building or to be upon any designated beach, except a trained and working leader dog.
- (E) Cause or permit any horse or other animal to stand on any township park property unless securely hitched or in the charge of some competent person.
- (F) Torture, ill-treat or neglect any animal or fowl.
- (G) No person shall hunt, trap, catch, wound or kill, or treat cruelly, attempt to trap, catch, wound, or kill any bird or animal, molest or rob any nest of any bird or any lair, den or burrow of any animal in or upon any land or waters administered by or under the jurisdiction of the commission. Provided, however, the commission may from time to time designate limited areas in which, due to overcrowding, hunting may be allowed. Fishing will be permitted within or upon township park property in accordance with the laws of the State of Michigan and the rules of the Department of Natural Resources of the State of Michigan in such areas designated for such purposes. It shall be unlawful to violate any of the laws of the State of Michigan relating to hunting and/or fishing while on township park property.

All game, animals, fowl, birds, fish and other aquatic life, hunted, killed, taken or destroyed, bought, sold, bartered, or had in possession, contrary to any of the provisions hereof, shall be and the same are declared to be contraband and the same shall be turned over to the Michigan Department of Natural Resources for disposal. Provided further that any weapon or object carried or used by any person in violation of these rules shall be subject to seizure by the commission or its agents and disposed of according to law.

(Ord. No. 68-98, § 5, 8-27-98; Ord. No. 68-B-05, 5-12-05)

**Sec. 30-5. Regulations governing sports, games, activities and other uses.**

No person shall:

- (A) Swim, bathe, or wade, in any of the watercourses, lakes, ponds, or sloughs located within or upon the properties administered by or under the jurisdiction of the commission.
- (B) No person shall swim, bathe or wade in any of the water courses, lakes, or ponds located within any park, except at which times and places as may be provided and designated for such purposes by the commission.

(Ord. No. 68-98, § 6, 8-27-98)

**Sec. 30-6. Boating.**

No person shall bring into, use or navigate any boat, yacht, canoe, raft or other watercraft upon any watercourse, lagoon, lake, pond or slough located within or upon the properties administered by or under the jurisdiction of the commission except at such time and places as may be provided or designated for such purpose. All watercraft shall comply with and be used in compliance with Public Act 303 of 1967, as amended, and such regulations as may be adopted under the authority of the act.

(Ord. No. 68-98, § 7, 8-27-98)

**Sec. 30-7. Camping.**

It shall be unlawful to camp except in such areas as may be provided and designated for such purposes by the commission. No person shall camp without a written permit issued by an authorized representative of the commission. No camping permit shall be issued to any person or persons for a continuous period exceeding four (4) nights; nor shall such permit be renewed to said person or persons until twenty-two (22) hours have elapsed since the termination of the permit holder's previous permit. Periods in excess of the aforementioned time limitation may be extended to groups upon written application to and at the sole discretion of the commission; provided further, however, that no permit shall be issued to any person under the age of eighteen (18) years.

(Ord. No. 68-98, § 8, 8-27-98)

**Sec. 30-8. Traffic and parking.**

Parking in prohibited areas; standing for loading or unloading in certain places.

- (A) It shall be unlawful for the operator of a vehicle to stop, stand or park said vehicle in any place marked as a passenger or loading zone, other than for the expeditious loading or unloading of passengers, or for the unloading and delivery or pick up and loading of materials.
- (B) It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle upon any roadway or in any parking area in such manner as to form an obstruction to traffic thereon.
- (C) It shall be unlawful to park any vehicle in any area, which is designated, as a prohibited parking area.
- (D) It shall be unlawful to drive or park any motor vehicle in or upon commission property, which is used for recreational purposes, unless otherwise allowed by these rules.

(Ord. No. 68-98, § 9, 8-27-98)

**Sec. 30-9. Horses.**

- (A) It shall be unlawful for any person to ride, lead or cause or suffer a horse to be upon any property administered by or under the jurisdiction of the commission except on specifically designated and posted areas or bridle paths or by permit on field trail areas.
- (B) It shall be unlawful for any person to ride a horse in a careless, negligent or reckless manner so as to create a nuisance or to endanger the life, property or persons of others on any lands administered by or under the jurisdiction of the commission.
- (C) The driver of any vehicle shall yield the right-of-way to any person riding a horse on marked bridle paths where such bridle paths cross streets or roadways.

(Ord. No. 68-98, § 9, 8-27-98)

**Sec. 30-10. Motor-driven vehicles.**

It should be unlawful for any person to:

- (A) Operate a motor-driven vehicle of any kind or nature except on paved roads or designated parking areas.
- (B) Operate a motor-driven vehicle on any park road at a speed exceeding twenty-five (25) miles per hour or at any speed greater than that posted; provided further, however, that notwithstanding any provision herein, any person driving a vehicle on a park road shall drive at a careful and prudent speed not greater than nor less than is responsible and proper, having due regard to the traffic, surface and width of the road and of any other condition then existing, and no person shall drive any vehicle upon a park road at a speed greater than will permit him to bring said vehicle to a stop within the assured clear distance ahead.
- (C) Operate any motor-driven sled, snowmobile, ATV, dune buggy, go-cart, or any motor-driven vehicle (except a vehicle licensed and registered for highway use) on any property under the management, supervision or control of the commission.
- (D) Operate any vehicle upon commission property, including but not limited to, any area designated for the parking of vehicles, [in] a careless or negligent manner likely to endanger any person or property.
- (E) Drive any vehicle upon commission property while under the influence of intoxicating liquor or narcotic, drug, barbitol or any derivative of barbitol.
- (F) Drive any vehicle upon commission property while his ability to do so has been impaired by the use of intoxicating liquor or by the use of drugs or narcotics.
- (G) Operate any motor vehicle upon commission property while his license to so operate has been suspended or revoked by the State of Michigan.
- (H) Operate any motor vehicle upon commission property without having a valid operator's license, motor vehicle registration certificate and proof of the minimum liability coverage or uninsured motor vehicle fee as required by the State of Michigan vehicle code in his possession.
- (I) Operate any vehicle upon commission property contrary to posted traffic signs, symbols, rules or regulations or marked roadways.
- (J) Operate any motor vehicle in any manner upon commission property, which results in excessive noise or disturbs the peace, quiet or tranquility of the area.
- (K) Leave, or cause to be left, any vehicle upon property administered by or under the jurisdiction of the commission between sunset and 8:00 a.m.
- (L) Operate or ride on a motorcycle or motor-driven cycle on any property under the management, supervision, or control of the commission except for parking in the designated area.

(Ord. No. 68-98, § 9, 8-27-98)

**Sec. 30-11. Operation of bicycles.**

- (A) Bicycles shall be operated as closely to the right-hand curb or right-hand side of the path, trail or roadway as conditions will permit and not more than two bicycles shall be operated abreast.



(B) It shall be unlawful for the operator of any bicycle when upon any path, trail or roadway, to carry any person upon the handlebar or frame of any bicycle, or for any person to so ride upon such bicycle.

(C) Bicycles may be operated upon such paths, trails, or roadways as may be posted allowing such use; provided, however, no such use shall be allowed between sunset and sunrise.

(Ord. No. 68-98, § 9, 8-27-98)

**Sec. 30-12. Trespass.**

(A) *Livestock*. No person shall drive or cause to be driven any horses, cattle, sheep, goats, swine, or other livestock upon or across property administered by or under the jurisdiction of the commission, without the written permission of the commission or its agent.

(B) *Peddling and soliciting*. It shall be unlawful for any person to peddle or solicit business of any nature whatsoever, or to distribute handbills, or other advertising matter, to post unauthorized signs on any lands, water structures, or property administered by or under the jurisdiction of the commission, or to use such lands, water, structures or property unless first authorized in writing by the commission or its agent.

(C) *Unlawful obstruction*. No person, firm or corporation shall by force, threats, intimidation, unlawful fencing, enclosing, or by any other means prevent or obstruct any person from entering, leaving or making full use of any property administered by or under the jurisdiction of the commission.

(D) *Hindering employees*. No person shall interfere with or in any manner hinder any employee or agent of the commission while performing their official duties.

(E) *Resisting park ranger*. No person shall interfere with any park ranger or police officer in the discharge of his duties; or fail or refuse to obey any lawful command of any park ranger or police officer.

(F) *Impersonation of park ranger*. No person shall impersonate any member of the park ranger force for any reason whatsoever.

(G) *Alcoholic beverages, drugs*. No person shall have in their possession any intoxicating beverage while in or upon the property administered by or under the jurisdiction of the commission.

No person shall sell, use or have in his possession any drug or narcotic; the sale, use or possession of which is prohibited by the state law.

(H) *Personal conduct*.

1. It shall be unlawful for any person to be under the influence of intoxicants, or to engage in any violent, abusive, loud, boisterous, vulgar, lewd, wanton, obscene or otherwise disorderly conduct, or to disturb or annoy others, while in or on any property administered by or under the jurisdiction of the commission.

2. It shall be unlawful to conduct or to participate in any form of gambling, lottery or game of chance upon park property.

(I) *Use of loudspeaker*. It shall be unlawful to use a loudspeaker, public address system or amplifier within or upon commission property without a written permit issued by the commission or its agent.

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- (J) *Fireworks*. No person shall fire, discharge or have in his or her possession any rocket, firecrackers, torpedo, squib, or other fireworks or any substance of an explosive nature within or upon the property.
- (K) *Firearms*. No person shall at any time, bring into or upon the township park's properties, nor have in his or her possession, nor discharge, or set off anywhere upon said properties, a revolver, pistol, shotgun, rifle, air gun, water gun or any gun, rifle, firearm or bow or other weapon that discharges projectiles either by air, explosive substance or any other force, provided, however, that this section shall not apply to any deputy sheriff, police officer, peace officer, park ranger, or other duly appointed law enforcement officer while carrying out the duties and responsibilities of his position nor to any person while on or in those areas which may from time to time be designated as hunting areas by the commission.
- (L) *Littering and pollution of water*. It shall be unlawful:
1. To discard or deposit refuse of any kind or nature in or upon the property of the commission except by placing said refuse in containers provided for such purpose.
  2. To throw, cast, lay, drop or discharge into or leave in waters administered by or under the jurisdiction of the commission any substance, matter or thing, liquid or solid which may or shall result in the pollution of said waters.
- (M) *Skating and coasting*.
1. No person shall use roller skates, roller blades, skateboards or similar devices within or upon park property, except at such times and places as may be expressly designated or maintained therefore.
  2. No person shall skate, sled, walk or go upon any ice, or snowshoe, or ski except at such times and upon such places as may be designated or maintained therefore.
  3. No person shall within or upon commission property coast with handsleds, bobs, carts, or other vehicles, on wheels or runners, except at such times and upon such places as may be designated or maintained therefore.
- (N) *Balloons, aircraft and parachutes*. No person shall make any ascent in any balloon or aircraft or any descent in or from any balloon or aircraft or parachute on any lands or waters administered by or under the jurisdiction of the commission without first having written permission from the commission or its agent.
- (O) *Public exhibition*. No person shall exhibit any machine or show, or any animal, or indulge in any acrobatic exhibitions in or upon any township park property, nor shall any person carry on any performance or do anything whatsoever which shall cause persons to congregate so as to interfere with the proper use of such property by the general public or to obstruct the passage of vehicles or persons without first having obtained written permission from the commission or its agent.
- (P) *Special permits*. No erection, construction or maintenance shall be made above or below ground, across or beneath township park property by any person, firm, or corporation without first having obtained written permission from the commission authorizing such installation or construction and a permit specifying in detail the work to be done and the conditions to be fulfilled pursuant to the terms of such approval.
- (Q) *Emergency powers*. Nothing in these rules shall:
1. Prohibit or hinder duly authorized agents of the commission or any peace officers from performing their official duties.

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2. Prohibit the commission or the director from establishing emergency rules required to protect the health, welfare and safety of park visitors and to protect park property; including, but not limited to, the right of the commission to order all persons off commission property, and close all or any portion of said park.

(Ord. No. 68-98, § 10, 8-27-98)

### **Sec. 30-13. Launching and recovery of water craft.**

- (A) The launching and recovery of water craft to and from the Flint River shall be permitted from the launch area designated in the Flushing Township Nature Park.
- (B) For purposes of this Ordinance, water craft means non-motorized canoes, kayaks, rowboats, and flotation devices less than 20 feet in length.
- (C) Motorized vehicles and trailers used to transport water craft shall be parked in designated parking areas and water craft shall be carried to and from the designated parking area to the launch site. Motorized vehicles and/or trailers are prohibited from backing into the launch site or to the river's edge for purposes of launching or recovering water craft.
- (D) The launching and recovery of water craft shall take place during park hours and vehicles and trailers shall not remain at the park after hours.

(Ord. No. 01-11 June 9, 2011)

## **Chapter 31 Planning Commission**

### **Sec. 31-1. Background.**

- (A) Flushing Township was incorporated as a charter township, pursuant to the provisions of MCL 42.1, et seq., in 1948, prior to which it operated as a general law Township under the provisions of Chapter 41 of the Michigan Compiled Laws.
- (B) Prior to incorporation of Flushing Township as a charter township, the Board of Trustees created a zoning board under the authority of the Township Rural Zoning Act of 1943, which subsequently made recommendations to the Board of Trustees on matters of zoning, land use and land use planning.
- (C) At a regular meeting of the Board of Trustees held July 19, 1976, the Board of Trustees on a motion made and approved, redesignated the zoning board as a planning commission, granting to the planning commission all the authority permitted under the Township Planning Act of 1959, 1959 PA168, including matters relating to zoning laws, land-use and land use planning.
- (D) Since July 19, 1976, the Flushing Township Planning Commission has operated as a planning commission in accordance with all requirements of Michigan law and local ordinances, including the Township Planning Act, the Zoning Enabling Act of 2006, enacted by 2006 PA110, MCL 125.3101, et seq. and the Michigan Planning Enabling Act of 2008, enacted by 2008 PA 33, MCL 125.3801, et seq., regarding all matters pertaining to the Township's zoning ordinance, land use and land use planning.

### **Sec. 31-2. Confirmation of Planning Commission and its Authority. The continuing existence of the Planning Commission for the Charter Township of Flushing is confirmed, with the Planning Commission to continue as set forth below.**

- (A) Ratification. The creation of the Planning Commission, including the terms of current members, are ratified.
- (B) Authority. The Planning Commission shall be charged with the powers, duties, responsibilities and limitations provided in the Zoning Enabling Act of 2006, MCL 125.3101, et seq., as amended from time to time; the Michigan Planning Enabling Act of 2008, MCL 125.3801, et seq. as amended from time to time; and, applicable ordinances of the Charter Township of Flushing.
- (C) Appointments and Terms. The Planning Commission shall consist of five (5) members. The Township Supervisor, with approval of the Township Board, shall appoint all Planning Commission members. All Planning Commission members shall serve terms of three years each, with one-third of the terms expiring each year. Successors shall be appointed not more than one month after the term of the preceding commission member has expired or ended for any other reason. Vacancies shall be filled for the remainder of the term.
- (D) Members. Planning Commission members shall be registered voters of the township, except that one member is not required to be a registered voter of the township, but shall be possessed of knowledge, skills or experience beneficial to the Planning Commission. One member of the township board shall be appointed to the Planning Commission
- (E) Compensation. The Planning Commission members may be compensated for their services as provided by Township Board resolution.

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(F) Officers and Meetings. The Planning Commission shall elect a chair, vice-chaire, and secretary from its members, and may create and fill other offices or committees as it deems advisable. It may appoint advisory committees outside of its membership. The terms of all officers shall be one year. The Planning Commission shall meet at least four times each year, and any additional times as it determines necessary to accomplish its functions.

(G) Authority. The authority of the Planning Commission shall include:

1. Master Plan. Under the authority of the Michigan Planning Enabling Act, the Planning Commission shall make a master plan as a guide for the development of those portions of the Township outside of any incorporated village or city. The Township Board shall have final authority of the master plan and any subsequent amendments.
2. Recommending Authority. The Planning Commission shall make recommendations concerning new plans and other land development matters referred to it by the Township Board. All final decisions of the planning commission, shall be subject to the approval of the Township Board before they can take effect.
3. Amendments to Authorizing Statutes. Any amendments made to the Zoning Enabling Act of 2006 or the Michigan Planning Enabling Act of 2008, shall hereby be declared to automatically control the activities and function of the Planning Commission.
4. Zoning Powers. All powers, duties and responsibilities provided by the Zoning Enabling Act of 2006, as amended, and the Michigan Planning Enabling Act of 2008, as amended, are to be continued, uninterrupted, with the Planning Commission, as was the case prior to the effective date of this Ordinance. Any existing master plan, zoning ordinance or other decisions, considerations or actions taken by the Planning Commission prior to the effective date of this ordinance, shall remain and continue in full force and effect, until otherwise amended, altered or repealed by the Township Board.

(H) Effective Date. This ordinance shall take effect following its publication in a newspaper of general circulation in the township.

PASSED AND APPROVED BY THE CHARTER TOWNSHIP OF FLUSHING BOARD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2022.

## **Chapter 32     Special Assessments**

### **Sec. 32-1.     Definitions**

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

*Sale* means any transfer of equitable or legal title to real estate, with or without adequate consideration. A “sale” shall be deemed to have occurred upon execution of a deed conveying legal title; upon execution of a contract for the sale of land on an installment basis; or upon execution of a court order transferring title to land. A “sale” shall not be deemed to have occurred upon execution of any document adding the name of a person or entity as a tenant by the entireties, a joint tenant, or a tenant in common; or deleting the name of any person or entity from the title as a tenant by the entireties, a joint tenant or a tenant in common; or any transfer under the terms of a decedent’s will or by intestacy.

*Special assessment* means any charge placed upon the real estate tax roll of the township which assesses the cost, or any portion of the cost, of any public improvement project or of any service, against a parcel of real estate or against a subdivided lot, and which assessment is permitted by the compiled laws of the state as they may be from time to time amended.

(Ord. No. 45, § I, 2-24-83; Ord. No. 45-A, § I, 10-27-88)

Cross reference-Definitions and rules of construction. generally, § Sec. 1-2.

### **Sec. 32-2.     When payment due.**

A special assessment against any parcel of real estate or subdivided lot shall be paid in full to the township treasurer at the time of sale of the real estate against which the assessment is levied.

(Ord. No. 45-A, § II, 10-27-88)

### **Sec. 32-3.     Assumption of assessment.**

If the buyer shall come into the township hall before the date of closing the purchase of the real estate and execute an agreement to continue making payments on the assessment in the same manner as payments would have been made if the property had not been sold, he may do so.

(Ord. No. 45-A, § II, 10-27-88)

### **Sec. 32-4.     Buyer liable to pay.**

Unless the seller and buyer of the real estate agree otherwise, the payment of the special assessment balance due shall be made by the buyer. If the special assessment is not paid in full at the time of sale, the entire balance due shall be placed upon the tax roll in the same manner as other real estate taxes in the December next succeeding the date of sale.

(Ord. No. 45, § III, 2-24-83)

### **Sec. 32-5.     Deferral or partial payment of special assessments.**

(A) *Definition.* For purposes of this section, homestead means a dwelling or a unit in a multiple-unit dwelling, owned and occupied as a home by the owner thereof, including all contiguous unoccupied real property owned by the person. Homestead includes a dwelling and an out building used in connection with a dwelling situated on the land of another.

(B) *Deferral.* The board of trustees or its designated agent may defer all or part of a special assessment with respect to a homestead, when requiring timely payment of the special

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assessment would impose an undue hardship on the owner. Any payment which is deferred pursuant to this section, shall constitute a lien against the homestead and the owner shall execute any documents necessary to record or otherwise perfect such lien.

- (C) *Request to be submitted in writing.* A request for deferment of a special assessment with respect to a homestead shall be submitted to the township, in writing, and signed by the owner. In the request, the owner shall set forth the reasons why payment of the special assessment would impose undue hardship on the owner. Along with the request, the owner shall submit evidence of his or her present financial circumstances, including a complete copy of the owner's most recently filed federal and state income tax returns and evidence all household income for the current calendar year, to date, and the immediately preceding calendar year. Absent extraordinary circumstances, deferment of all or part of the special assessment will be deemed appropriate only if the owner's household income is below the poverty level established by the United States Department of Labor for the year immediately preceding the year in which the request for deferment is made.
- (D) *Decision rendered.* The board of trustees or its designated agent shall consider each request on its own facts and may require the owner to submit additional information as the board of trustees or its designated agent determines is necessary to render an informed decision. The owner shall be notified of the decision in writing and a decision rendered by the board of trustees shall be final. The decision shall set forth the amount of the deferment and the period of the deferment. The amount deferred shall accrue interest at the applicable rate, until paid.

(Ord. No. 45-B, §§ 1-4, 2-13-92)

Editor's note-Ordinance No. 45-13, adopted 2-13-92 did not specifically amend the Code; hence, inclusion of §§ 1-4 as §§ 14-5 was at the discretion of the editor.

## **Chapter 33 Land Division**

### **Sec. 33-1. Title.**

This Ordinance shall be known and cited as the Township Land Division Ordinance.

### **Sec. 33-2. Purpose.**

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

### **Sec. 33-3. Definitions.**

For purposes of this Ordinance, certain terms and words used herein shall have following meanings:

- (A) "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.
- (B) "Divide" or "Division" means the partitioning or splitting of a parcel or tract of land by the proprietor's representatives, successors or assigns for the purpose of sale or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the Act. "Divide" and "Division" does not include a property transfer between two (2) or more adjacent parcels, if the property taken from one (1) 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 Act or the requirements of other applicable Ordinances.
- (C) "Exempt split" or "exempt division" means the partitioning or splitting of a parcel or tract of land by the proprietor that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.
- (D) "Forty acres or the equivalent" mean forty (40) acres or ¼-1/4 (quarter-quarter) section containing not less than thirty (30), or a Government Lot containing not less than thirty (30) acres.

### **Sec. 33-4. Prior Approval Requirement for Land Divisions.**

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 Ordinance and the Act.

### **Sec. 33-5. Applicant for Land 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 the proposed land division before making any division by deed, land contract, lease for more than one (1) year, or for building development:

- (A) A complete application on such form as may be approved by the Township Board.
- (B) Proof of fee ownership of the land proposed to be divided.



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- (C) 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.
- (D) Proof that all standards of the Act and this Ordinance have been met.
- (E) 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.
- (F) A fee in an amount to be established by the Township Board from time to time, to cover the cost of the review of the application and administration of this Ordinance and the Act. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.

### **Sec. 33-6. Procedure for Review of Applications for Land Division Approval.**

- (A) The Township shall approval or disapproval of the land division application within forty-five (45) days of receipt of a completed application conforming to this Ordinance's requirements and the Act, and shall promptly notify the applicant of the decision and, if denied, the reasons for the denial.
- (B) Any person or entity aggrieved by the decision of the Assessor or designee may, within thirty (30) days of the decision, appeal the decision to the Township Zoning Board of Appeals which shall consider the resolve the appeal.
- (C) The Assessor or designee shall maintain an official record of all approved and accomplished land divisions or transfers.
- (D) Approval of the 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 of the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement of this effect.

### **Sec. 33-7. Standards for Approval of Land Divisions.**

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

- (A) All parcels created by the property division(s) shall meet the minimum width, frontage and area requirements of the appropriate Zoning District, unless otherwise provided for by Township Ordinance.
- (B) The ratio of depth to width of any parcel created by the division does not exceed a four to 1 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 measurements.
- (C) The proposed land division(s) comply with all requirements of this Ordinance and the Act.
- (D) All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles.

**Sec. 33-8. Consequences of Noncompliance with Land Division Approval Requirements.**

Any division of land in violation of any provision of this Ordinance shall not be recognized as a land division on the Township tax roll or assessment roll until the assessing officer refers the suspected violation or nonconformity to the prosecuting attorney and gives written notice to the person requesting the division and the person suspected of the violation or potential non-conformity of such referral to the prosecuting attorney. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation of this Ordinance shall further not be eligible for any zoning or building permit for any construction or improvement.

In addition, any person, firm or corporation who violates any of the provisions of this Ordinance shall be deemed responsible for a civil infraction which shall be punishable by civil fine of not more than five-hundred dollar (\$500) along with costs which may include all expenses, direct and indirect, incurred by the Township in connection with the civil infraction, including reasonable legal fees. A violator of this Ordinance shall also be subject to such additional sanctions and judicial orders as are authorized under Michigan law.

Pursuant to Section 267 of the Act, MCL 560.267, 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 therefore, together with any damages sustained by the purchaser, recoverable in an action at law.

**Sec. 33-9. Severability.**

The provisions of this Ordinance are severable and if any part is determined void or unenforceable for any reason by a court with jurisdiction, such determination shall not affect any other part of the Ordinance.

**Sec. 33-10. Appeal.**

Any prevision Ordinances affecting unplatted and divisions in conflict with this Ordinance are hereby repealed; however, this Ordinance shall not be construed to repeal any provision of any applicable Zoning Ordinance, Building Codes or other Ordinances of the Township that shall remain in full force and effect notwithstanding any land division approval hereunder.

**Sec. 33-11. Effective Date.**

This Ordinance shall take effect upon publication following adoption.

(Ord. No. 2018-04 Adopted 12-13-2018)

## **Chapter 34 Subdivisions and Other Land Divisions**

### **Article 1 In General**

#### **Sec. 34-1. Application of chapter; when building permit not required.**

- (A) Pursuant to section 263 of Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, every division of a lot in a recorded subdivision shall be subject to the provisions of this chapter.
- (B) An owner seeking approval to divide a lot shall file an application in affidavit form with the township clerk, which shall set forth the reasons for the proposed division and shall be accompanied by an illustrative sketch or drawing, showing original and resulting dimensions.
1. Where the application states that the purpose is to add to adjoining existing building sites, and not to create separate building sites, the township board may approve the application when it is satisfied that no building permit is necessary.
  2. Where a separate building site is being created by division of a lot in a recorded plat, no building permit shall be issued, or any building construction commenced, until the suitability of land for safe installation of a septic tank and individual well has been approved by the township building inspector or the county health department. Upon receiving evidence of approval from the township building inspector or the county health department, the township board may approve the application.
- (C) No lot in a recorded plat shall be subdivided into more than four (4) parts and resulting building lots shall not be less in area than permitted by township ordinance, and in no case less than eighty (80) feet wide at the front line or less than twelve thousand (12,000) square feet in area.

(Ord. No. 29, 7-24-75)

State law reference-Similar provisions, MCL 560.263, MSA 26.430(263).

#### **Sec. 34-2. Certifications required for preliminary plats.**

No person shall submit any proposed preliminary or final plat for approval unless the following data shall accompany such proposed preliminary plat when originally presented to the township:

- (A) A certificate from a registered surveyor or registered qualified professional civil engineer:
1. Detailing stormwater disposal methods proposed for the subdivision and certifying that in his professional judgment the proposed stormwater disposal system is adequate to ensure that each building site and roadway will not be flooded and that all necessary easements for stormwater sewers or open drains will be dedicated to the public for that purpose.
  2. If the subdivision is proposed to be serviced by either public sanitary sewer or public water, the location, elevation and proposed method of connection to existing available sewer or water mains and certifying that in his professional judgment the proposed sewer and water facilities proposed will be adequate to service the entire proposed subdivision when entirely occupied, and easements have been provided adequate in size to make connection to existing water and sewer lines. If the subdivision is not serviced by public sewer or public water, certification that the hydrostatic qualities of each proposed lot and the percolation of each proposed lot satisfy the then existing standards of the health department with jurisdiction.

- (B) Certification that road plan conforms to county road and state highway specifications and that no land within the subdivision will be isolated from a public roadway nor will any adjoining land of this proprietor or other owners be isolated from public roadways.
- (C) Certification that this subdivision conforms to minimum lot sizes, setback and area requirements established at the time by township zoning ordinance or by a lot size control ordinance.
- (D) Certification that this subdivision conforms to zoning requirements of township.
- (E) Certification that this subdivision will not be proposed for final plat unless all outlots intended to provide future roadway access are restricted to be used only for roadway purposes and including the dedication at the time of final plat to the township or county for roadway purposes.

(Ord. No. 16, § 1, 10-10-68)

**Sec. 34-3. Division of platted lots.**

Platted lots may be partitioned or divided into not more than four (4) parts, provided that the resulting lots or parcels or combinations of portions of two (2) or more divided lots shall not be less in width or size than the more restrictive of the township zoning ordinance or the subdivision control act of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and provided further that such resulting lots shall each have direct access to a public roadway and also to public utilities necessary or required to service such lot, and provided further, that all such resulting lots shall conform in all particulars to the requirements of the subdivision control act of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and all township ordinances or this chapter.

(Ord. No. 16, § VI, 10-10-68)

**Sec. 34-4. Division of land in violation of state law.**

- (A) Whenever it shall come to the attention of the township building inspector that a parcel of land has been divided in violation of the subdivision control act, Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, the inspector shall refuse to issue any building permit for the construction of a building upon any unplatted parcel which is part of such division of land.
- (B) If the township building inspector shall be informed and believes that a parcel of land for which a building permit is sought from the township is part of a division in violation of the subdivision control act, he shall refuse to issue a building permit for any structure proposed to be constructed on such parcel until such time as the applicant for such building permit shall submit proof satisfactory to the building inspector that such parcel for which a building permit is sought is not part of a division of land in violation of the subdivision control act. Proof in form satisfactory to the building inspector shall be the obligation of the applicant for the building permit.
- (C) This section shall be applicable to the original owner of the original parcels which has been divided as well as upon any purchaser or successor in interest from the original owner since January 1, 1968 of any lot or divided parcel.

(Ord. No. 23 §§ 1-3, 8-10-72)

**Sec. 34-5. Access to public roadways.**

- (A) No building permit shall be issued for construction of any residence or other structure upon any lot or parcel of land which is not directly and exclusively accessible to and also abutting

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a public roadway which has been accepted by the county road commission or highway department as public roadway.

1. The access to the lot or parcel described in this section shall be at least thirty (30) feet wide.
2. Any residence or structure which gives access to such public roadway across land not solely owned by the applicant for the building permit shall be deemed not to be abutting to public roadway within the meaning of this section.

(B) Any residence or structure which has its only access to such public roadway across a privately owned roadway or roadway easement which services any land other than the land of the applicant for the building permit or services more than one (1) residence, shall be deemed not to have direct and exclusive access to a public roadway as described in subsection (A) above and no building permit shall be issued for any such residence or structure.

(C) Any owner of a lot on a private road who is prohibited from building upon such lot by the provisions of this chapter may petition the township board to vary or modify the provisions of this section when the granting of such variance will not modify the essential character of the locality and when refusal to grant a variance would result in the inability of the property owner to utilize the property for a conforming use, the township board may grant a variance. The township board may impose conditions upon resulting construction or utilization as a part of a decision to grant a variance.

(Ord. No. 2-29-D, § 3, 3-10-83)

### **Sec. 34-6. Connection to sewer, water system.**

No subdivision will be accepted for preliminary or final plat approval unless it shall comply with township ordinances relating to connection to a public sanitary sewer and public water supply system.

(Ord. No. 16, § III, 10-10-68)

### **Sec. 34-7. Dedication of, specifications for sewer, water systems.**

No subdivision will be accepted for final plat approval unless stormwater sewers or drains have been dedicated to the public for the purpose and will be available to the use of other lands in the township within the drainage district. If the township shall determine that the public health, safety and welfare require such drains to be tiled and covered, the subdivider will agree to do so. If the general plan of development of the township requires that pipelines and facilities for stormwater, public sanitary sewer or public water supply need to be larger or deeper than the sizes and depth required to serve this subdivision alone for future development of other lands in the township, the subdivider will place such larger or deeper pipelines available for connection to other lands of the township provided that the township pays the additional cost for larger or deeper pipelines or facilities deemed necessary.

(Ord. No. 16, § IV, 10-10-68)

### **Sec. 34-8. Approvals, documents required; fee.**

(A) No proposed final plat shall be submitted to the township for final approval until the following approvals and documents have previously been submitted to the township clerk in form in compliance with the subdivision control act of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, and in compliance with all provisions of this chapter:

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1. An abstract of title or title insurance policy showing marketable title in the proprietors of the subdivision.
2. All monuments required to be placed in the subdivision have either been placed or a cash or equivalent deposit has been made with the township and deposit agreement executed by the proprietors.
3. One (1) copy of final proposed plat with required surveyor's and proprietor's certificate completed and executed by the proprietors.
4. All township roads, streets, bridges and culverts have been completed and installed or cash or equivalent deposit has been made with the township and deposit agreement executed by the proprietors.
5. The surveyor certifies that the proposed plat is not isolated from public roads and does not isolate any other land whether owned by the proprietor or by others from public roads. Outlots or other parcels proposed to provide future roadway access to other land shall not be sufficient unless dedicated in the plat to the use of the public for roadway purposes.
6. If the subdivision has any waterways or lagoons, etc., as set forth in Section 188 of the subdivision control act of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended, all such waterways, etc., shall be installed or cash or equivalent deposit made to township and deposit agreement executed by the proprietors.
7. All utilities easements and roadways shall have been placed on the proposed final plat and dedicated as required by state law.
8. If any floodplains are involved in the proposed subdivision, such floodplains shall be restricted as provided by the state subdivision control act and such restrictions shall be submitted to the clerk for review prior to recording and thereafter shall be recorded in the office of the register of deeds of this county prior to submission of the final plat to the township board.

Cross reference-Flood Damage Control generally, Chapter 6.

- (a) The surveyor shall certify that the name of the plat and all street names conform to state subdivision control act requirements.
  - (b) A certificate of approval of the subdivision by the health department of jurisdiction.
  - (c) Payment to the township of the final plat fee required by the township plat fee ordinance.
- (B) After such documents and approvals have been delivered to the township clerk, the township clerk shall review, or have reviewed, the proposed plat and all such documents by those persons designated for review by the township board, and upon approval by the clerk or designated person, the clerk will notify the proprietor of preliminary approval of the final plat or will advise the proprietor of additional requirements or corrections necessary to satisfy this chapter. Such notification by the clerk to the proprietor shall not be longer than sixty (60) days after these documents and approvals are first delivered to the clerk. After the proprietor is notified of preliminary approval and has made any corrections or additions required by the clerk, the proprietor may submit the final plat to the township board for its consideration in accordance with the subdivision control act of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.), as amended.

- (C) The final plat fee and all other preliminary plat fees required by ordinance of the township shall not be refunded to the proprietor regardless of whether or not any proposed preliminary plat or final plat is approved by the township.

(Ord. No. 16, § V, 10-10-68)

**Sec. 34-9. Location of residential structures restricted; "lot" defined.**

- (A) No residential structure shall be erected upon any lot upon which any other residential structure is located.
- (B) For the purposes of this section, a "lot" shall be defined as a parcel of land occupied or intended for occupancy by a use permitted by the zoning chapter of the township, including one (1) main building with its accessory buildings, and providing the open spaces, parking spaces, and area required by the ordinances of the township.

(Ord. No. 33, § 2, 9-28-78)

**Sec. 34-10. Fees.**

All fees allowed under the subdivision control act of 1967 (MCL 560.188, MSA 26.430(188)) shall be as prescribed by resolution of the township board from time to time. Copies of such legislation (for example, platting fees) shall be on file in the township hall.

**Sec. 34-11. -34-25. Reserved.**

## **Article 2 Land Division Ordinance**

**Sec. 34-26. Title and purpose.**

This article shall be known and may be cited as the Flushing Township Land Division ordinance.

The purpose of this article is to carry out the provisions of the Land Division Act, Michigan Public Act 288 of 1967, as amended (the "act"), including without limitation Section 105 and 109(5) thereof, in order to prevent the creation of parcels of land which do not comply with the act or with applicable township ordinances; to provide for the orderly development of land and otherwise to provide for the health, safety and welfare of the residents and property owners of the township by establishing minimum requirements for review and approval of certain land divisions within the township.

This article shall not be construed to repeal, abrogate, rescind, or otherwise to impair or interfere with provisions of other ordinances to the township.

(Ord. of 12-11-97, § 1)

**Sec. 34-27. Definitions.**

Certain words and phrases used in this article shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meaning stated in the Act.

*Administrator* means the township assessor.

*Division or land division* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns for the purpose of sale, or lease of more than one (1) year, or of building development that results in one (1) or more parcels of less than forty (40) acres or the equivalent (as defined in the Act), and that satisfies the requirements of Sections 108 and 109 of the Act. Division does not include a property transfer between two (2) or more adjacent parcels, if the land taken from one (1) parcel is added to an adjacent parcel.

*Exempt split* means the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns that does not result in one (1) or more parcels of less than forty (40) acres or the equivalent.

*Parcel* means a contiguous area of land which can be described as stated in *Section 102(g)* of the Act.

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

*Road authority* means the governmental authority having jurisdiction or a public road or public street.

*Resulting parcel(s)* means one (1) or more parcels which result from a land division.

*Tract* means two (2) or more parcels that share a common property line and are under the same ownership.

(Ord. of 12-11-97, § 2)

**Sec. 34-28. Land division approval required.**

Any partitioning or splitting of land which requires the approval of the township in order to qualify as a land division under the Act shall satisfy the requirements of Sec. 34-29 and Sec. 34-30, and the other applicable provisions of this article.

(Ord. of 12-11-97, § 3)

**Sec. 34-29. Application for land division approval.**

(A) A proposed land division shall be filed with the administrator and shall include the following:

1. A completed application, on such written form as the township may provide, including any exhibits described therein;
2. Proof of an ownership interest in the land which is the subject of the proposed division, or written consent to the application, signed by the owner of such land;
3. A land title search, abstract of title, or other evidence of land title acceptable to the administrator which is sufficient to establish that the parent parcel or parent tract of the land which is the subject of the proposed division was lawfully in existence on March 31, 1997;
4. A copy of each deed or other instrument of conveyance which contains the statement required by Section 109(3) of the Act concerning the right to make further division.
5. Three (3) copies of a tentative parcel map showing the parent parcel or parent tract which is the subject of the application, and the area, parcel lines, public utility easements, and the manner of proposed access for each resulting parcel. The tentative parcel including the resulting parcels, shall be accurately and clearly drawn to a scale of not less than one (1) inch equals twenty (20) feet for parent parcels or parent tracts of less than three (3) acres in area, and to a scale of at least one (1) inch equals one hundred (100) feet for parent parcels or parent tracts of three (3) acres or more in area. A tentative parcel shall include:

- (a) Date, north arrow, scale, and the name of the person or firm responsible for the preparation of the tentative parcel map;



## Charter Township of Flushing

- (b) Proposed boundary lines and the dimensions of each parcel;
  - (c) An adequate and accurate legal description of each resulting parcel;
  - (d) A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area and date of such division;
  - (e) The location, dimensions and nature of proposed ingress to and egress from any existing public or private street; and
  - (f) The location of any public or private street, driveway or utility easement to be located within any resulting parcel. Copies of the instruments describing and granting such easements shall be submitted with the application.
- 6. The requirements of subparagraph (5) do not apply to any resulting parcel which is forty (40) acres or larger, as long as such parcel satisfies the requirements of Sec. 34-30(A)2 below.
  - 7. Other information reasonably required by the administrator in order to determine whether the proposed land division qualifies for approval.
  - 8. Payment of the application fee and other applicable fees and charges established by resolution of the township board.
- (B) There may be a fee charged to the applicant. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
- (C) A proposed division shall not be considered filed with the township, nor shall the time period stated in Sec. 34-30(C) commence, until all of the requirements for an application for land division approval have been complied with Genesee County.
- (D) In the opinion of the assessor; if the application is unclear (he) may ask for a signed waiver to set aside the forty-five-day limit for approval of the application.
- (Ord. of 12-11-97, § 4)

### **Sec. 34-30. Minimum requirements for approval of land divisions.**

- (A) A proposed land division shall be approved by the administrator upon satisfaction of all of the following requirements:
- 1. The application requirements of Sec. 34-29.
  - 2. Each resulting parcel shall have a means of vehicular access to an existing street or road from an existing or proposed driveway or access easement. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road. If a driveway or access easement does not lawfully exist at the time a division is proposed, the applicant shall also comply with the requirements of Sec. 34-30(B).
  - 3. The proposed division, together with any previous division(s) of the same parent parcel or parent tract, shall not result in a number of resulting parcels that is greater than that permitted under Section 108 of the Act.
  - 4. Each resulting parcel that is a development site (as defined in the Act) shall have adequate easements for public utilities from the resulting parcel to existing public utility facilities.

## Charter Township of Flushing

### Optional if zoning present

5. Each resulting parcel shall have the depth to width ratio specified by the township zoning ordinance for the zoning district(s) in which the resulting parcel is located. If the township zoning ordinance does not specify a depth to width ratio, each resulting parcel which is ten (10) acres or less in area shall have a depth which is not more than four (4) times the width of the parcel. The width and depth of the resulting parcel shall be measured in the same manner provided by the township zoning ordinance for the measuring of the minimum width and maximum depth of parcels.
  6. All resulting parcels to be created by the proposed land division(s) shall fully comply with the applicable lot area lot width requirements of the township zoning ordinance for the zoning district(s) in which the resulting parcels are located.
- (B) If a means of vehicular access to a resulting parcel does not lawfully exist at the time a land division is applied for, the proposed division shall not be approved unless the following requirements are satisfied:
1. If a driveway is proposed as a means of access, each resulting parcel shall have an area where a driveway will lawfully provide vehicular access in compliance with applicable township ordinances.
  2. If an easement is proposed as a means of access, the proposed easement shall be in writing and signed by the owner of the parcel(s) within which the easement is to be located. Such easement shall provide a lawful means of access over and across such parcel(s), in compliance with applicable township ordinances.
  3. If a new public street is proposed as a means of access, the applicant shall provide proof that the road authority having jurisdiction has approved the proposed layout and construction design of the street and of utility easements and drainage facilities associated therewith.
- (C) The administrator shall approve or disapprove a proposed land division within forty-five (45) days after the complete filing of the proposed division with the administrator, and shall provide the applicant with written notice of such approval or disapproval. If disapproved, the administrator shall provide the applicant with a description of the reasons for disapproval. Any notice of approval for a resulting parcel of less than one (1) acre in size shall contain a statement that the township is not liable if a building permit is not issued for the parcel for the reason that the parcel fails to satisfy the requirements of Section 109a of the Act, including approval of on-site water supply and on-site sewage disposal under the standards set forth in Section 105(g) of the Act. A raised sewage disposal system shall include twenty-five-foot set backs from nearest property lines.
- (D) An applicant aggrieved by the decision of the administrator may, within thirty (30) days of the decision, file a written appeal of the decision to the township board, which shall consider and decide the appeal by a majority vote of the members present and voting at a public meeting. At least ten (10) days' written notice of the date, time and place of the meeting at which the appeal is to be considered shall be given to the applicant by regular, first-class mail, directed to the applicant's address as shown in the application or in the written appeal. The township board may affirm or reverse the decision of the administrator, in whole or in part, and its decision shall be final.
- (Ord. of 12-11-97, § 5)

## **Chapter 35    Reserved**

## **Chapter 36     Zoning Ordinance**

### **Article 1     Purpose**

#### **Sec. 36-1.     Purpose.**

The purpose of this chapter is to promote the public health, safety, morals and general welfare; to encourage the use of lands in accordance with their character and adaptability and to limit the improper use of land; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources and properties, and with reasonable consideration among other things, to the character of each district, its peculiar suitability for particular uses, the conservation of property values and natural resources, and the general and appropriate trend and character of land, building and population development, as studied and recommended within a general plan by the Township Planning Commission, and endorsed, and regulations adopted, therefore, by the Township Board.

#### **Sec. 36-2.     Interpretation.**

The provisions of this chapter shall be considered as minimum standards and requirements within each respective zoning district and shall not preclude the establishment of higher or more restrictive standards, or requirements for the authorization of any conditional use permit, where such higher or more restrictive standards or requirements are found necessary by the Township Planning Commission to attain the intent of this chapter.

#### **Sec. 36-3.     Conflicting laws, ordinances, regulations, or restrictions.**

Any state statute more restrictive than this chapter shall be controlling. The text and map of the 1983 Flushing Township Zoning Ordinance, Ordinance No. 82 and all ordinances or parts of ordinances inconsistent or in conflict herewith, with the exception of the township building code (Chapter 3), are hereby repealed. Where the provisions of this ordinance with respect to mobile home parks is inconsistent with any provision of the Mobile Home Commission Act, MCL 125.2301, et seq., as amended from time to time; the rules (as amended from time to time) promulgated by the Mobile Home Commission of the Michigan Department of Commerce, in accordance with authority granted under the Mobile Home Commission Act, these rules currently being R 125.1101 through R 125.3069 as designated in the Michigan Administrative Code; and, the rules (as amended from time to time) promulgated by the Michigan Department of Public Health, with authority granted under MCL 125.1106 and MCL 333.2333, currently R 325.3311 through R 325.3393, as designated in the Michigan Code, shall control.

#### **Sec. 36-4.     Severability**

The provisions of this ordinance are severable. If any provision or any part of any provision is determined to be unconstitutional or invalid for any reason, by any Court, such invalidity shall not affect the remaining provisions or parts of any provision of this ordinance which can be given effect without the invalid portion of application.

#### **Sec. 36-5.     – 36-199     Reserved**

## Article 2 Definitions

### Sec. 36-200. 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:

The word *person* includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

The *present tense* includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word *shall* is mandatory, the word *may* is permissive.

The words *used* and *occupied* include the words intended, designed or arranged to be used or occupied.

*Abattoir* means a place where cattle, sheep, hogs or other animals, other than poultry, are killed or butchered for market or for sale.

*Accessory Structure* means a supplemental building, structure, or other construction (which may be part of the principal building, structure, or residence), located on the same lot, which is intended to remain in a fixed location on the lot and which is designed, occupied, or devoted to an accessory use. An accessory structure includes all components of the structure placed underground or suspended in the air. A satellite dish is an accessory structure for the purposes of the setback provisions of this Ordinance. Tower (communications tower) as defined in Sec. 36-1805(A)8 and the towers and related equipment associated with residential wind energy systems shall not be deemed accessory structures, but shall be subject to the specific requirements of Sec. 36-1805 and Sec. 36-1804(NN) of this Ordinance. (Amended by adoption April 21, 2011, Sec. 20-200 Accessory Structure)

*Accessory use* means a use normally incidental to, or subordinate to and devoted exclusively to, the main use of the land, structure or building.

*Acreage* means any tract or parcel of land, which has not been subdivided and platted.

*Adult Foster Care Congregate Facility* means an adult foster care facility licensed under PA 218 of 1979 with the approved capacity to receive more than 20 adults to be provided with foster care. (Amended by adoption July 25, 2002)

*Adult Foster Care Family Home* means a private residence licensed under PA 218 of 1979 with the approved capacity to receive six or fewer adults with the requirement the licensee is a member of the household and an occupant of the residence. (Amended by adoption July 25, 2002)

*Adult Foster Care Large Group Home* means a facility licensed under PA 218 of 1979 with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care. (Amended by adoption July 25, 2002)

*Adult Foster Care Small Group Home* means a facility licensed under PA 218 of 1979 with the approved capacity to receive twelve or fewer adults to be provided with foster care. (Amended by adoption July 25, 2002)

*Agricultural Tourism Facilities* means commercial facilities are designed to attract visitors through the sale of agricultural byproducts and the sale of gifts, arts and crafts and other similar products. These facilities can also include the provision of agricultural-related activities such as hay rides, sleigh rides and petting zoos. (Amended by adoption September 11, 2003)

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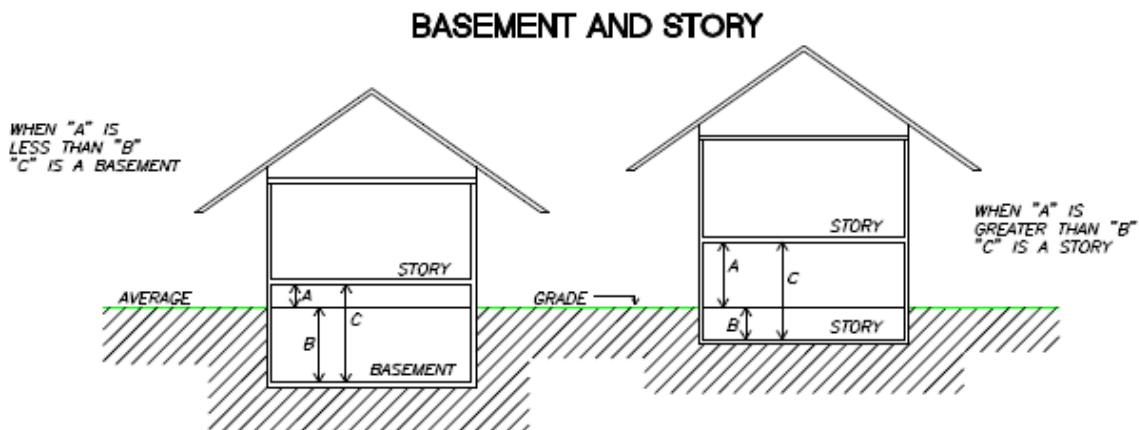
*Alley* means a public thoroughfare, or way, not over thirty (30) feet in width, which affords only secondary means of access to the abutting property.

*Alteration* means any change, addition or modification in construction or type of occupancy; any change in the structural members of a building, such as walls, partitions, columns, beams, girders; any substantial changes in the roof or exterior walls; any change in the location of a building; or any change which may be referred to herein as "altered" or "reconstructed."

*Assisted Living Facility* means a residential facility providing board and/or personal care, but which does not meet the definition of a nursing home, home for the aged or adult foster care. (Added by adoption July 25, 2002)

*Basement or cellar* means:

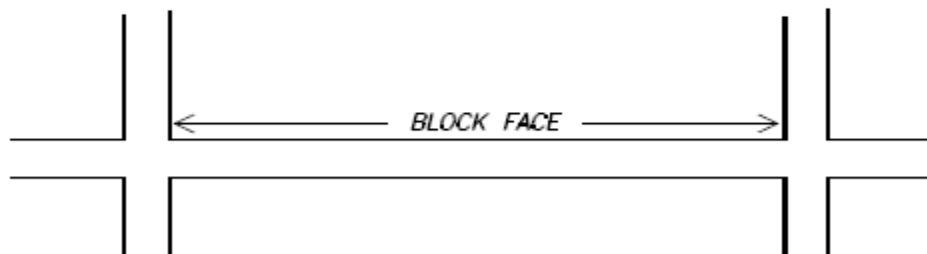
1. A cellar or basement is that portion of a structure with not less than three (3) walls thereof, partly below grade and so located so that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.
2. A basement or cellar shall be counted as a story for the purpose of height measurement if used for business purposes, dwelling purposes by other than a janitor or his family, or as established by other sections of this chapter.



*Bed and Breakfast* means primarily family dwelling where lodging with or without meals is furnished for compensation, chiefly on an overnight basis and mainly to transients.

*Block face* means and consists of those properties fronting along an existing right-of-way and located between the intersections and existing streets, or between intersections and dividers such as rivers, railroads, and other similar natural or manmade features.

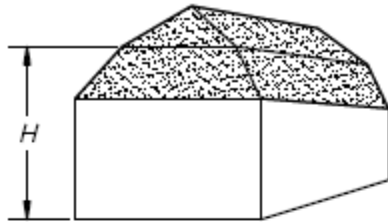
## BLOCK FACE



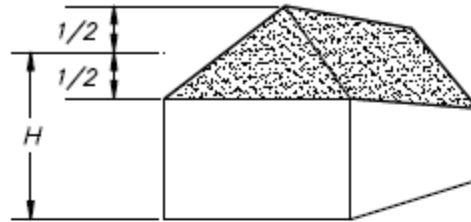
## Charter Township of Flushing

**Building** means any structure, excluding fences, having a roof or walls and build for, or capable of the shelter or enclosure of persons, animals, chattels or property of any kind.

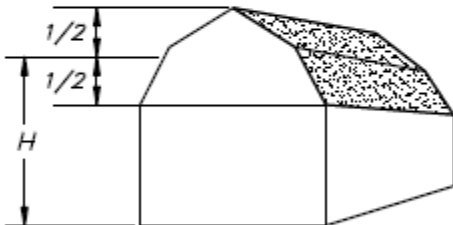
**Building, height of,** means the vertical distance from the grade at the center of the front of the building to the highest point of the roof surface in a flat roof, to the deck line for mansard roofs, and to the mean height level between eaves and ridge for gable, hip and gambrel roofs.



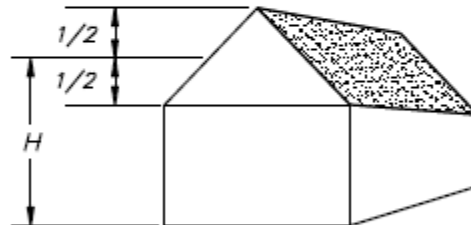
**MANSARD ROOF**



**HIP ROOF**



**GAMBREL ROOF**



**GABLE ROOF**

*H = HEIGHT OF BUILDING*

**Building permit** means the written authority issued by the building inspector permitting the construction, excavation, removal, repair, moving, alteration or use of a building in conformity with the provisions of this chapter.

**Cabin** means any structure or tent which is maintained, offered or used for dwelling or sleeping quarters for transients, or for temporary dwelling, but not including that which is commonly designed as hotel, motel, lodging house or tourist home.

**Cabin Park** means any tract or parcel of land on which two (2) or more cabins are maintained, offered or used.

**Car Wash** means a site used for the washing and cleaning of passenger vehicles, recreational vehicles or other light duty equipment. (Amended by adoption September 11, 2003)

**Child Care Center** or day care center means a facility, other than a private residence receiving 1 or more preschool or school-age children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. Child care center or day care center includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. (Amended by Adoption September 11, 2008)

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*Family day care home* means a private home in which 1 but fewer than 7 minor children are received for care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Family day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. (Amended by Adoption September 11, 2008)

*Group day care home* means a private home in which more than 6 but not more than 12 minor children are given care and supervision for periods of less than 24 hours a day unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home in which care is given to an unrelated minor child for more than 4 weeks during a calendar year. (Amended by Adoption September 11, 2008)

II. Operation of a child care center, family day care home or group day care home shall require a non-discretionary special use permit as provided in Sec. 36-1803, et seq. of this ordinance. A special use permit shall be issued upon the following conditions:

(A) Family day care home

1. The applicant is the owner or lawful occupant of the property proposed for use as a family day care home.
2. The property is located in an area zoned RSA, RU-1, RU-2, RU-3 or RU-4.
3. The applicant is licensed by the State of Michigan to operate a family day care home.

(B) Child care center

1. The applicant is the owner or lawful occupant of the property proposed for use as a child care center.
2. The property is located in an area zoned C-1 or C-2.
3. The applicant is licensed by the State of Michigan to operate a child care center.

(C) Group day care home

1. The applicant is the owner or lawful occupant of the property proposed for use as a group day care home.
2. The property is located in an area zoned RSA.
3. The applicant is licensed by the State of Michigan to operate a group day care home.
4. The property is located no closer than 1,500 feet to any of the following:
  - (a) Another licensed group day-care home..
  - (b) Another adult foster care small group home or large group home licensed under the Adult Foster Care Facility Licensing Act..
  - (c) A facility offering substance abuse treatment and rehabilitation service to 7 or more people licensed under Article 6 of the Public Health Code.
  - (d) A community correction center, resident home, half way house, or other similar facility, which houses an inmate population under the jurisdiction of the Department of Corrections.
5. Has appropriate fencing for the safety of the children in the group day care home as determined by the local unit of government.



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6. Maintains the property consistent with the visible characteristics of the neighborhood.
7. Does not exceed 16 hours of operation during a 24-hour period. The local unit of government may limit but not prohibit the operation of a group day-care home between the hours of 10 p.m. and 6 a.m.
8. Meets regulations, if any, governing signs used by a group day-care home to identify itself.
9. Meets regulations, if any, requiring a group day-care home operator to provide off-street parking accommodations for his or her employees. (Amended by Adoption September 11, 2008, Sec. 20-200 definitions, II.)

*Church Revival* means a temporary use of property using tents and other temporary structures to conduct open air religious services. (Amended by adoption September 11, 2003)

*Clinic* means a building or group of buildings where human patients are admitted, but not lodged overnight, for examination and treatment by more than one (1) professional, such as a physician, dentist, or the like.

*Club* means an organization of persons for special purposes or for the promulgation of common recreational interests such as hunting, use of recreational vehicles, conservation, etc. (Amended by adoption September 11, 2003)

*Commercial solar energy system* means a utility-scale facility of solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity. Commonly referred to as solar farms. (Ord No. 2018-01 Amended by adoption July 12, 2018)

*Community building* means any public or public utility building.

*Comprehensive plan* means the Flushing Township Master Plan, as adopted by the Township Planning Commission.

*Corral or barnyard* means a pen or enclosure for confining animals or livestock, but not including an area for grazing of such.

*Cul-de-sac* means a street terminated at one (1) end, with a turning radius.

*District* means each part or parts of the unincorporated area of the township for which specific zoning regulations are prescribed.

*Drive-Thru Establishments* means a facility that by design, physical facilities, service or by packaging procedures encourages or permits customers to conveniently make deposits or receive other services, or obtain goods without leaving their motor vehicles, and then proceeding elsewhere. Distinguished from a drive-in establishment by the absence of parking while the service is being provided or brought to the customers. (Amended by adoption September 11, 2003)

### DWELLINGS

1. Dwelling, one-family, means a residential dwelling, other than for temporary use, occupied by one (1) family, and so designed and arranged as to provide lodging, cooking, and sleeping accommodations for one (1) family only.
2. Dwelling, two-family, means a residential dwelling occupied by but two (2) families and so designed and arranged as to provide living, cooking and sleeping accommodations for two (2) families only.
3. Dwelling, multiple, means a dwelling other than a one-family or two-family dwelling.

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*Dwelling unit* means one (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically independent of any other group of rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities.

*Single story dwelling* The plan outline of the dwelling, including only heated living area of a single story dwelling shall have a total minimum of 1100 square feet on the ground floor.

*One and one half story dwelling:* The plan outline of the dwelling, including only heated living area of a one and one half-story dwelling shall have a minimum of 900 square feet on the ground floor. The upper floor to have a minimum of 450 square feet, for a total minimum of 1350 square feet.

*Two story dwelling:* The plan outline of a dwelling, including only heated living area of a two story dwelling shall have a minimum of 800 square feet on the ground floor, and a minimum of 800 square feet on the second floor, for a total minimum of 1600 square feet.

*Bi-level dwelling:* The plan outline of a dwelling, including only heated living area of a bi-level dwelling shall have a minimum of 900 square feet on the main level, and 450 square feet on the bi-level in ground area, for a total minimum of 1350 square feet.

*Tri-level dwelling:* The plan outline of a dwelling, including only two main heated living areas of a tri-level dwelling shall have a minimum of 900 square feet on the main level, and 450 on the tri-level for a total of 1350 square feet. One level could be partially in the ground, but not a basement

*Employee load factor* means that number equal to the maximum number of employees that can be employed at any one-(1) time in a particular structure or parcel of land, and refers to the basis upon which the number of parking spaces required is determined.

*Erected* means and includes built, constructed, reconstructed, moved upon or any physical operation on land required for building including, but not limited to, excavating, filling, draining and similar operations.

*Essential services* means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions, of underground or overhead gas, electrical, steam, or water transmission, or distribution systems, collection, communication, supply or disposal systems, including towers, structures, mains, poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, electric substations, gas regulator stations, telephone exchange buildings, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of service by such public utilities or municipal department or commissions for the public health or safety or general welfare.

*Family* means any number of persons living together in a room or rooms comprising a single housekeeping unit and related by blood, marriage or adoption, including the domestic employees thereof. Any group of persons not so related but inhabiting a single housekeeping unit shall be considered to constitute one (1) family for each six (6) persons, exclusive of domestic employees, contained in such group.

*Family Day Care Home* means a private home in which not more than six children are received for care and supervision for a period of less than 24 hours per day. The six-child limitation includes children under seven years old in the resident family and shall not include more than two children under one year old.

*Farm* means all of the contiguous, neighboring or associated land operated as a single unit on which bona fide farming is carried on. Provided, however, that land to be used as and

## Charter Township of Flushing

considered a farm here under shall include a contiguous parcel of not less than twenty (20) acres in area; provided, further, farms shall be considered as including establishments operated as bona fide greenhouses, nurseries, orchards, chicken hatcheries, poultry farms, and apiaries.

*Farm building* means any structure or building other than a dwelling used or built on a farm.

*Feedlot* means any facility or enclosed area where farm animals are fed and maintained for more than four (4) hours out of twenty-four (24) hours at a density greater than four (4) heads per acre for cattle and horses, ten (10) heads per acre for small animals, or more than thirty (30) fowls per acre.

*Fence* means any partition, structure, gate, obstacle or live hedge erected as a dividing marker, barrier or enclosure.

*Floodplain* means lands which are identified as within the 100 year flood boundary (FEMA) on the Township Flood Insurance Rate Map.

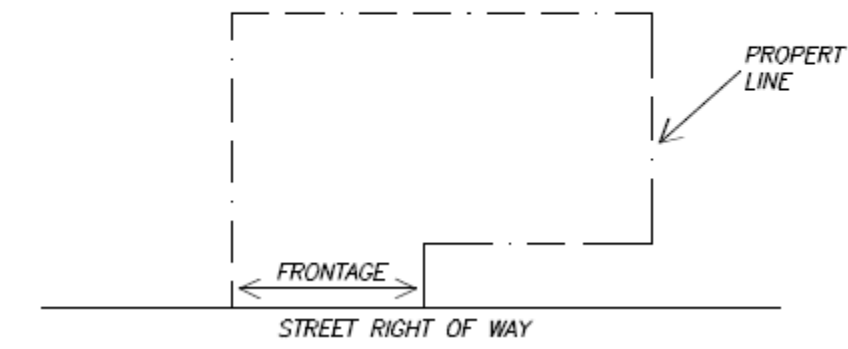
*Floor area, residential*, means, for the purpose of computing the minimum allowable floor area in a residential dwelling unit, the sum of the horizontal areas of each story of the building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) dwellings. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways, and enclosed and unenclosed porches.

*Floor area, usable*, means that area used for or intended to be used for the sale of merchandise or services, or for use to serve patrons, clients, or customers. 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 walls.

*Frontage* means all the property fronting on one (1) side of a street between intersecting or intercepting streets, or between a street and right-of-way, waterway, end of dead-end street, or township boundary measured along the street line.

### ***FRONTAGE***



*Garage, private and public*, means any building for the storage of self-propelled vehicles or trailer coaches where no storage or servicing for hire is conducted is a private garage. A public garage is one, which is not a private garage.

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*Garden apartments* mean a residential structure, or group of structures, each of which contain more than four (4) attached one-family dwelling units and share common front and/or rear yards.

*Government Institutions* means buildings that house the offices of municipal, county, state and federal governmental organizations and which may include storage areas, or other non-office areas. (Amended by adoption September 11, 2003)

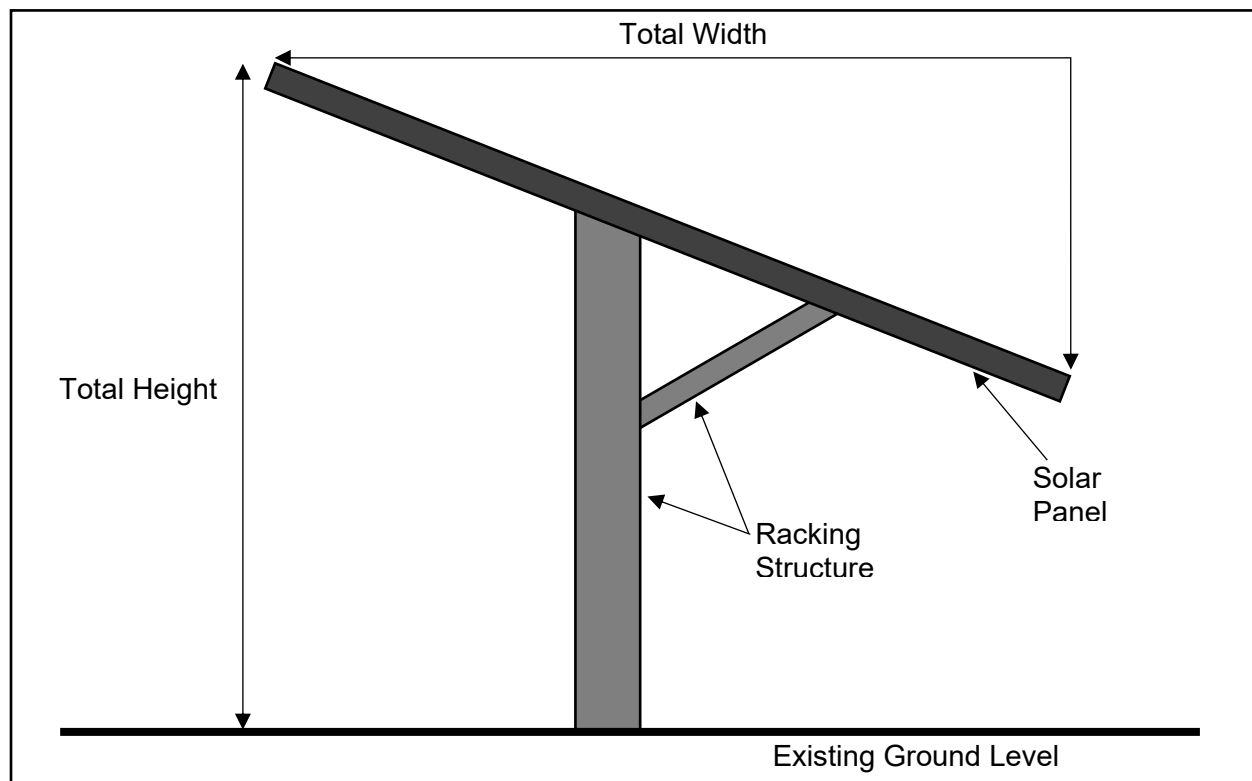
*Greenbelt* means an open area which may be cultivated or maintained in a landscaped state surrounding development or used as a buffer between land uses or to mark the edge of an urban or developed area. (Ord No. 2022-06 Amended by adoption December 12, 2022)

*Greenhouses, Non-Retail* means a non-retail commercial operation which sells agricultural products grown or produced on the site to buyers located off-site. (Amended by adoption September 11, 2003)

*Greenhouses, Retail* means a commercial retail operation which sells plants and planting material including material not grown or produced on site. (Amended by adoption September 11, 2003)

*Group Day Care Home* means a private home in which not less than seven or more than twelve are received for care and supervision for a period of less than (twenty-four) 24 hours per day. Not more than two children will be under two years old.

*Ground-mounted solar energy collector* means a solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located. (Ord No. 2018-01 Amended by adoption July 12, 2018)



*Home for the Aged* means a supervised personal care facility, other than a hotel, adult foster care facility, hospital, nursing home, or county medical care facility, that provides room, board

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and supervised personal care to 21 or more unrelated, non-transient, individuals 60 years of age or older. Home for the aged includes a supervised personal care facility for 20 or fewer individuals 60 years of age or older, if the facility is operating in conjunction with and as a distinct part of a licensed nursing home. (Added by adoption July 25, 2002)

*Home occupation* means an occupation conducted as an accessory land use of a dwelling unit. Home occupations include occupations conducted within a dwelling unit or in an attached or detached accessory structure. Home occupation includes any activity performed at a residence as part of providing a product or service to one or more persons not residing at the residence regardless of whether the product or service is provided for consideration.

(Ord No. 2021-01 Amended by adoption August 12, 2021)

*Hospice Facility* means a residential facility licensed under PA 267 of 1996 providing in-patient care for individuals suffering from a terminal disease or condition. (Added by adoption July 25, 2002)

*Hotel* means a building occupied as the more or less temporary abiding place of individuals, who are lodged with or without meals, in which there are more than ten (10) sleeping rooms usually occupied singly and no provisions made for cooking in any individual room or apartment.

*Junk* means any motor vehicles, machinery, appliance, products, or merchandise with parts missing; or scrap metals or other scrap materials that are damaged, deteriorated, or are in a condition which cannot be used for the purpose for which the product was manufactured. "Junk motor vehicles" are further defined and regulated by the traffic and motor vehicles chapter.

*Junkyard* means and includes automobile wrecking yards and salvage areas, and includes any area of more than two hundred (200) square feet for the storage, keeping or abandonment of junk, including scrap metals, other scrap materials or reclaimed materials, or for the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof, but does not include uses established entirely within enclosed buildings. The keeping of more than one (1) dismantled or non-operable motor vehicle shall be deemed to be the maintenance of a junkyard.

*Kennel* means the keeping upon one (1) lot, premises or establishment of more than three (3) dogs or cats (or a combination of dogs or cats) three (3) months old or older, provided however, that this provision shall not apply to a "farm" as defined above.

*Landscaped berm* means an earth mound designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

(Ord No. 2022-06 Amended by adoption December 12, 2022)

*Lodge* means a fraternal organization such as the Lions Club, Kiwanis, American Legion, Eagle Clubs, Knights of Columbus, Masonic Temple, Moose Lodge, other lodges or clubs that are engaged in not for profit activities and other groups similar with the above organizations. (Amended by adoption September 11, 2003)

*Loading space, off-street*, means space logically and conveniently located, or bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street parking spaces are filled. Required off-street loading space is not to be included as off-street parking space in the computation of required off-street parking space.

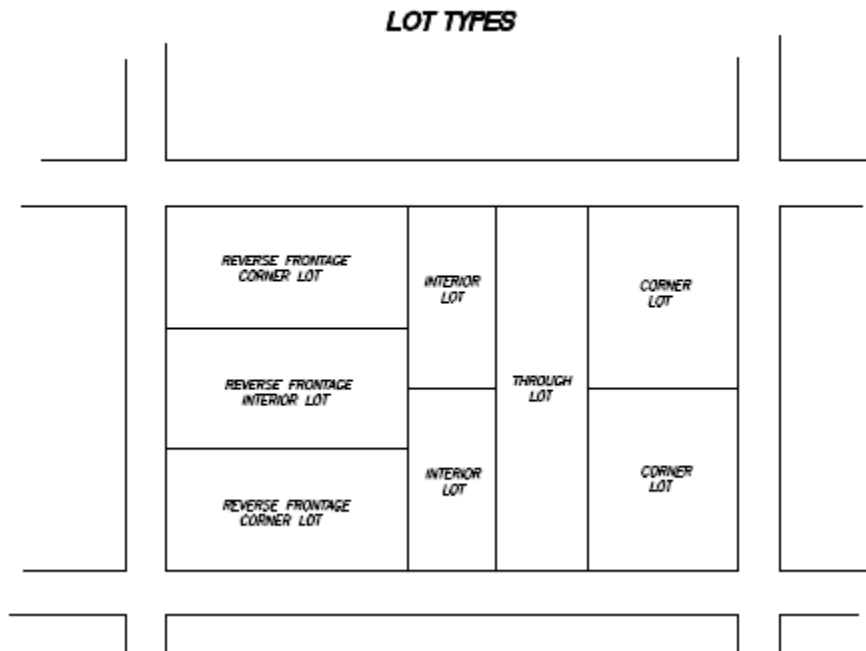
*Lodging house* means a building, other than a hotel, motel or cabin, where four (4) or more persons other than members of the family are lodged for compensation.

*Lot* means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as herein required.

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Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

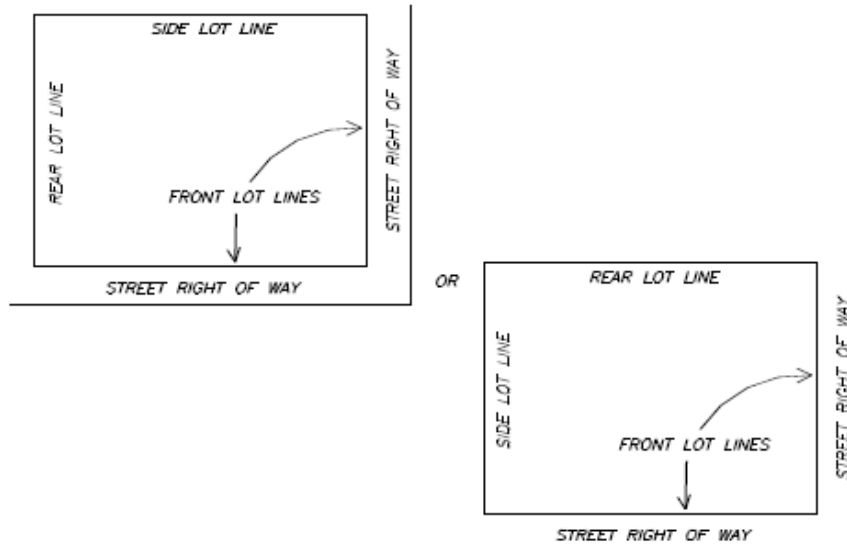
1. A single lot of record;
2. A portion of a lot of record;
3. A combination of contiguous lots of record, or contiguous portions of lots of record;
4. A parcel of land described by metes and bounds.
5. The condominium unit and associated limited common areas in a site condominium development.



*Lot area* means the total horizontal area within the lot lines of the lot.

*Lot, corner,* means a lot where the interior angle of two (2) adjacent sides at the intersection of two (2) streets is less than one hundred thirty-five (135) degrees. A lot abutting upon a curved street or streets shall be considered a corner lot for the purpose of this chapter if the arc is of less radius than one hundred fifty (150) feet and the tangents to the curve, at the two (2) points where the lot lines meet the curve or the straight street line extended from an interior angle of less than one hundred thirty-five (135) degrees.

***FRONT, SIDE, AND REAR LOT LINES  
FOR CORNER LOTS***



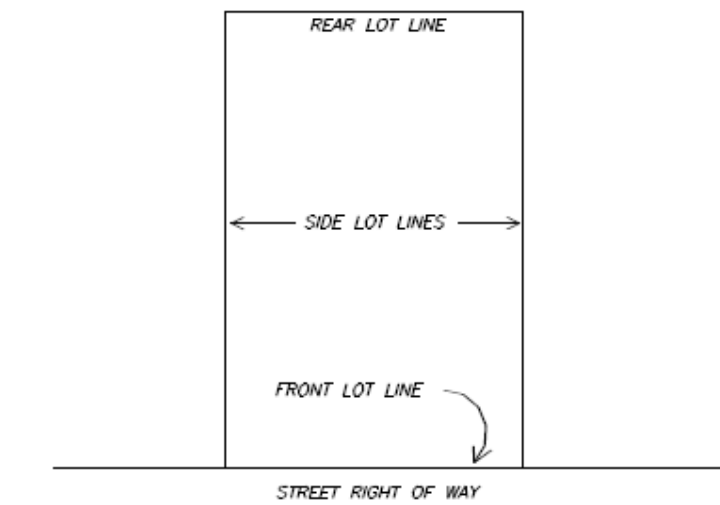
*Lot coverage* means the part or percentage of the lot occupied by a building, including accessory buildings.

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

*Lot, front line*, means the line, which divides the lot from the front street line.

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

***FRONT, SIDE, AND REAR LOT LINES  
FOR INTERIOR LOTS***



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*Lot of record* means one which dimensions are shown on a plat recorded in the office of the county register of deeds or a lot described by metes and bounds descriptions in a recorded deed or other recorded instrument transferring a legal or equitable interest in the title.

*Lot; rear line*, means the opposite lot line from the front lot line except in the case of a corner lot, in which case the rear lot line shall be one of the two lot lines opposite one of the two front lot lines.

*Lot; sideline*, means a lot line other than the front or rear lot line.

*Lot; through*, means any interior lot having frontage on two-(2) 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 lots adjacent to streets shall be considered frontage, and front yard setbacks shall be provided as required.

*Lot width* means the horizontal straight-line distance between the side lot lines, measured between the two (2) points where the front setback line intersects the side lot lines.

*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 (1) or more lots of record.

*Mini Storage Facilities* means a lot that may include both buildings containing separate storage spaces and areas outside of buildings used for storage. (Amended by adoption September 11, 2003)

*Mobile home* means a structure that is transportable in one (1) or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

*Mobile home park* means a park licensed under provisions of Act No. 96 of the Public Acts of Michigan of 1987 (MCL 125.2301 et seq., MSA 19.855(101) et seq.).

*Motel* means a combination or group of two-(2) or more detached or semidetached permanent dwellings occupying a building site integrally owned and used to furnish overnight transient living accommodations.

*Non conforming lot* means a lot with dimensions, which conflict with the provisions of this chapter.

*Non conforming structure* means a structure conflicting with the regulation in the district in which it is located.

*Non conforming use* means the use of land or a structure for, which conflict with the provisions of this chapter.

*Nursing home* means a nursing care facility, including a county medical care facility but excluding a hospital that provides organized nursing care and medical treatment to 7 or more unrelated individuals suffering or recovering from illness, injury or infirmity. (Amended by adoption July 25, 2002)

*On-site means* a solar energy system designed to help meet the electrical needs within the limits of the area encompassed by the tract area or parcel of record on which the activity is conducted. (Ord No. 2018-01 Amended by adoption July 12, 2018)



## Charter Township of Flushing

*Ornamental fence* means a fence, which is decorative in nature, is not sight-obscuring, is not over four (4) feet in height and is constructed of material such as post and rail, split rail, picket or wrought iron.

*Parking space, off-street*, means a space adequate for parking an automobile, with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room, and located on a lot with the land use to which it is related.

*Planned unit development* means an integrated and coordinated development of various residential land uses, with or without retail stores, service stations, drugstores, personal service offices, and restaurants, but excluding any manufacturing or wholesale activity, and developed in accordance with the conditions as prescribed under provisions of this chapter.

*Ponds* mean a natural or manmade body of water used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation and other related uses for the personal use of the property owner and/or tenants.

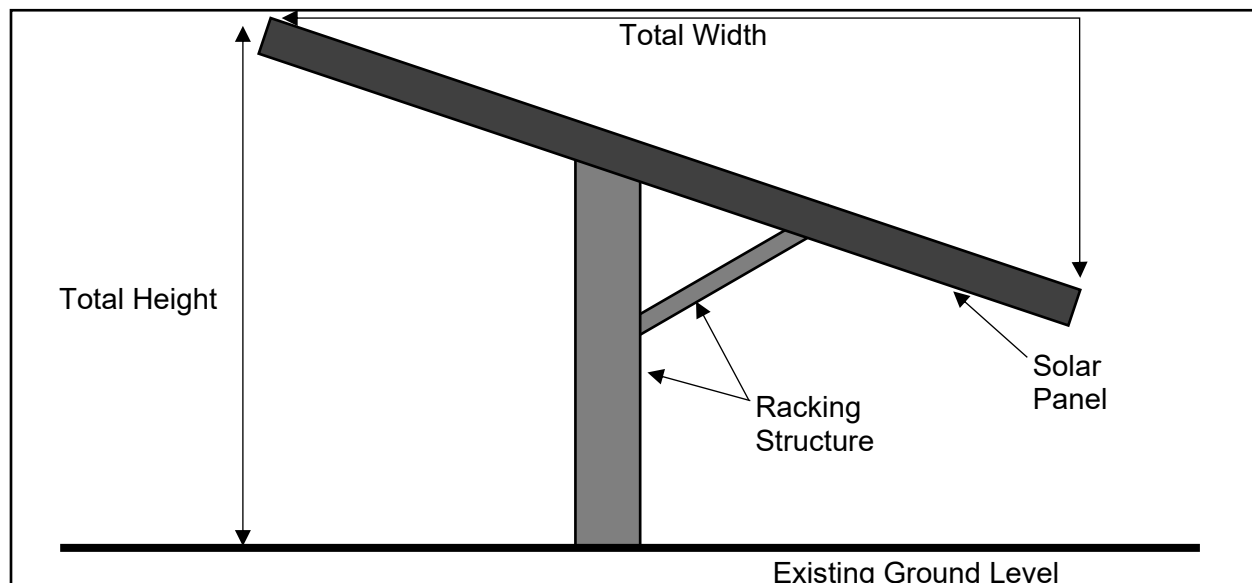
*Primary caregiver* means a registered individual or enterprise registered with the Michigan Department of Health and Human Services under the Michigan Medical Marihuana Act, initiated Law 1 of 2008, MCL 333.26421, et seq, to assist with a qualifying patient's use of medical marihuana through growing and provisioning. Except for a primary caregiver who produces and provides medical marijuana only for the primary caregiver and qualifying patients lawfully residing with the primary caregiver at the residence where the medicinal marijuana is produced, the production and providing of medicinal marijuana shall be considered a home occupation.

(Ord No. 2021-01 Amended by adoption August 12, 2021)

*Private Landing Strips* means a private transportation facility, closed to the public, to accommodate the take-off and landing of aircraft. The runway is made of sod and not paved with any type of material. (Amended by adoption September 11, 2003)

*Public utility* means any person, municipal department or board, duly authorized under state or municipal regulation to furnish, and furnishing, transportation, water, gas, electricity, telephone, steam, telegraph or sewage disposal, and other services to the public.

*Racking* is any structure or building material used in the mounting of a solar panel. (Ord No. 2022-06 Amended by adoption December 12, 2022)



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*Recreational vehicle* means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

*Recreational vehicle park or campground* means a tract of land upon which two (2) or more recreational vehicle sites or campsites are located, established or maintained for occupancy by recreational vehicles or vacation campers of the general public as temporary living quarters for recreation or vacation purposes.

*Recreational vehicle site or campground site* means a plot of ground within a recreational park or campground, or other individual camping area for use on a temporary basis.

*Rental Establishments* means businesses involved in the rental of equipment and goods which can be displayed in a fully enclosed building or outdoors. (Amended by adoption September 11, 2003)

*Residential driveway* means a means of access for a single-family dwelling to a public road.

*Residential private road* means a means of access for more than a single-family dwelling to a public road.

*Retail Establishments, Large* means a retail establishment that generally services a regional market and is primarily involved in purchase and resale of goods. Services may be rendered incidental to the sale of such goods at the retail establishment. There may be processing or manufacturing of products incidental or subordinate to the selling activities but not on the scale of an establishment solely involved in manufacturing (see manufacturing definitions in this Article). Examples include: furniture stores, building supply establishments with outdoor storage and other large retail establishments over twenty five thousand (25,000) square feet. (Amended by adoption September 11, 2003)

*Roadside stand* means a structure used solely by the owner, manager, or tenant of the land on which it is located for the sale of produce grown on such land, and provided that adequate off-street parking shall be provided and that customers will not be permitted to stand or park on the public right-of-way.

*Roof-mounted solar energy collector* means a solar energy collector that is attached to a building's roof on the parcel of land including solar shingles. (Ord No. 2018-01 Amended by adoption July 12, 2018)

*Rummage sale* means a sale or offering for sale of more than five items of new or used merchandise, clothing, household goods, or rummage on premises not zoned for such sale.

1. Any sale which meets the requirements of this definition shall be deemed to be a "rummage sale" regardless of the name or designation placed upon the sale by the person conducting same.
2. "Rummage Sale" shall not include a roadside stand as defined in Sec. 36-200 of the Zoning Ordinance. (Ord No 2021-03 Amended by Ord 7-8-2021)

*Sanitary landfill* means any parcel of land used for the dumping of refuse for the purpose of disposing of such refuse, and operated in accordance with Act No. 641 of the Public Acts of Michigan of 1978 (MCL 299.401 et seq., MSA 13.29(1) et seq.), as amended.

*Senior Housing* means residential facilities providing housing oriented for individuals over the age of 55 which may include recreation, travel and other activities but where the residents live independently with regards to cooking and general daily activities. Examples include senior apartments and retirement communities. (Added by adoption July 25, 2002)

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*Service station* means buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories may be supplied and dispensed at retail. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding which is more than incidental to work permitted, storage of automobiles not in operating condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in service stations. A service station is not a repair garage or a body shop. Minor services may be rendered and sales made such as, by way of example, the following:

1. Sale and servicing of spark plugs, batteries, and distributors and distributor parts.
2. Tire servicing and repair, but not recapping or regrooving.
3. Replacement of mufflers and tailpipes, water hoses, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors, and the like.
4. Radiator cleaning and flushing.
5. Washing and polishing, and sale of automotive washing and polishing materials.
6. Greasing and lubrication.
7. Replacing or repairing of carburetors, fuel pumps, oil pumps, and lines.
8. Minor motor adjustments not involving removal of the head or crankcase or racing the motor.
9. Adjusting and repairing brakes.
10. Sale of cold drinks, packaged foods, tobacco, and similar convenience goods for service station customers, as accessory and incidental to principal operation.
11. Provision of road maps and other informational material to customers; provision of rest room facilities.

*Setback* means the distance from the centerline or right-of-way lines of streets to the building line for the purpose of defining limits within which no building or structure, or any part thereof, shall be erected or permanently maintained.

*Shopping center* means a group or groups of three (3) or more commercial establishments developed in accordance to an overall plan and design and built as an interrelated project.

*Sign* means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; excepting however, the following, which shall not be included within this definition:

1. Signs not exceeding two (2) square feet in area and bearing only property numbers, post box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
2. Flags and insignia of any government, except when displayed in connection with commercial promotion.
3. Legal notices, identification, informational or directional signs erected or required by governmental bodies.
4. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts, or moving lights.

5. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.

*Sign area* means the area of a sign consisting of the entire surface of any regular geometric form, or combinations of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of such area.

*Sign, off-site*, means a sign other than an on-site sign.

*Sign, on-site*, means a sign relating in its subject matter to the premises on which it is located, or to products, accommodations, services, or activities on the premises.

*Site Condominium* - The division of land into separate building sites under the authority of the Condominium Act, PA 58 of 1978.

*Site plan* means those drawings and documents described in Sec. 36-1902.

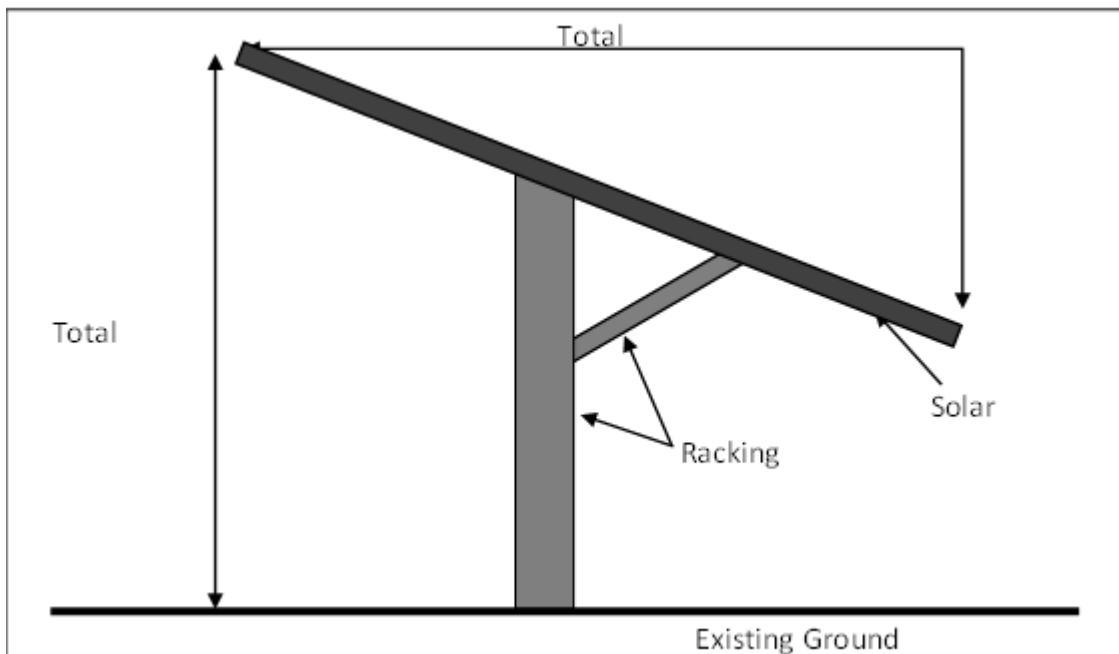
*Site plan review* means that procedure authorized and described in Sec. 36-1903.

*Solar energy collector* means a device, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

*Solar energy collector, ground mounted* means a solar energy collector that is not attached to and is separate from any building on the parcel of land on which the solar energy collector is located (Figure 1).

*Solar energy collector, roof-mounted* means a solar energy collector that is attached to a building's roof on the parcel of land including solar shingles. (Ord No. 2022-06 Amended by adoption December 12, 2022)

Figure 1: Ground Mounted Solar Energy Collector Illustration

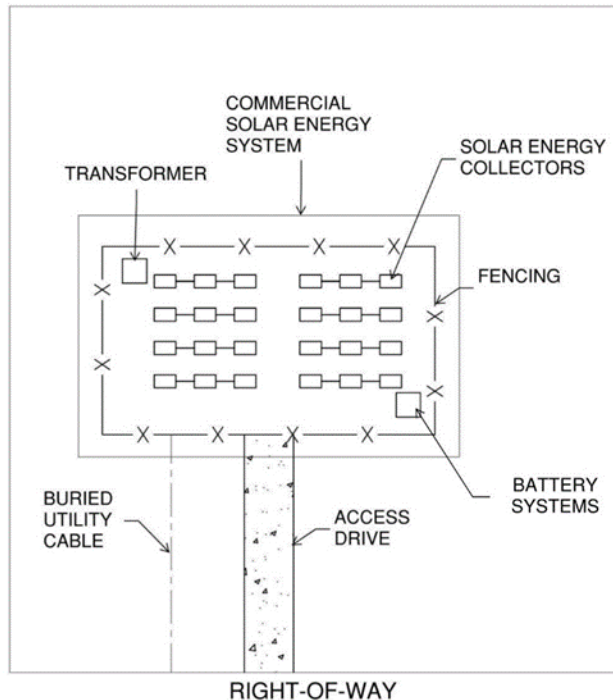


*Solar energy system* means one or more solar energy collectors or structural design features of a structure that relies upon sunshine as an energy source and is capable of collecting,

distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use.

*Solar energy system, commercial* means a utility-scale facility of ground-mounted solar energy collectors with the primary purpose of wholesale or retail sales of generated electricity, commonly referred to as solar farms. A commercial solar energy system includes the solar panels, internal and perimeter roadways, spacing for service, fencing, and any other structure, transformer, or devices of the like needed for solar production or operation of the system. See Figure 2.

Figure 2: Commercial Solar Energy System Illustration



*Solar energy system, on-site* means a solar energy system designed to help meet the electrical needs within the limits of the area encompassed by the tract area or parcel of record on which the activity is conducted. An on-site solar energy system may include ground-mounted, roof-mounted solar energy collectors, or a combination of the two. The majority of the electricity generated by an on-site solar energy system must remain on the site, and not be utilized for wholesale or retail sale. (Ord No. 2022-06 Amended by adoption December 12, 2022)

*Solar panel* is a panel consisting of an array of solar cells used to generate electricity directly from sunlight. (Ord No. 2022-06 Amended by adoption December 12, 2022)

*Special Use* means a use that owing to some special characteristics related to its operation or is permitted in a district subject to review and special requirements that are different from the usual requirements for the zoning district the special use may be located.

*Special Use, Discretionary* - A special use which involves the review of subjective criteria for approval that require judgment on the part of an administrative body in determining compliance with the ordinance.

**Special Use, Non-Discretionary** - A special use, which involves the review of objective criteria and does not require the use of subjective measures in determining compliance with the ordinance.

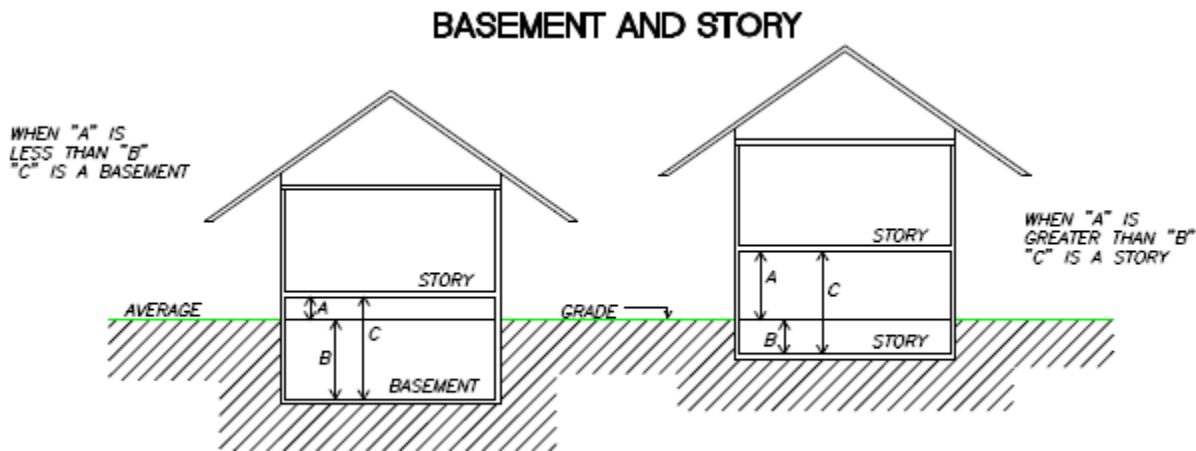
**Special Use Permit** means an authorization by the applicable person or administrative body to use a particular parcel of land and/or structure for a particular special use.

**Stable, private**, means a stable where horses are kept only for private use and not for hire or sale, but this shall not prevent the owner of such horses from making an occasional purchase or sale for his own use so long as he shall not be engaged in the business of buying and selling horses nor in the business of hiring or renting horses to others.

**Stable, public**, means a stable in which horses are kept for hire or sale or a farm upon which horses are regularly raised and bred. The keeping of more than two (2) horses owned or regularly used by persons not residents upon the land shall constitute a public stable.

**Standard sheet** means a sheet of paper with dimensions of eight and one-half (8 1/2) inches in width and eleven (11) inches in length.

**Story** means that part of a building included between the surface of any floor and the surface of the floor, or roof, next above. When the distance from the average established grade to the ceiling of a story partly below such grade exceeds five (5) feet, then the basement or cellar constituting the story partially below grade shall be counted as a story.



**Story, half**, means a story which is situated within a sloping roof, the area of which at a height four (4) feet above the floor does not exceed two-thirds of the floor area directly below it.

**Street** means a public thoroughfare, which affords a principal means of access to abutting property.

**Structure** means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among these things, structures include buildings, mobile homes, walls, fences, billboards and poster panels.

**Solar collector** means a device or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes significantly to a structure's energy supply.

**Solar energy** means radiant energy (direct, diffuse, and reflected) received from the sun.

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*Solar energy system* means a solar collector or other device or structural design feature of a structure that relies upon sunshine as an energy source and is capable of collecting, distributing, and storing (if appropriate to the technology) the sun's radiant energy for a beneficial use.

*Solar panel* means a panel consisting of an array of solar cells used to generate electricity directly from sunlight.

*Solar shingles* means a roofing product made by combining thin film solar technology (which converts sunlight to electricity) with a durable backing to provide a structural roof shingle comparable to traditional roofing shingles. (Ord No. 2018-01 Amended by adoption July 12, 2018)

*Subacute Care Facility* means a state licensed nursing facility providing transitional care to individuals no longer requiring hospitalization but unable to live independently. (Added by adoption July 25, 2002)

### **TOWERS AND ANTENNAS**

*Tower* means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structure and the like. The term includes the structure and any support thereto.

*Alternative tower structure* means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

*Antenna* means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

*Backhaul network* means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

*FAA* means the Federal Aviation Administration.

*FCC* means the Federal Communications Commission.

*Height* means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

*Preexisting towers* and preexisting antennas means any tower or antenna for which a building permit has been issued or a Use After Special Approval has been properly granted prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

*Townhouse* means a residential structure consisting of no more than four (4) single-family attached dwelling units, each individually owned, non communicating and attached by partly walls; each unit shall have separate front and rear entrance and have separate sewer, water and other utilities.

*Township* means the Township of Flushing, Genesee County, Michigan.

## Charter Township of Flushing

*Township Board* means the Board of Trustees of the Township of Flushing, Genesee County, Michigan.

*Township Planning Commission* means the Flushing Township Planning Commission as established by the Township Board under provisions of the Township Planning Commission Act, being Act No. 168 of the Public Acts of Michigan of 1959 (MCL 125.271 et seq., MSA 5.2963(101) et seq.), as amended, and referred to alternatively as the commission.

*Travel trailer* means a vehicular portable structure built on a chassis, designed to be used as temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet and a length not to exceed forty-five (45) feet.

*Travel trailer park* means a park licensed under the provisions of MCL 333.12501 et seq., MSA 14.15(12501), and being designed specifically to permit the parking of travel trailers.

*Use* means the purpose of which land, structure, or building hereon is designed, arranged, or intended to be occupied for, or used for, or for which it is occupied or maintained.

*Variance* means a modification of the literal provisions of the zoning ordinance granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

*Yard* means a required open space.

*Yard, front*, means a yard extending between side lot lines across the front of a lot and adjoining a public street. In the case of a corner lot, both yards fronting on a public street shall be front yards. If a dwelling unit is located on a lot, the front yard shall be the portion of the lot extending between the side lot lines and between the public street and a line drawn parallel with the public street which touches the part of the dwelling which is closest to the public street. (Amended by adoption April 21, 2011, Sec. 20-200 Yard, front)

*Yard, rear*, means a yard extending across the rear of the lot between the inner side yard lines. In the case of through lots there will be no rear yards, but only front and side yards. In the case of corner lots, one yard opposite the two front yards shall be a rear yard and the other yard a side yard.

*Yard, side*, means a yard extending from the rear line of the required front yard and being between the principal structure and side lot line to the rear yard or, in the absence of any clearly defined rear yard, to the point of the lot farthest from the intersection of the lot line involved with the public street.

*Zoning Board of Appeals* means the board as provided under provisions of the Township Rural Zoning Act, being Act No. 184 of the Public Acts of Michigan of 1943 (MCL 125.271 et seq., MSA 5.2963 et seq.), as amended by Act No. 637 of the Public Acts of Michigan of 1978 (MCL 125.271 et seq., MSA 5.2963 et seq.), and as further amended, with powers and duties as defined in those statutes, except as modified herein, and referred to alternatively as the board, consisting of five (5) members.

**Sec. 36-201. – 36-299      Reserved.**

## Article 3      General Provisions

### **Sec. 36-300. Building Permits Issuance**

A building permit shall be obtained from the building inspector before any construction, erection, alteration, or addition to any structure is relocated into or within the township. No permit shall be



valid until the required fee has been paid. For each building permit so issued, a fee shall be paid to the township treasurer, based on an affidavit of construction value as provided by the building inspector, in accordance with a schedule established by the Township Board and posted in a conspicuous place in the township office. In applying the schedule of fees, the physical value of the work shall be determined by the building inspector on the basis of current costs. If, upon the completion of the building, it is found by the building inspector that the estimated fee was insufficient to cover the actual cost, the applicant shall forthwith pay any additional fee for which he would initially have been liable and, in default thereof, shall not be entitled to receive a certificate of occupancy and compliance until such additional fee is paid. In the event that a building permit is not issued, the fee so paid shall be returned to the payer thereof. Failure to obtain a building permit before beginning construction will constitute a violation per Sec. 36-301 of this code and further construction will be stayed until the permit has been obtained. The fee for the permit will be twice the normal fee. A building permit shall become void unless operations are commenced within six (6) months from the date of issuance, unless such time is extended by the building inspector. All building permits shall expire one (1) year after the date of issuance, provided that the building inspector may, on application, extend a permit for not to exceed one (1) year from start of construction, without additional charge, if a satisfactory degree of progress in construction is shown. All permits or extensions thereof shall be in writing.

**Sec. 36-301. Building Permits Violations and Cancellation of Permit**

- (A) Should the building inspector determine that the construction is not proceeding according to plan filed or is in violation of any provision of this Code or any other applicable ordinance, regulation or law, he shall so notify the permit holder and further construction shall be stayed until correction has been effected and approved by the building inspector upon notice and request for re-inspection duly made.
- (B) Should the permit holder fail to comply with the requirements of any stage of construction the building inspector is hereby empowered to cancel the building permit issued and shall cause notice of such cancellation to be securely posted upon such construction. Posting of such notice shall be considered sufficient notification to the permit holder of cancellation thereof. No further work shall be undertaken or permitted upon such construction until building permit shall thereafter have been issued.
- (C) Any permit holder whose construction shall have been stayed under subsection (A) above, or whose building permit shall have been canceled under subsection (B) above, shall not be granted any building permit for any other construction or any type whatever until correction has been effected and approved as provided in subsection (A) above, or until a valid building permit shall have been issued to replace the canceled building permit, as provided in subsection (B) above.

**Sec. 36-302. Required Plans**

All applications for building permits shall be accompanied by two (2) sets of plans, unless such plans are waived by the building inspector by so marking the application and attesting to same by his signature on each copy. Plans shall be drawn to a scale of one (1) inch equals twenty (20) feet showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of structures already existing, if any; and the location and dimensions of the proposed structure or alteration. The application shall include such other information as lawfully may be required by the building inspector.

**Sec. 36-303. Building Permits Subdivision Control Act**

No building permit shall be issued for the construction of any structure on any lot, tract, or parcel of land subdivided in violation of Act No. 288 of the Public Acts of Michigan of 1967 (MCL 560.101 et seq., MSA 26.430(101) et seq.).

**Sec. 36-304. Common Driveways**

- (A) A single 33 foot right-of-way may serve as ingress and egress for not more than two residences lacking sufficient frontage on a public road as required by this ordinance by administrative action of the Zoning Administrator. The right-of-way shall be excluded when calculating lot width or area. All setbacks shall be measured from the edge to the right-of-way. (Amended by adoption July 25, 2002)
- (B) Prior to issuing a zoning permit for construction of a structure whose source of access is off a common driveway, the Zoning Administrator shall find that:
  - 1. The owner of the land upon which the common driveway is to be constructed, records with the Genesee County Register of Deeds an easement granting rights of ingress and egress for the benefit of both residences served by the common drive.
  - 2. A written maintenance agreement signed by the owners of each lot or residence to be served by the common driveway shall be recorded with Genesee County Register of Deeds. The agreement shall allocate the responsibility to maintain the common driveway between or among the owners, and shall be binding upon the successive owners of the lots or residences. It shall be the responsibility of the owners to enforce the terms of the agreement.
  - 3. A staked boundary survey showing the location of the driveway easement.
- (C) Any common driveway in legal use as of the effective date of Sec. 36-304 shall not be subject to the requirements of the Sec. 36-304. Any increase in the existing use of such a common driveway shall require a special use permit to be considered by the planning commission in accordance with Sec. 36-1800, Sec. 36-1801 and Sec. 36-1802 of the Charter Township of Flushing Zoning Ordinance. The planning commission shall have the sole discretion to allow modification of the existing use of the common drive and may impose any conditions that are reasonably necessary to achieve the objectives set forth in Sec. 36-1800, Sec. 36-1801 and Sec. 36-1802. Except as expressly amended by this subsection (C) all provisions of Sec. 36-304 shall remain in full force and effect. (Adopted on the 14th day of July 2005 by the Charter Township of Flushing Board of Trustees.)

**Sec. 36-305. Private Roads**

- (A) A private road is a road that provides direct access to a parcel and which is not dedicated to and accepted by an authorized governmental road agency. A common driveway as used in this ordinance does not constitute a private road.
- (B) Application, review, and approval of a proposed, private road shall follow the same procedures, as conditional use permits with regards to notice and timing.
- (C) Application for approval of a private road shall include a site plan sealed by a professional engineer showing:
  - 1. Existing and proposed lot lines.
  - 2. The location of existing and proposed structures.
  - 3. The width and location of the private road easement.

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4. A cross section of the proposed road, showing the types of material the road base and surface will consist.
5. Utility plans including the location and size/capacity of storm water drainage systems, sewer or septic systems, water lines or private wells, and private utilities such as telephone, electrical or cable service..
6. Proposed locations of driveways off the private road
7. Any existing or proposed structures, trees or other obstructions within the proposed right-of-way.
8. All division of land shall be in compliance with the Subdivision Control Act

(D) The proposed private road shall meet the following standards:

1. The minimum right-of-way width shall be sixty-six (66) feet, provided that an applicant can request a reduction in right-of-way width in order to protect natural features provided that in no case may the right-of-way be less than 50' or as a result of space saving features such as curb and gutter..
2. The minimum grade for roadways shall be 0.5%. The maximum grade shall be 6%. The maximum grade within 100' of an intersection shall be 3%.
3. No fence, wall, sign, screen or any planting shall be erected or maintained in such a way as to obstruct vision between a height of three (3) and ten (10) feet within the triangular area formed by the intersection of a road right-of-way line and a private road right-of-way line and a line connecting two (2) points which are located on those intersecting right-of-way lines, thirty (30) feet from the point of intersection.
4. The maximum number of residences permitted on a cull-de-sac is 20, but in no instances may a cull-de-sac be over 1,000' in length.
5. Any driveways off of a private road shall be at least 40' from the intersection of the private road right-of-way and a public road right-of-way.
6. Intersections of private roads with public roads shall be at an angle as close to 90° as possible, but in no case shall it be less than 80° or more than 100°.
7. The width of the roadway shall be a minimum of 18' with 3' shoulders provided for bicycle and pedestrian traffic for roads servicing lots over 100' in width. Roads serving lots 100' wide or less shall provide a 24' wide roadway with 3' wide shoulders.
8. The minimum radius for circular cull-de-sacs roadway is 40'. An interior island is permitted in the center of the cull-de-sac, provided that the roadway within the cull-de-sac is no less than 25' wide.
9. Private roads shall meet the recording and maintenance requirements outlined for common drives in Sec. 36-304(B).
10. Private roads shall be paved with bituminous asphalt or concrete if any of the following occur:
  - (a) The road serves more than 10 residential dwelling units.
  - (b) The lots are an average of 100' or less in width.
  - (c) The road provides access to multiple family developments.

11. Sight distances on horizontal and vertical curves shall be a minimum of 200' measured at a point 10' from the edge of the traveled road-way at a height of 42" to an object height of 42".
  12. Parcels fronting on private roads shall meet the required front yard setback and lot width for their district.
  13. The private road shall be constructed with a minimum 10" of 22-A aggregate.
- (E) Any road that provides connection to any other (two) 2 public roads, provides access to industrial or commercial property shall be constructed to county road standards, and inspected and approved by the Genesee County Road Commission.
- (F) Any private road in legal use as of the effective date of Sec. 36-305 shall not be subject to the requirements of Sec. 36-305. Any increase in the existing use of such private road shall require a special use permit to be considered by the planning commission in accordance with Sec. 36-1800, Sec. 36-1801 and Sec. 36-1802 of the Charter Township of Flushing Zoning Ordinance. The planning commission shall have the sole discretion to allow modification of the existing use of the private road and may impose any conditions that are reasonably necessary to achieve the objectives set forth in Sec. 36-1800, Sec. 36-1801 and Sec. 36-1802. Except as expressly amended by this subsection (F) all provisions of Sec. 36-305 shall remain in full force and effect. (Adopted on the 14th day of July 2005 by the Charter Township of flushing Board of Trustees).

**Sec. 36-306. Construction or Contracts under Previous Permits**

Any building or structure for which a building permit has been issued and construction of the whole or a part of which has been started, or for which a contract or contracts have been entered into pursuant to a building permit issued prior to April 8, 1983, may be completed and used in accordance with the plans and applications on which such building permit was granted.

**Sec. 36-307. Essential Services**

Essential services shall be permitted or authorized or regulated by law and other ordinances of the township in any use district, it being the intention hereof to except such erection, construction, alteration and maintenance from the application of this chapter. Electrical receiving and transmission stations or gas regulator substations or telephone exchange buildings shall require prior issuance of a special use permit in all districts except manufacturing districts. This section shall not permit public utility service or pole yards except in those districts specifically permitting the same.

**Sec. 36-308. Governmental Construction Authority**

Nothing in this chapter shall be construed as prohibiting further construction or use of land by any government body for public purposes where consistent with the zones and regulations of this chapter.

**Sec. 36-309. Non Conforming Use Generally**

- (A) Any use of land or structure, which use was lawful on April 8, 1983, may be continued; provided, however, such use shall have continued in operation, does not constitute a nuisance, and shall not be enlarged, altered, or changed in area, activity, or content during its continuance, except as provided otherwise by proper authority.
- (B) Any non conforming use which has ceased its usual conduct of such business for a period of one (1) year or more shall be considered to have terminated, and may not thereafter commence operation.

**Sec. 36-310. Non Conforming Structure**

- (A) The use of or occupancy of a non conforming structure, which was a lawful structure on April 8, 1983, may be continued; provided, however, no enlargement, change, or alteration shall be permitted upon such non conforming structure, except upon a finding by the building inspector that such enlargement, change or alteration will bring such structure into conformance with this chapter, and that the use within such structure is in conformity with the requirements of this chapter. No enlargement, change, or alteration of a non conforming structure housing a non conforming use shall be permitted, except upon a finding by the board of zoning appeals that such enlargement, change, or alteration will permit greater compliance with the provisions, as required by the board of zoning appeals, and are installed or instituted to minimize the detrimental effects of the non conforming use upon adjoining conforming use.
- (B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure, or part thereof, declared to be unsafe by any official charged with providing for the public safety, and which strengthening or restoration is ordered by such official.

**Sec. 36-311. Non Conforming Lot**

- (A) Any lot which was lawful on April 8, 1983, but does not comply with all the provisions of this chapter may be continued in use; provided, however, the change in use of, or the location, modification, or construction of any structure on such lot shall not be permitted, unless all side, front, and rear setbacks can be satisfied or except upon a variance approved by the board of zoning appeals based upon a finding that such a variance is warranted, and subject to such conditions as the board may find necessary to provide for the public health, safety, morals, and general welfare.
- (B) No building permit shall be issued for the construction of any structure upon any lot within any zoning district, which lot cannot meet the dimensional standards and requirements of such district and which lot was created after the enactment of this zoning ordinance, or after the enactment of any amendment which affects such standards or requirements, except as provided above.

**Sec. 36-312. Destruction of Structure**

Nothing in this chapter shall prevent the restoration, rebuilding, or repairing of any non conforming structure, or a structure housing a non conforming use, which structure has been damaged by fire, acts of God, or any act of a public enemy, subsequent to December 5, 1989, in amount up to and including sixty-five (65) percent of the replacement value of the structure as determined by an assessment board consisting of a qualified appraiser appointed by the Township Board, another by the owner of the structure, and a third appointed by the first two (2) appointees, with the cost of such appraiser shared equally by the township and the owner, and provided that the restoration or repairing shall have commenced and is diligently pursued within one (1) year after the date of destruction. Any non-conforming structure, or a structure housing a non-conforming use which has been damaged by fire, acts of God, or any act of a public enemy in an amount greater than sixty-five (65) percent of replacement value may be rebuilt only if it meets existing zoning regulations and any use housed by the structure must also conform to the existing regulations.

**Sec. 36-313. Maintenance of Non Conforming Uses**

Nothing in this chapter shall prevent the renovation or repair of non structural members, or the maintenance of a non conforming structure made necessary by ordinary wear and tear,

provided the cost per year of such repair or maintenance does not exceed twenty-five (25) percent of the value of the structure as determined by its state-equalized valuation.

**Sec. 36-314. Non Conventional Dwellings**

No cellar, garage, or incompletely constructed such structure constructed after December 5, 1989, shall be used as a dwelling unless such structure has been completed as a dwelling and an occupancy permit issued for such structure.

**Sec. 36-315. Nuisance**

- (A) No structure, excavation, or land shall be permitted to become or to remain in a dangerous, noxious, hazardous or offensive condition. The accumulation of junk, refuse, garbage, brush, or weeds shall be a violation of this chapter. No existing structure or land shall be permitted to deteriorate, fall down, become in disrepair, or in the event of damage, be allowed to remain or become dangerous, hazardous or an attractive nuisance. Any structure which is unoccupied shall be securely locked and closed against all unauthorized persons and no such structure shall be permitted to become an attractive nuisance.
- (B) The owner or occupant or person entitled to possession or any principal or subcontractor, contributing to any of the above described conditions or under whose direction or control such conditions develop may each or all or any of them be charged for violation of this section. Continued failure to correct such condition shall constitute a separate violation of each day that such conditions shall not be corrected. The township building inspector, or agent, may in the event of violation of this section, notify the owner or occupant of such premises described herein of the violation and instruct such owner or occupant to correct such condition within seven (7) days. In the event of failure to correct such condition within the time limited, the township may correct such condition itself and charge the cost thereof to the owner or occupant, or both. In the event of failure to pay such cost, the township then may bring such action for the collection of the same against such persons individually as it may deem necessary or may assess such costs against the land in the same manner as general property taxes or take both such remedies. In the event of assessment against the land, the same shall become a lien against the land in the same manner as provided for under general tax assessment. Provided, however, that notice as provided above shall not be necessary before any of the above-named persons may be charged for a violation of this section. In addition to the above penalties, the township building inspector may, whenever such conditions become applicable, attach to such structure a notice of noncompliance with this chapter and not occupancy of any kind, temporary or permanent, shall be permitted until the conditions are corrected.

**Sec. 36-316. Personal Construction Authority**

Nothing in this chapter shall be construed as prohibiting an owner, tenant, occupant, or land contract vender from doing his own building, erecting, altering, plumbing, electrical installation, etc., provided the minimum requirement of the state electrical and plumbing codes of the state and the applicable county health department regulations are complied with.

**Sec. 36-317. Permanent Structure Completion**

All structures shall be completed on the outside in conformance with the building code and with finish material, such as wood, brick, or brick veneer, shingle, concrete or similar performance-tested material within one (1) year after construction is started unless an extension is granted by the Zoning Board of Appeals. When part of the structure is ready for occupancy a temporary occupancy permit may be issued, provided that the premises comply with health and fire standards.

**Sec. 36-318. Temporary Dwelling Structure, Fixed or Movable**

No temporary structure, whether of a fixed or movable nature, may be erected, altered, or moved upon any premise and used for dwelling purposes, unless approved by issuance of a non-discretionary special use permit by the Zoning Administrator as elsewhere provided.

**Sec. 36-319. Temporary Travel Trailer or Recreational Vehicle Parking**

- (A) No person shall park, or cause to be parked, any travel trailer or other recreational vehicle over forty-eight (48) hours on any street, alley, highway or other public place or any site, lot, field or tract of land not specifically licensed as a travel trailer or recreational vehicle park without a Temporary Trailer Special Use Permit as outlined in Sec. 36-1803(C).
- (B) No travel trailer or other recreational vehicle shall at any time be parked between the established setback line and the curb line on any lot.
- (C) No travel trailer or other recreational vehicle shall be used or occupied unless there is a clear unoccupied space of at least ten (10) feet on all sides thereof.
- (D) No person shall park, or permit the parking on, any occupied travel trailer or other recreational vehicle, or use, occupy or permit the use or occupancy of any travel trailer or other recreational vehicle on any site, lot, field or tract of land not specifically licensed as a travel trailer or recreational vehicle park, except as otherwise provided in this chapter.
- (E) No person shall remove or cause to be removed the wheels or tires from any occupied travel trailer or other recreational vehicle, except for the purpose of repair, nor shall any person elevate, block, or stabilize any trailer or vehicle other than with jacks designed, provided, and intended for that purpose. No parked travel trailer or other recreational vehicle shall be occupied for sleeping purposes by a greater number of persons in any one (1) twenty-four-hour period than such vehicle is designed and arranged to accommodate at one (1) time.
- (F) No person shall spill or drain any waste water or liquid waste of any kind upon the surface of the ground or upon any paved area.
- (G) The township building inspector shall have the authority to enter at any reasonable time any premises upon which a travel trailer or other recreational vehicle is parked, used, or occupied for the purpose of ascertaining that the owner, operator, or occupant thereof is complying with all the statutes, ordinances, and rules and regulations governing the same.
- (H) No permanent or movable accessory walled structure shall be attached to any trailer; and no trailer shall be parked in front on the setback line established by this ordinance.
- (I) For those travel trailers and other recreational vehicles shall have properly designed and approved self-contained waste disposal and/or containment facilities, or shall have access to and unlimited use of the sanitary facilities of the dwelling located on the same zoning lot.

**Sec. 36-320. Miscellaneous Temporary Uses**

- (A) Nothing in this chapter shall prevent the use of a travel trailer, or mobile home, or other similar structure, in any district as a temporary construction field office as an accessory use for a period not to exceed the period of construction; provided, however, such structure is not used for overnight sleeping accommodations and adequate arrangements for sanitary facilities are made and provided further, that the temporary field office has been certified as such and conforming to this chapter by the building inspector.

**Sec. 36-321. Zoning Districts**

For the purpose of this chapter, all of the incorporated area of the township is divided into the following zoning use districts:

RSA Residential suburban agricultural  
RU-1 Residential urban single-family  
RU-2 Residential urban multiple-family  
RU-3 Residential urban transient  
RU-4 Residential urban mobile home park  
SR Sports and recreational  
C-1 Local commercial  
C-2 General commercial  
C-3 Shopping center  
M-1 Light manufacturing  
M-2 Heavy manufacturing

**Sec. 36-322. District Boundaries**

The boundaries of these districts are hereby established as shown on a map entitled, "Zoning Map, Flushing Township, Genesee County, Michigan," which accompanies and is hereby made a part of this chapter. Except where specifically designated on such map, the district boundary lines are intended to follow lot lines, the centerlines of creeks, streams, or rivers, the centerlines of streets or alleys, the centerlines of streets or alleys projected, railroad right-of-way lines, section lines, one-quarter section lines, one-eighth section lines or the corporate limit line, all as they existed on December 5, 1989; except as otherwise specifically described; but, where a district boundary line does not coincide with rear lot lines, such boundary lines shall be dimensioned on the zoning map.

**Sec. 36-323. Zoning District Map**

The boundaries of the zoning districts are shown on the official map on file in Flushing Township Office and made part of this chapter, such map being designated as the official zoning district map showing use districts and building districts in the unincorporated portions of township, and such map and the proper notations, references, and other information shown thereon shall be as much a part of this chapter as if the matters and information set forth by such map were all fully described therein.

**Sec. 36-324. Landscaping and Screening**

The planning commission may require the installation of a Landscaped Berm and/or Greenbelt to visually screen special land uses from the right-of-way or other uses, and when a commercial, industrial, or multi-family land use or zoning district abuts a single-family residential zoning district or use. The following are minimum standards and may be amended by the Planning Commission during site plan review.

(A) Greenbelt: Where required, greenbelts shall conform to the following standards:

1. A required greenbelt or greenbelt buffer may be interrupted only to provide for roads or driveways for vehicular access.
2. Grass, ground cover, or other suitable live plant material shall be planted over the entire greenbelt area, with the exception of sidewalks and driveways.
3. A minimum of two (2) deciduous trees or two (2) evergreen trees shall be planted for each thirty (30) linear feet or portion thereof of required greenbelt length. Required



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- trees shall be at least five (5) feet tall and may be planted at uniform intervals, at random, or in groupings.
4. A minimum of four (4) eighteen (18) inch-high shrubs shall be required for each thirty (30) linear feet of greenbelt area. Required shrubs may be planted at uniform intervals, at random, or in groupings.
  5. For the purpose of determining required plant material, required greenbelt area length shall be measured along the exterior periphery of the greenbelt area inclusive of all driveways.
  6. Trees or shrubs shall be planted at least three (3) feet from any property line.
- (B) Landscaped Berms: Where required, landscaped berms shall conform to the following standards:
1. The berm shall be at least three (3) feet above the grade elevation and shall be constructed with slopes no steeper than one (1) foot vertical for each three (3) feet horizontal. For the purposes of this provision, grade elevation shall be the ground elevation at the property line adjacent to the proposed berm.
  2. The berm area shall be planted with grass or other suitable ground cover to ensure that it withstands wind and weather and retains its height and shape.
  3. A minimum of one (1) deciduous or one (1) evergreen tree shall be planted for each thirty (30) linear feet or portion of required berm.
  4. Eight (8) shrubs may be planted as substitute for each tree required in Sec. 36-324(B)3 if the same visual screening effect is achieved.
  5. Required trees and shrubs may be planted at uniform intervals, at random, or in groupings.
  6. For the purpose of determining required plant material, required berm length shall be measured along the exterior periphery of the berm.
  7. The edge of the berm shall be at least three (3) feet from any property line and shall not cause any additional stormwater runoff onto adjacent properties.
- (C) Maintenance: All required landscaping shall be maintained in a healthy, neat, and orderly state, free from refuse and debris. Dead or diseased trees or shrubs shall be removed and replaced.

(Ord No. 2022-06 Amended by adoption December 12, 2022)

**Sec. 36-325. – 36-399      Reserved.**

## Article 4      Site Regulations

### **Sec. 36-400. Accessory Structures**

- (A) Attached Accessory Structures. An accessory structure attached to the principal building on a lot shall be made structurally a part thereof, and shall comply with the yard requirement of this Ordinance applicable to principal buildings. The footings, foundation and all aspects of the accessory structure shall be to the same construction code requirements applicable to the principle structure.

- (B) Detached accessory Structures. A detached accessory structure shall not be closer than five (5) feet from the rear lot line and ten (10) feet from the side lot lines, except as otherwise provided in this Ordinance. An accessory structure may be located in the side or rear yards only, and, unless a greater distance is required by other applicable law, code or regulation, shall not be closer than ten (10) feet to the principle structure, or any other structure location on the property. The total square footage of the footprint of a lot zoned RSA and thirty (30%) percent of the square footage of a zoned RU-1, or located in the front yard unless permitted in the front yard by issuance of a discretionary special use permit pursuant to Sec. 36-1804(A) of this Ordinance.
- (C) Accessory Structure Without Principal Building. An accessory structure otherwise permissible under this ordinance may be located on a lot without a principal building, by issuance of a discretionary special use permit pursuant to Sec. 36-1804(A) of this Ordinance.
- (D) Temporary Accessory Structures. Temporary accessory structure is defined as a building or other structure which is not connected to water, septic, sewer, natural gas, propane, or any utility except electricity used only to light the temporary accessory structure; and, which is used solely for purposes of storage.

No more than one temporary accessory structure, not exceeding two-hundred (200) square feet in area and ten (10) feet in height, may be placed in the rear or side yard of a residential lot, on which is located a principal dwelling, without permit. Placement of the temporary accessory structure shall be in accordance with the set back requirements of this Ordinance. Such temporary accessory structure may be moved on the lot, so long as the required set backs are maintained and may be removed from the lot and brought back without further permit. Placement of a temporary accessory structure which exceeds two-hundred (200) square feet in area or ten (10) feet in height, or placement of more than one temporary structure on the same lot, shall require a permit to be issued by the local building official.

(Amended by Adoption April 21, 2011, Sec.20-400 Accessory Structures a-d)

(Ord No. 2018-3 Adopted 12-3-2018)

#### **Sec. 36-401. General Area Requirements**

No portion of a lot used in complying with the provisions of this chapter for yards, courts, lot area per family or percentage of lot occupancy in connection with an existing or proposed building or structure, including tents and trailer coaches, shall again be used as part of the lot required in connection with any other building or structure existing or proposed.

#### **Sec. 36-402. Building Regulations**

- (A) No structure shall be erected, altered, or moved into this township except in conformity with all of the regulations pertaining to such structure and pertaining to the district within which such structure is located, or to be located.
- (B) Nor shall any such structure be erected, altered, or moved into this township without having been issued previously a building permit authorizing such erection, alteration or movement.
- (C) No building permit shall be issued unless a site plan showing compliance with all requirements of this chapter has been approved by the building inspector or, in the case of a use requiring approval of the Township Planning Commission, approval by such commission, or, in case of an existing structure, a finding by the building inspector that the structure is in conformance with all existing ordinances and regulations, or the alteration or moving will permit compliance with all ordinances and regulations; provided, however,

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nothing in this section shall prevent the issuance of a building permit for a variance duly granted by the board of zoning appeals.

(D) No structure shall hereafter be erected or altered:

1. to exceed the height or bulk;
2. To accommodate, or house a greater number of families;
3. To occupy a greater percentage of lot area;
4. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required;
5. Or in any manner contrary to the provisions of this chapter.

(E) No part of a yard, or other open space or off-street parking or loading space, required for, or in connection with, any land use, or structure for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking, or loading space similarly required for any other land use or structure, except as otherwise specifically permitted under provisions of this chapter.

(F) No yard, or lot existing on December 5, 1989, shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after December 5, 1989, shall meet at least the minimum requirements established by this chapter.

(G) All structures built within the flood hazard areas of the township as identified in the township Flood Insurance Rate Map, shall meet the requirements of the Flood Damage Control Ordinance.

### **Sec. 36-403. Lot Sizes**

Lots which are not served by municipal water and sanitary sewers, a minimum lot size of 30,000 square feet, with at least 100 feet of frontage on a dedicated public road for construction of a single family residence. If a raised system is required, any tank, drain tile or other buried component of the septic system shall be at least 25 feet from any lot line. This does not include the berm. If an in-ground system is required, any tank, drain tile or other buried component of the septic system shall be at least 20 feet from the lot line. The final grade of the material covering the septic system, and the final grade of the lot shall be established so that any increased water run-off attributable to installation of the septic system shall drain to the front road ditch or follow drain patterns, without increasing the amount of water run-off to adjoining properties. A site plan to scale is required before a building permit will be issued.

(Zoning Amendment Approved 6/10/99)

### **Sec. 36-404. One Family Dwelling Regulations**

A one-family dwelling and any additions or alterations, thereto, erected or placed in the township, other than mobile homes located in a licensed mobile home park, shall conform to the following regulations in addition to all other regulations of this Ordinance:

1. The plan outline of the dwelling, including only heated living area with foundations, shall be large enough to contain within it a square of 20 feet on a side. This size requirement shall not make any houses existing at the date of amendment non-conforming so that they cannot be enlarged or improved. Every dwelling shall have a minimum square footage of ground floor area as measured by outside wall dimensions. For the purposes of this section a basement or cellar except as defined in Sec. 36-200 shall not count as a story and a breezeway or garage shall not be included in the computation of ground floor area.

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(Ord No. 2018-3 Adopted 12-3-2018)

- (a) Single story dwelling: The plan outline of the dwelling, including only heated living area of a single story dwelling shall have a total minimum of 1100 square feet on the ground floor.
  - (b) One and one half story dwelling: The plan outline of the dwelling, including only heated living area of a one and one half-story dwelling shall have a minimum of 900 square feet on the ground floor. The upper floor to have a minimum of 450 square feet, for a total minimum of 1350 square feet.
  - (c) Two story dwelling: The plan outline of a dwelling, including only heated living area of a two story dwelling shall have a minimum of 800 square feet on the ground floor, and a minimum of 800 square feet on the second floor, for a total minimum of 1600 square feet.
  - (d) Bi-level: The plan outline of a dwelling, including only heated living area of a bi-level dwelling shall have a minimum of 900 square feet on the main level, and 450 square feet on the bi-level in ground area, for a total minimum of 1350 square feet.
  - (e) Tri-level: The plan outline of a dwelling, including only two main heated living areas of a tri-level dwelling shall have a minimum of 900 square feet on the main level, and 450 on the tri-level for a total of 1350 square feet. One level could be partially in the ground, but not a basement
- 2. The home, the placement thereof, and the premises upon which it shall be located shall meet all requirements of the township zoning ordinance relating to uses, size of premises, floor area, setback, side lot, and rear lot requirements specified for the particular zoning district in which such premises is situated.
  - 3. The home shall be connected to potable water and sanitary sewage disposal facilities approved by the health agency having jurisdiction. If public water and sanitary sewage disposal facilities are available to the premises, the home shall be connected thereto.
  - 4. It shall be 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 be installed pursuant to the manufacturer's setup instructions and shall have a foundation wall of the same perimeter dimensions of the mobile home and constructed of such material and type as required in the applicable building code for single-family dwellings, and shall be secured to the premises by an anchoring system or device compatible with those required by the state mobile home commission. All construction required therein shall be commenced only after a building permit has been obtained in accordance with the building code applicable within the township.
  - 5. Each mobile home shall be installed with the wheels removed. Additionally, it shall have no exposed towing mechanism, undercarriage, or chassis.
  - 6. The dwelling shall contain storage capability area in a basement area located under the dwelling and an attic area and closet areas, or in a separate structure of standard construction similar to or better quality than the principal dwelling which storage area

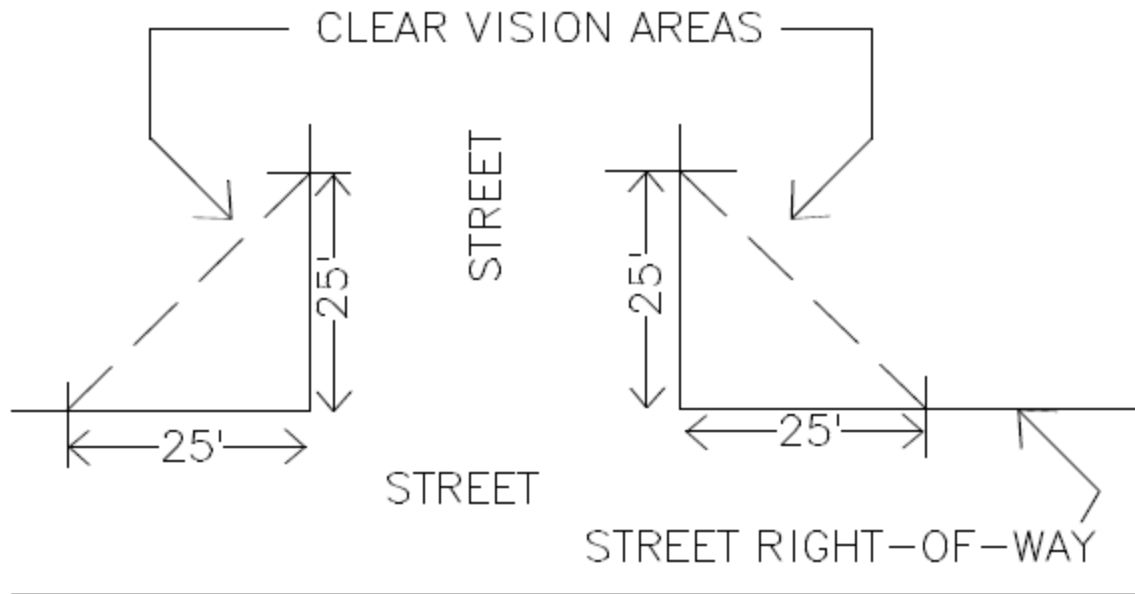
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shall be equal to ten (10) percent of the total square footage of the dwelling or one hundred (100) square feet, whichever shall be less.

7. The dwelling is aesthetically compatible in design and appearance with the other residences in the vicinity, with either a roof overhang of not less than six (6) inches on all sides, or alternatively, with windowsills or roof drainage systems concentrating roof drainage at collection points along the sides of the dwellings; has not less than two (2) exterior doors with the second one (1) being either in the rear or side of the dwelling; and contains steps connected to the exterior door areas or to porches connected to the door areas where a difference in elevation requires the same. The compatibility of design and appearance shall be determined in the first instance by the township building inspector upon review of the plans submitted for a particular dwelling subject to appeal by an aggrieved party to the Zoning Board of Appeals within a period of fifteen (15) days from the receipt of notice of the building inspector's decision. Any determination of compatibility shall be based on the standards set forth herein, as well as the character, design, and appearance of one (1) or more residential dwellings located outside of mobile home parks throughout the township. The foregoing shall not be construed to prohibit innovative design concepts involving such matters as solar energy, view, unique land contour, or relief from the more common standard designed homes.
8. Construction of, and all plumbing, electrical apparatus and insulation within and connected to the mobile home shall be of a type and quality conforming to the state construction code (BOCA) Single-Family Dwelling Code (1975), and as from time to time amended, except insofar as such standards are modified by certain federal preemptive legislation, 42 USA 4501 et seq. It shall comply with all pertinent building and fire codes. In the case of a mobile home, all construction and all plumbing, electrical apparatus and insulation within and connected to said mobile home shall be of a type and quality conforming to the "Mobile Home Construction and Safety Standards" as promulgated by the United States Department of Housing and Urban Development, being 24 CFR 3280, and as from time to time such standards may be amended. Additionally, all dwellings shall meet or exceed all applicable roof snow load and strength requirements.
9. If placed within a flood zone, the mobile home shall meet all requirements of construction of dwellings on-site within the district.
10. All homes shall conform to the square footage requirements of this ordinance

### **Sec. 36-405. Clear Vision Zone**

There shall be a clear vision zone at all corners of intersecting roads, or road junctions, consisting of a triangular area defined by the point of intersection of the right-of way lines and the two (2) points extended along such lines a distance of twenty-five (25) feet from the point of intersection and within which area no obstruction to vision, excluding existing topography, shall be permitted from a height of two (2) feet to eight (8) feet above centerline elevation of abutting streets, except that not more than two (2) trees with trunks of not more than thirty (30) inches in diameter each, and clear of any branched for such heights may be located within such area; provided, however, that this section shall not prohibit the requirements of a greater clear vision area where such is necessary in view of permitted traffic, anticipated traffic volumes or geographic conditions.



**Sec. 36-406. Curb Cuts and Driveways**

Curb cuts and driveways may be located and constructed only upon proof of a driveway permit issued by the Genesee County Road Commission.

**Sec. 36-407. Sanitary Landfill**

The operation of a sanitary landfill is permitted in M-1, and M-2 zoning districts. All landfills must comply with the Genesee County Solid Waste Management Plan and the Solid Waste Management Act (PA 641).

**Sec. 36-408. Fences, Walls, and Other Protective Barriers**

- (A) A fence is defined, as any partition, structure, gate or obstacle, erected as a dividing marker, barrier or enclosure.
- (B) A fence shall not include an enclosure constructed of chicken wire or similar material not exceeding 3 feet in height, installed in a side or backyard of a residential property for the purpose of enclosing vegetation or domestic animals.  
(Ord. No. 31 §1, 4-13-78, Ord. No. 2020-04, 11-12-2020)
- (C) Permit required. No fence shall be erected or altered within the township without obtaining a permit from the township building inspector.  
(Ord. No. 31 §2, 4-13-78, Ord. No. 2020-04, 11-12-2020)
- (D) Permit fee. A fee in an amount determined by the Township Board from time to time shall be paid for each permit issued pursuant to Sec. 36-1709. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.  
(Ord. No. 31 §3, 4-13-78, Ord. No. 2020-04, 11-12-2020)
- (E) Establishment of lot lines. The building inspector may require the owner of the property upon which a fence is located or is to be located, to establish lot lines upon such property through placement of permanent markers located by a licensed surveyor. Such lot line shall be established within fifteen (15) days after receiving notice.

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(Ord. No. 31 §4, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(F) Prohibited in public rights-of-way. No fence shall be erected or maintained within the limits of any public road right-of-way in the township.

(Ord. No. 31 §5, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(G) Height restriction. Fences on a lot of record in all residential districts which enclose property and/or are within a required side or rear yard, shall not exceed six (6) 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 required minimum front yard, whichever is greater. No fence other than an ornamental fence shall be located in the front yard.

(Ord. No. 31 §6, 4-13-78, Ord. No. 31, 2-12-98, Ord. No. 2020-04, 11-12-2020)

(H) Exclusion of certain property. Recorded lots or un-platted acreage having an area in excess of five (5) acres and a frontage of at least two hundred (200) feet are excluded from these regulations, except that no fence shall be erected or maintained within the limits of any public road right-of-way pursuant to Sec. 36-408(F).

(Ord. No. 31, §7, 4-13-78)

(I) Electrification restricted. Fences on lots of record shall not contain barbed wire, electric current or charge of electricity.

(Ord. No. 31, §8, 4-13-78)

(J) Vacant lot. Any fence intended to be installed on a vacant lot shall require a special use permit in accordance with the procedure stated in Sec. 36-1800.

(Ord. No. 31 §7, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(K) Prohibited fences. Any fence intended to be installed on a vacant lot shall require a special use permit in accordance with the procedure stated in Sec. 36-1800.

(Ord. No. 31 §8, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(L) Fences to public property. Fences which enclose property owned by a municipality, school or other public agency or which is customarily open to and used by the public, such as parks and playgrounds, situated within an area developed as a residential district, and which are adjacent or within 100 feet of intersecting to public roads, shall require a special use permit to assure the placement, height and construction of the fence will not impair the visibility of the intersection by operators of motor vehicles, bicycles or pedestrians.

(Ord. No. 31 §9, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(M) Agricultural fences. Installation of a fence intended primarily for agricultural purposes to a property located in a residential district, shall require a special use permit. The Planning Commission shall have the authority under appropriate circumstances, to waive the height restrictions contained in Sec. 36-408(G) and the prohibitions contained in Sec. 36-408(K), to balance the reasonable agricultural needs of the property owner with public safety and concerns of the concerns adjoining property owners.

(Ord. No. 2020-04, 11-12-2020)

(N) Maintenance. Fences shall be maintained so as not to endanger life or property. Any fence which, through lack of maintenance or type of construction or otherwise imperils life or property, shall be deemed a nuisance. The building inspector shall notify the owner of the property on which the fence is located of the existence of such nuisance and the nuisance shall be abated within 10 days of the date notice is provided to the property owner.

(Ord. No. 31 §10, 4-13-78, Ord. No. 2020-04, 11-12-2020)

(O) Special use permits.

1. **Zoning Administrator Denial.** Where the zoning administrator denies an application for a fence permit, the property owner may request the Planning Commission issue the permit. The request shall be made by written application submitted to the Township clerk within 30 days of the date of the zoning administrator denial. The application shall include a copy of the application to the zoning administrator and a copy of the zoning administrator's denial. The property owner and zoning administrator may submit additional information relevant to the grant or denial of the permit. In making its decision, the Planning Commission shall take into consideration any unique features of the property, the proposed fence, the stated concerns of any property owners within 300 feet of the proposed fence, as well as the opinions expressed by the public at large. The Planning Commission's decision shall be based on an objective consideration of the information presented, balancing the benefit to the property of the intended fence against the requirements of the ordinance and the legitimate concerns of the public.
2. **Vacant Land.** A request to install a fence to vacant land shall be submitted by application for special use permit to the Planning Commission.
3. **Agricultural Fence.** A request to install a fence for agricultural purposes in a residential district shall be submitted by application for special use permit to the Planning Commission.

**Sec. 36-409. (Ord. No. 2020-04 11-12-2020) Incinerators and Outside Trash Containers**

- (A) Incinerator facilities as accessory uses in commercial buildings constructed after December 5, 1989, shall be built subject to all township, county, state and federal regulations.
- (B) Outside trash containers shall be permitted in the RU-2, RU-3, RU-4, C-1, C-2, C-3, M-1, and M-2 districts, provided that they comply with the following requirements:
  1. Adequate vehicular access shall be provided to such containers for truck pickup either via a public alley or vehicular access aisle, which does not conflict with the use of off-street parking area or entrances to or exits from principal buildings nearby.
  2. The trash containers, and the surrounding ground area shall be maintained in a neat and orderly appearance, free from rubbish, wastepaper or other debris. This maintenance shall be the responsibility of the owner of the premises on which the containers are placed.
  3. There shall be compliance with all township, county, and state health ordinances and statutes.

**Sec. 36-410. Lot Grades**

- (A) All structures shall be constructed or located with a ground elevation such as to provide a sloping grade to cause the surface drainage to flow away from the walls of such structures.
- (B) Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, and shall be approved by the township building inspector and such other authorities having jurisdiction over such system.



**Sec. 36-411. Setback**

To the extent the requirements of this Sec. 36-411 conflict with the requirements of any other Section of the Zoning Ordinance regarding minimum setbacks, the provisions of the other Section, including but not limited to Article 7 shall control, even where the setback at issue is measured from a right-of-way. From the edge of right-of-way to the nearest point of any structure the setback shall be 25':

- (A) When buildings have been built upon the majority of the parcels in the block closer than permitted by this chapter, the applicant may build to the setback line of the mean average of the buildings in the block; provided, further, that the setback on corner lots of record as of December 5, 1989, or lots of record in the future on the side streets, shall not reduce the buildable width on parcels of land to less than a twenty-four-foot-wide building.
- (B) The setback in industrial districts may be to the property line except when adjacent to a residential district, in which case the side or rear yard requirements of that residential district shall prevail for the adjacent one hundred (100) feet adjoining such residential district.

(Ord No. 2018-3 Adopted 12-3-2018)

**Sec. 36-412. Sewer and Water Connection Permit**

Before any building permit shall be issued under terms of this chapter, the applicant shall obtain a permit in writing from the county health department or the township building inspector approving his plans for sewage disposal and water supply, in accordance with the state law, county regulation, or township ordinance, whichever is the most restrictive. No building or structure shall hereafter be erected or altered and used for an outside toilet of any type whatsoever unless located and erected in conformance with the laws of the state and the rules and regulations of the state department of health, and township and county health department, whichever is the more restrictive.

**Sec. 36-413. Storage in Front Yard**

Nothing in this chapter shall permit the storage or parking of any vehicle or non permanent structure within the required front yard of any lot within a residential district, except that the parking of an operable passenger vehicle on a driveway located on private property shall not be prohibited.

**Sec. 36-414. Water Supply**

Every building or structure hereafter erected or moved upon any premises and used in whole, or in part, for dwelling, recreational, business, commercial, or industrial purposes shall be provided with a safe, adequate, and sanitary water supply. All plumbing work relating to the water supply system shall conform to the standards of material and installations set forth by the state plumbing code, a copy of which is on file in the township clerk's office.

**Sec. 36-415. Private Water Supply**

- (A) Where a public water system is not available, each fixture from which water for human consumption may be obtained shall be supplied with water from a private system that complies with the regulations of minimum standards for the location and construction of wells for the production of untreated public and semi-public water supplies other than municipal supplies as adopted by the State Council of Health, September 16, 1941, as amended thereof, a copy of which is on file at the office of the Township Clerk. When it is found necessary to develop a private water supply for drinking or domestic purposes from a spring, lake, stream, or body of surface water, each case shall be considered as a separate problem, subject to the field investigation by a representative of the state or county

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department of health before approval for use may be given by the township building inspector.

- (B) A copy of a report describing water quality and quantity shall be forwarded by the well drillers to the builder and supplied to the township building inspector before a final building inspection permit shall be issued. The building inspector shall advise the new prospective homeowner by letter of the procedure for obtaining a water potability test from the state. In cases where the new home is built for prospective customers, it shall be the responsibility of the contractor to provide this information to the homeowner prior to sale.

### **Sec. 36-416. Performance Standards**

- (A) Smoke control. No individual or individuals shall cause, suffer, or allow to be discharged in the atmosphere from any source, smoke, the shade or appearance of which is equivalent to or greater than that density described as No. 2 of the Ringelmann Chart; provided, however, that smoke, the shade or appearance of which is equivalent to but not darker than No. 2 of the Ringelmann Chart for a period or periods aggregating four (4) minutes in any thirty (30) minutes shall be permitted; and provided further, that smoke, the shade or appearance of which is equivalent to but not darker than No. 3 of the Ringelmann Chart for a period or periods aggregating three (3) minutes in any fifteen (15) minutes shall also be permitted when building of a new fire or when breakdown or malfunctioning of equipment occurs such as to make it evident that the emission was not reasonably preventable.
- (B) Control of noise. At no point on the boundary of any non industrial district shall the sound pressure level of any operation exceed the described levels in the designated octave bands below:

Octave Band in Cycles per Second	Maximum Permitted Sound Level in Decibels
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
above 4,800	32

- (C) Odors. There shall be no emission of odorous matter in such quantities as to be offensive at lot boundary lines.
1. Any process which may involve the creation or emission of any odors shall be provided with a secondary safeguard system, so that control will be maintained if the primary safeguard system should fail.
  2. There is hereby established as a guide in determining such quantities of offensive odors, Table III, (Odor Thresholds) in Chapter 5 "Air Pollution Abatement Manual" copyright 1951, by Manufacturing Chemists' Association, Inc., Washington, DC.
- (D) Control of glare or heat. Any operation producing intense glare or heat shall be performed within an enclosed building or behind a solid fence in such a manner as to be completely imperceptible from any point beyond the lot lines.
- (E) Control of vibrations. No vibration which is discernible to the human sense of feeling shall be perceptible without instruments at any point beyond the lot line.
- (F) Control of radioactivity or electrical disturbance. There shall be no activities which emit dangerous or harmful radioactivity. There shall be no electrical disturbance (except from

domestic household appliances) adversely affecting the operation of any equipment located beyond the property of the creator of such disturbance. (Ordinance. No. 82, 15.16, 2-24-83)

(G) Outdoor storage and waste disposal.

1. No flammable or explosive liquids, solids, or gases shall be stored in bulk above ground; provided, however, that tanks or drums of fuel directly connecting with energy devices, heating devices, or appliances located on the same lot as the tanks or drums of fuel are excluded from this provision.
2. All outdoor storage facilities for fuel, raw materials, and products; and all fuel, any raw materials, and products stored outdoors shall be enclosed by a fence adequate to conceal any facilities from any adjacent properties.
3. No materials or wastes shall be deposited upon a lot in a form or manner that may be transferred off the lots by natural forces or causes.
4. All material or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

**Sec. 36-417. Mobile Home Park Development**

(A) All proposed structures or uses of land or structures shall be subject to the site plan review provisions of Article 19.

1. If the initial development or any successive stage of development shall not proceed and be completed, as proposed and contemplated by the original license or successive licenses, then such failure shall be reported to the Michigan Department of Commerce or any other authority issuing such license.
2. "The mobile home park 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 provided that the individual site shall be equal to at least 4,400 square feet. For each square foot of land gained through the reduction of a site below 5,500 square feet, at least an equal amount of land shall be dedicated as open space. This open space shall be in addition to that required under R 125.1946, Rule 946 and R 125.1941 and R 125.1944, Rules 941 and 944 of the Michigan Administrative Code".
  - (a) There shall be at least one (1) mobile home site provided for every mobile home, and it shall be grass covered or covered with macadam, or equivalent dust free material. The space directly underneath the mobile home shall be of such construction as to be of a permanent nature considering the weight and size of the mobile home.
  - (b) A mobile home shall be in compliance with the following minimum distances:
    - (1) Twenty feet from any part of an attached or detached structure of an adjacent mobile home which is used for living purposes.
    - (2) Ten feet from either of the following:
      - (i) An on-site parking space of an adjacent mobile home site.
      - (ii) An attached or detached structure or accessory of an adjacent mobile home which is not used for living purposes.
    - (3) Fifty feet from a permanent park-owned structure such as community buildings, offices, maintenance and storage facilities and similar

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structures.

- (4) One hundred feet from a baseball or softball field.
  - (5) Twenty-five feet from the fence of a swimming pool.
  - (6) On-site detached storage sheds shall be a minimum of 3 unobstructed feet from the mobile home it serves, unless the wall adjacent to the mobile home is lined with Class A fire-resistant material.
  - (7) Attached or detached structures or accessories of a mobile home that are not used for living space shall be a minimum distance of 10 feet from an adjacent mobile home or its adjacent attached or detached structures.
- (c) Any part of a structure such as steps, porches, supported or unsupported awnings, decks, car ports or similar structures, that is part of a mobile home shall be set back the following minimum distances:
- (1) Ten feet from the edge of an internal road.
  - (2) Seven feet from an off-site parking bay.
  - (3) Seven feet from a sidewalk.
  - (4) Twenty-five feet from a natural or manmade lake, object, or waterway.
- (d) Steps shall not encroach into parking areas.
- (e) A mobile home length may vary depending on park design and layout and the mobile home to be installed; however, the minimum standards pertaining to distance between mobile homes shall be complied with.
- (f) Site dimensions may be completed to include the space requirements for mobile homes which may contain expanded rooms, or in anticipation of the attachment of expansions such as add-on-rooms. In accordance with R 125.941.
- (B) Loading and unloading. Loading and unloading areas shall be provided as required by the Mobile Home Commissions rules.
- (C) Parking areas. Two parking spaces shall be provided for each mobile home unit.
- (D) Lot requirements.
- 1. Mobile homes, permanent buildings and facilities, and other structures shall not be located closer than 10 feet from the property boundary line of the mobile home park or mobile home condominium.
  - 2. If mobile homes, permanent buildings and facilities, and other structures abut a public right-of-way, they shall not be located closer than 50 feet from the boundary line, except that if the boundary line runs through the center of the public road, the 50 feet shall be measured from the road right-of-way line. This rule does not apply to internal roads if dedicated for public use, if the roads do not present a nuisance or safety hazard to the park tenants or condominium owners. In accordance with R 125.944.
- (E) Heights. No building shall exceed the height of two and one-half (2 1/2) stories or twenty-five (25) feet.
- (F) Design requirements.

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1. No zoning for mobile home parks shall be approved for any land area of less than fifteen (15) acres, which fifteen (15) acres shall be fully developed for total occupancy prior to occupancy by the first mobile home.
2. The placement of mobile homes or any structures within a mobile home park shall be in accordance with Sec. 36-417 of this ordinance.
3. A mobile home park or mobile home condominium that contains fifty or more mobile home sites which are constructed pursuant to a permit to construct issued under the authority of the Michigan Department of Commerce shall have not less than 2% of the park's gross acreage dedicated to open space, but not less than 25,000 square feet, and the designated open space areas shall be shown on the preliminary plans submitted to the Planning Commission.
4. If the mobile home park abuts property on which there is an existing residential development or property zoned Residential Agricultural (RA), Residential Suburban Agricultural (RSA), Residential Urban Single-Family (RU-1), Residential Urban Multiple-Family (RU-2), or Residential Urban Transient (RU-3), the park shall be required to provide screening along the park boundary abutting the residential development or the property zoned as stated herein. Screening shall be a ten foot planting strip along the perimeter of the mobile home park which abuts the residential development or property zoned as stated herein. Further, in all cases, the mobile home park shall provide screening along the park boundary abutting a public right-of-way. The landscaping shall consist of evergreen trees or shrubs of a minimum three feet in height which are spaced so they provide a continuous screen at maturity. Alternative screening devices may be used if they conceal the mobile home park as effectively as the required landscaping described above.
5. Two-way streets within a mobile home park shall have a minimum width of 21 feet where no parallel parking is permitted, 31 feet where parallel parking is permitted along one side of the street, and 41 feet where parallel parking is permitted along both sides of the street. The minimum width of a one-way street shall be 13 feet where no parallel parking is permitted, 23 feet where parallel parking is permitted on one side, and 33 feet where parallel parking is permitted along both sides. Mobile home park owners shall provide adequate maintenance of such roads, lanes, alleys and streets. No vehicle, trailer, or similar conveyance, either public or private, shall be parked in any roads, lanes, alleys or streets within such park except as designed and approved in the original site plan.

### (G) General requirements.

1. If boats, boat trailers and utility trailers are permitted to be parked within the mobile home park adequate parking spaces for such vehicles in a central or collective parking area shall be provided. This area shall be in addition to the automobile parking requirements of this ordinance and shall be adequately locked, fenced and permanently buffered.
2. Each mobile home shall have a safe and unobstructed primary exit and an emergency exit.
3. All gas and electrical service conduits shall be underground.
  - (a) Each mobile home site shall be provided with underground gas and electrical service.

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- (b) When separate meters are installed, each meter shall be located on a uniform post on each mobile home site.
  - (c) Wiring shall comply with the recommended standards of the local utility company and the Township Building Code and State Electrical Code.
- 4. The plans and specifications for water and sewage shall be submitted to the township for review as part of the preliminary plan review process. The plans and specifications for water and sewage shall be approved by the County Health Department, State Health Department and Michigan Department of Commerce, as appropriate.
  - (a) A public sewer shall be required in mobile homes parks, if available. If public sewers are not available, alternate sewage collection and disposal systems shall be in conformity with Part 3 of the Michigan Department of Public Health's Mobile Home Park Rules, R 325.3331 to R 325.3335.
  - (b) Fire hydrants shall be installed in all mobile parks for which public water systems are available and shall be in compliance with the requirements and provisions of the local fire code in effect at the time of permit application.
  - (c) If public water supply is not available to the mobile home park, the mobile home park owner shall submit proof from the Public Health Department or other appropriate agency that an adequate and acceptable water supply is available to the mobile home park.
- 5. All vehicular and pedestrian circulation systems within a mobile home park shall be illuminated as follows:
  - (a) Access points to public thoroughfares shall be lighted. If the public thoroughfare is lighted, the illuminated level shall not exceed the average illumination level of an adjacent illuminated thoroughfare.
  - (b) At all street intersections and designated pedestrian crosswalks, the minimum illumination shall not be less than 0.25 foot candles.
  - (c) Roads, parking bays, and pedestrian walkways shall be illuminated at no less than 0.05 foot candles.
  - (d) If a central park mailbox area or park directories, or both, are provided, they shall be illuminated at not less than 3.15 horizontal foot candles on any box or any entry on the directory.
  - (e) Outdoor recreational facilities shall be adequately lighted, when in use.
  - (f) A mobile home park owner shall maintain all lighting in continuous operating condition.
- 6. Facilities shall be provided for and maintained by the owner to accommodate the following:
  - (a) Uniform garbage collection receptacles which shall be kept in a sanitary condition at all times and shall ensure that the exterior property areas are maintained free from organic and inorganic material that might become a health hazard, accident or fire hazard. Garbage and rubbish disposal systems within a mobile home park shall be established and maintained in accordance with Part 5 of the Michigan Department of Public Health Mobile Home Park Standards, R 325.3351 - 325.3354.

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- (b) Activities requiring large amounts of water such as animal washing or car washing shall be conducted only in designated approved areas.
  - (c) Domestic animals or house pets shall not be allowed to run at large or commit any nuisance within the limits of the mobile home park.
- 7. Every mobile home within a mobile home park shall be equipped at all times with fire extinguishing equipment in good working order, or such type, size, and number so located within the park as to satisfy applicable regulations of the State Fire Code and R 125.1703.
  - (a) No open fire shall be permitted at any place which may endanger life or property.
  - (b) No fire shall be left unattended at any time.
  - (c) Fire extinguishers shall bear a label indicating approval by a nationally recognized independent testing laboratory and be approved for such service by the Commissioner of the State Police.
  - (d) Each fire extinguisher shall be periodically examined and kept at all times in a usable condition in compliance with the regulations of the fire department.
- 8. No commercial activity, including the business of selling new and/or used mobile homes as a commercial operation in connection with the operation of a mobile home development shall be permitted, except as follows:
  - (a) New or used mobile homes located on lots within the mobile home development to be used and occupied on that site may be sold by a licensed dealer and/or broker. This Section shall not prohibit the sale of a used mobile home by a resident of the mobile home development provided the development permits the sale.
  - (b) Home occupations shall be permitted in accordance with Sec. 36-421 of the zoning ordinance.
- 9. The grounds of a mobile home park shall be graded and provide for drainage in accordance with the standards promulgated by the Michigan Department of Public Health, R 325.3341 - R 325.3349.
- 10. The developer and/or owner shall make adequate provisions and enforce the requirement that each mobile home be uniformly and adequately skirted in accordance with Mobile Home Commission Rule 125.1604.
- 11. Each mobile home installed in a mobile home park shall be installed in accordance with Mobile Home Commission Rule 125.1602.
- 12. No mobile home within a mobile home park shall be placed on blocks, posts, walls or any other temporary foundation, except as permitted in accordance with the rules promulgated by the Mobile Home Commission and no other buildings or foundations shall be attached to a mobile home, except units manufactured in accordance with HUD standards for installation as additions to mobile homes and provided such additions are installed in accordance with the manufacturer's specifications.
  - (a) This shall not prohibit the use of an awning of aluminum, canvas, or fiber glass, which space shall be screened in.
  - (b) The screened area shall not be greater than 14 feet in width nor shall such area be enclosed or glassed in except as otherwise permitted herein.

13. There shall be no storage of any kind underneath any mobile home and each mobile home shall be maintained in a clean and presentable condition at all times.

14. All cooking and fuel services shall be provided through electricity or gas from public utility mains or from a central storage tank within the mobile home park.

**Sec. 36-418. Industrial Parks**

Industrial park development shall meet the following conditions:

- (A) Permitted uses shall include all uses permitted by right within this district. Special uses may be permitted by right within this district. Special uses may be permitted, subject to the special use provisions of Article 18.
- (B) The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
- (C) The development of an industrial park shall be in accordance with an overall plan for development to the park, which plan shall be approved by the Township Planning Commission.
- (D) The developer shall provide within the industrial park, a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, which system shall connect with township system. If sewers are not available, the park's sanitary sewer system shall be designed so as to dispose of all sewage and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state, county health department, the county drain commissioner and the township.
- (E) The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the township's engineer collect, carry off, and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the state, the county drain commissioner and the township.
- (F) If a public water system is not available the developer shall provide within the industrial park a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.
  - 1. The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
  - 2. Such water system shall conform to the statutes, ordinances and regulations of the state, the county health department, the county drain commissioner and the township.
- (G) All industrial parks shall have direct access to a paved state or county primary highway.
- (H) Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
  - 1. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any street lines with each other.
- (I) No part of any parking access and/or service area may be located closer than one hundred fifty(150) feet of any residential property line.
- (J) Parking, loading or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.



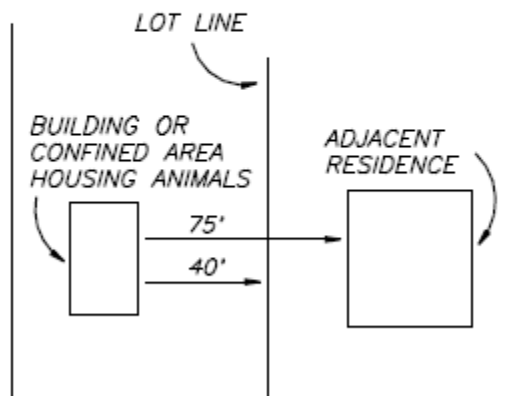
- (K) Any industrial park adjoining any residential development shall be provided with a buffer of at least sixty (60) feet along the adjacent property line. Such buffer shall be planted with evergreen and other suitable plantings and used for no other purposes. A landscaped planting area of at least (60) feet shall also be provided along all street frontage.
- (L) Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors.
1. These facilities will be arranged in such a manner so as to protect abutting streets, and adjacent properties from unreasonable glare or hazardous interference of any kind.
- (M) Maximum building coverage on any lot within the industrial park shall not exceed thirty (30) percent.
- (N) Minimum lot sizes within an industrial park shall be one (1) acre.

**Sec. 36-419. Farm Animals and Horses**

On parcels under twenty (20) acres in size in the RSA district, the breeding rearing or housing of farm animals including horses, shall meet the following requirements.

- (A) The breeding, rearing and housing of the farm animals under this provision shall be for non-commercial purposes. Examples of commercial activities would be the raising of animals for resale, the raising of animals for butchering and sale of meat, skin, etc. Non-commercial uses would include the raising of the animals as pets, for recreational uses such as horseback riding, or the raising of the animals for butchering for meat for the resident.
- (B) Animals shall be confined in a suitably fenced area or paddock. Any area or building in which animals are confined shall be at least 40' from a lot line and at least 75' from a residence on an adjacent lot.

**MINIMUM SETBACK -  
FARM ANIMALS AND HORSES**



- (C) The facility shall be so constructed and maintained that odor, dust, noise or drainage shall not constitute a nuisance or hazard to adjoining premises.

(D) For private use by the owner or lessee of the land and dwelling, the following number of animals are allowed at a rate of one (1) animal unit for the first two (2) acres of land and one (1) additional animal unit for every two (2) additional acres. One animal unit is equivalent to:

1. One (1) horse or, donkey or mule , cow or similar animal.
2. Two (2) pigs, or similar animal
3. Three (3) sheep, three (3) goats or similar animal.
4. Twenty (20) fowl or similar animal.

**Sec. 36-420. Solar Energy System Regulation**

(A) All Solar Energy Collectors

1. The installation of any solar panel (on-site or commercial) shall not negatively impact adjacent properties with additional or excessive stormwater runoff and/or drainage.
2. It shall be shown that all panels are adequately secured to the surface upon which they are mounted and that the mounting structure has the capability of supporting the panels.
3. All panels shall have tempered, non-reflective surfaces.
4. Solar energy collectors shall be repaired, replaced, or removed within three months of becoming nonfunctional.
5. Each system shall conform to applicable industry standards including those of the American National Standards Institute (ANSI).
6. Solar energy collectors shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the building inspector prior to installation. Building inspector approval is required.
7. Solar energy collectors and installation and uses shall comply with construction code, electrical code, and other state requirements.

(B) On-Site Roof-Mounted Solar Energy Collectors shall:

1. Be such a weight to be safely supported by the building. Building inspector approval is required.
2. Be considered part of the building and meet all the required building height and setback requirements.
3. Not project more than 2 feet above highest point of roof or exceed maximum building height limitations allowed in that zoning district.
4. Not be located within 3 feet of any peak, eave, or valley to maintain adequate accessibility.

(C) On-Site Ground-Mounted Solar Energy Collectors:

1. Are only permitted in the side and rear yards, unless permitted in front yard by issuance of a discretionary special use permit pursuant to Sec. 36-1804(A) of the Ordinance.
2. Shall not extend into the side yard or rear setback when oriented at any designed tilt angle.

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3. Shall not exceed 12 feet in height measured from the ground at the base of such equipment. The height of the ground-mounted solar energy collector shall be measured from ground level to the highest point of the solar panel.
4. Shall be a minimum of 25 feet from all-natural features including water courses, wood lots, wetlands, and 100-year floodplains.
5. Shall be included in calculations to determine lot coverage and shall not exceed the maximum lot coverage permitted in the relevant zoning district.
6. Shall be considered an accessory use in the RU-1, RU-2, RU-4, RSA, C-1, C-2, C-3, M-1, and M-2 zoning districts if the total area of ground mounted solar energy collectors and other elements of the on-site solar energy system account for fifteen (15%) percent or less of total lot coverage.
7. Shall require a Discretionary Special Use Permit if the total area of ground mounted solar energy collectors and other elements of the on-site solar energy system account for more than fifteen (15%) percent of total lot coverage.
8. Ground-mounted solar energy collectors and other elements of an on-site solar energy system shall meet the requirements of Sec. 36-400 Accessory Structures.

(Ord No. 2022-06 Amended by adoption December 12, 2022)

### **Sec. 36-421. Home Occupation.**

(A) All home occupations shall meet the below requirements:

1. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding two (2) square feet in area, non illuminated, and mounted flat against the wall of the dwelling.
2. There shall be no sale of any goods manufactured elsewhere in connection with such home occupation except for sales incidental to the home occupation. This would not exclude services being performed onsite by appointment, or off site. For example, a tax account would be able to have customers come to their home to review paper work or offer to go to their home to perform the service.
3. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking, generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.
4. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premise, or causes fluctuations in line voltage off the premises.
5. Home occupations shall be carried on by a member or members of the family residing on the premises, and not over one (1) employee not residing on the premises.
6. The traffic to and from the property for purposes of the home occupations shall only occur between 9:00am – 9:00pm.

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7. Services involving use of a commercial vehicle (less than one (1) ton in rated capacity) for use on premises shall be limited to one (1) such vehicle. All other equipment and/or supplies used in the home occupation, if kept on the premises, shall be kept in the dwelling or a fully enclosed accessory structure.
8. Conducting a home occupation shall require a permit issued by the Township. Applicants for such permit shall be submitted on a form provided by the Township and shall require payment of the fee set by the Township from time to time. The application shall include a scale plot plan and floor plan delineating the area of the dwelling, assess restructure or property to be used in conducting the home occupation. The permit for a primary caregiver home occupation shall be renewed each year.

(B) The requirements are applicable to all primary caregiver, including primary caregivers operating as a home occupation.

1. All primary caregivers shall comply with the MMMA (Michigan Medical Marihuana Act, PA 2008, Initiated Law 1, MCL 333.26421, et seq, including, MCL 333.26423(d) and meet the rules established by Marijuana Regulatory Agency. Activity authorized under the Michigan Regulation and Taxation of Marijuana Act, MCL 333.27951 et seq., shall not be subject to the requirements of this ordinance.
2. A primary caregiver home occupation shall not be located on property described in a condominium master deed or Planned Unit Development.
3. The growing location for the primary caregiver shall be inside an enclosed locked facility.
4. The holder of the primary caregiver license shall renew their permit on an annual basis from the day it is granted by the Township to ensure all information is accurate and up to date contact information.
5. The location of primary caregiver home occupations shall be kept on private record with the Township and shall not be accessible through requests that cite the Freedom of Information Act, MCL 15.261, et seq.
6. When deemed reasonably necessary to effective enforcement of this ordinance, the building inspector, code enforcement officer, and police personnel, may conduct inspections of the property where a primary caregiver home occupation is conducted to ensure all operations are compliant with the zoning ordinance and applicable local and state laws. Inspection shall be at the time the home occupation is first established, as part of the annual renewal, and if there is reasonable cause to believe the home occupation is not in compliance with this ordinance or other applicable laws.
7. All activities related to the home occupation shall be conducted inside the dwelling unit, an attached accessory structure or detached accessory structure. Use of the dwelling unit in the conduct of the home occupation shall be clearly incidental and subordinate to its use for residential purposes and not more than twenty five percent (25%) of the residential floor area of the dwelling unit shall be used for the home occupation. Residential floor area shall include all legally habitable floor area within the dwelling and so much of the basement floor area, with a ceiling height of at least seven (7) feet and which is accessible by stairway from the living area of the dwelling.

8. Primary caregiver home occupation activities conducted in an accessory structure shall not be included in the floor area limitation stated in the preceding paragraph, but shall be subject to a separate limitation of the lesser of 750 square feet or 50% of the floor area of the accessory structure in which the activity is conducted.
9. If an application for a primary caregiver home occupation permit is denied, the applicant may appeal, by submitting a written request for reconsideration to the Township Clerk, within 14 days of the denial. The request for reconsideration shall be heard by a panel consisting of the Township Supervisor and two (2) members of the Township Board of Trustees, selected by the Supervisor. The Supervisor shall chair the hearing, which shall not be open to the public to preserve the applicant's confidentiality. To the extent a record is made of the hearing, the record shall be retained by the Township and kept confidential. The decision of the panel shall be issued in writing signed by the Supervisor, with a copy provided to the Applicant, within seven days of the date of the hearing. A proof of service stating the date and manner of serving the decision to Applicant shall be noted in writing with a copy provided to Applicant. Appeal of the panel's decision shall be to the Genesee County Circuit Court, with the claim of appeal to be filed within 21 days of service of the decision to Applicant. A copy of the claim of appeal shall be served to the Township. (Ord No. 2021-01 Amended by adoption August 12, 2021)

**Sec. 36-422. Rummage Sale**

- (A) Permit required; display. No person, firm, corporation, or organization shall commence a rummage sale until a permit for same has been obtained from the township cleric on forms provided by the township. This permit shall be displayed in the front window or other prominent place clearly visible front the street at the location where the sale is being conducted.
- (B) Number of sales permitted. Not more than three rummage sales shall be conducted on any particular premises in any calendar year.
- (C) Sales to be located upon owner's premises. A rummage sale shall be conducted only by the owners or occupants of the premises on which the sale is located.
- (D) Duration of sale. A rummage sale shall be discontinued at the end of the fifth (5) calendar day following the date that the sale was commenced.
- (E) No signs advertising a sale regulated by this chapter shall be placed on public property or within the public right-of-way or on any utility pole or' on private property except upon the property of the owner and upon private property of another, but only with the permission and consent of the owner of that property. Such signs shall be placed in accordance with all requirements of the township sign ordinance, Chapter 36Article 17 Al, et seq, of the Zoning Ordinance, except no separate sign permit will be required, so long as the rummage sale permit and the sale is conducted in accordance with the ordinance.
- (F) Exceptions. The following persons and sales are excepted from the permit requirement:
  1. Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the township or under the protection of the presently nonconforming section thereof, or any other' sale conducted by a manufacture, dealer, or vendor on which sale would be conducted from properly zoned premises and not otherwise prohibited by the ordinances of the township.

2. Any sale conducted by a bona fide charitable, religious, educational, cultural, or governmental institution or organization, provided that the burden of establishing the exemption under this chapter shall be on the organization or institution claiming this exemption.
  3. Auction by a lawfully qualified auctioneer.
- (G) Sales outside the township. No signs shall be placed or erected in any public place, in any lawns, on trees, upon any private roads or driveways or upon the exterior walls of any building or structure within the township advertising sales as defined in section, which is to occur outside the township.
- (H) Penalties.
1. Any person violating this chapter shall be responsible for a municipal civil infraction. Subject to a fine of \$50 for first offense, \$100 for a second offense and \$150 for a third offense.
  2. Any signs which violate this chapter shall be removed by the township police or other designated township personnel, including the code enforcement officer, and disposed of. Such removal and disposal shall be in addition to any other action to enforce this chapter. Municipal civil infraction notices or citations may be issued by such designated township personnel. (Ord No 2021-03 Amended by Ord 7-8-2021)

**Sec. 36-423. – 36-499      Reserved.**

## **Article 5    Off Street Parking**

### **Sec. 36-500. Off-Street Loading and Unloading**

There shall be provided on the same land with every building structure, or part thereof erected or occupied for manufacture, storage, display of goods or for a hotel, hospital, school, funeral home, laundry, dry cleaning establishments, or other use involving the receipt or distribution by vehicles of materials or merchandise incidental to such activity, sufficient space for standing, loading and unloading vehicles to avoid undue interference with public streets, sidewalks or alleys. Such space shall be no less than ten (10) by twenty-five (25) feet for each ten thousand (10,000) square feet of floor area or part thereof with a minimum height clearance of fourteen (14) feet. Such space is not to be a part of any area provided for off-street parking area, and further, there shall be a door no less than three (3) feet, six (6) inches by six (6) feet, eight (8) inches adjoining the loading area.

### **Sec. 36-501. Off-Street Parking Requirements**

- (A) In all zoning districts, off-street parking facilities for the storage or parking of self-propelled motor vehicles for the use of occupants, employees, and patrons of the buildings erected, altered, or extended after December 5, 1989, shall be provided and maintained as herein prescribed.
1. Loading and unloading space as required by this chapter shall not be construed as supplying off-street parking space.
  2. When units or measurements determining the number of required parking spaces result in requirement of a fractional space, any fraction up to and including one-half shall be disregarded, and fractions over one-half shall require one (1) parking space.
  3. Whenever a use requiring off-street parking is increased in floor area, and such use is located in a building existing on or before December 5, 1989, additional parking

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space for the additional floor area shall be provided and maintained in amounts hereafter specified for that use.

4. Off-street parking facilities for one- and two-family dwellings shall be located on the same lot or plot of ground as the building they are intended to serve. The location of required off-street parking facilities for other than one- and two-family dwellings shall be within three hundred (300) feet of the building they are intended to serve, measured from the nearest point of the off-street parking facilities and the nearest point of the building.
5. In the case of a use not specifically mentioned, the requirements for offstreet parking facilities for a use which is not mentioned and which such use is similar to, shall apply.
6. Nothing in this section shall be construed to prevent collective provision of off-street parking facilities for two (2) or more buildings or uses, provided collectively, such facilities shall not be less than the sum of the requirements for the various individual uses computed separately in accordance with the schedule, or a variance is granted per Sec. 36-2208 of this ordinance.
7. The amount of required off-street parking space for new uses or building additions to existing buildings as specified above shall be determined in accordance with the schedule set forth in Sec. 36-501(B), and the space so required for a building permit and shall be irrevocably reserved for such use.
8. For the purpose of this subsection, the words "floor area" shall mean the gross floor area, used or intended to be used, for service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not mean floors or parts of floors used principally for non-public purposes such as storage, incidental repair, incidental process or packaging, or show windows unless specifically mentioned in the requirement.
9. In any district other than a residential district, the off-street parking areas shall be surfaced with concrete, plant-mixed bituminous material, crushed rock, gravel or cinders, shall be maintained in a smooth, firm, usable and dust proof condition, and shall be properly graded and drained to dispose of all surface water.
10. The Planning Commission may grant a special use permit for any customer or employee parking other than a commercial parking lot in any part of an RSA, or RU-1 zoning district located within three hundred (300) feet of any part of the parcel of land causing such parking need. When such parking area is located in a commercial or manufacturing zoning district, no special use permit is required. Parking lots for a charge shall be located in commercial or manufacturing zoning districts.

(B) Off-street parking spaces shall be provided for each land use activity in accordance with the following minimum schedule

1. Residential uses:

Dwelling unit	2 spaces per unit
Motels	1 space per rooming unit
Hotels	1 space per room
Rooming houses, fraternity houses, dormitories, etc.,	1 space per bed or 1 space per bed or each 100 square feet, whichever will require the larger number of parking spaces
Mobile home parks	2 spaces per site

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Travel trailer parks	1 1/2 space per site
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### 2. Institutional and public assembly uses:

Nursery, elementary and junior high schools	1 space per classroom plus 5 spaces or 1 space per 3 permanent seats or per 21 square feet of assembly hall, whichever will require the largest number of parking spaces
High schools, and colleges with dormitory facilities	4.5 spaces per classroom, or 1 space per 3 permanent seats or 21 square feet of assembly space, whichever will require the largest number of parking spaces
Colleges without dormitory facilities	10 spaces per classroom, plus 1 space per 3 permanent seats or 21 square feet of assembly space whichever will require the largest number of parking spaces
Stadia and sports area	1 space per 4 seats
Swimming pools	1 space per 3 seats, or per 40 square feet of pool surface, whichever will require the largest number of parking spaces.
Assembly halls, churches, mortuaries, theaters	1 space per 3 seats or per 21 square feet of assembly space, whichever will require the largest number of parking spaces
Hospitals	2.25 spaces per bed
Convalescent homes, homes for the aged	1.0 space per bed

### 3. Commercial uses:

Business offices except as otherwise specified herein	1 space per 75 square feet of floor area
Professional offices or architects, attorneys, accountants, engineers, real estate brokers, etc.	1 space per 100 square feet of floor area but not less than 3 spaces
Medical and dental clinics	1.33 spaces per 100 square feet of floor area, but not less than 10 spaces
Retail stores, except as otherwise specified herein	1 space per 100 square feet of sales area, with a minimum of 5 spaces
Retail stores of appliances, furniture, motor vehicles, hardware, lumber, and building materials	1 space per 300 square feet of sales area, but not less than 10 spaces
Restaurants and bars	1 space per 30 square feet of sales area
Beauty or barber shops	1 space per 100 square feet of floor area
Service shops	1 space per 30 square feet of sales area, with a minimum of 3 spaces
Bowling alleys	7 spaces per lane
Poolrooms, bow and arrow, and other recreation facilities	1 space per 50 square feet of activity area
Service stations	1 space per 10 square feet of office space plus 2 spaces per hoist, but a minimum of 5 spaces



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Public stables	1 space for each horse kept
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4. Industrial uses. Parking space requirements for all industrial uses shall equal the employee load factor, as proposed in the application for a building permit, or at a rate of one (1) space per six hundred (600) square feet, whichever is greater; provided, however parking requirements for administrative offices shall be in addition to any such industrial use requirement. Any expansion of work force will require a retroactive increase in the number of parking spaces.
5. Exception. The parking requirements for all uses proposed on a lot shall be cumulative, unless the commission shall find that the parking requirements of a particular land use occur at different hours from those of other contiguous land uses, so that its particular land use parking requirements can be advantageously used during other non conflicting hours by the other contiguous land uses, in which event the required parking spaces for such particular land uses may be reduced by the commission to a minimum of the greatest number of spaces required for any such contiguous land uses.
6. Design requirements. An off-street parking layout and dimensional requirements showing compliance with this chapter shall be submitted to the building inspector for approval before the issuance of a building permit for the structure for which the parking facility is required.
  - (a) Each parking space shall consist of an area not less than ten (10) feet wide by twenty (20) feet deep; provided, however, such dimensions shall be increased, when necessary, to permit safe ingress and egress.
  - (b) Required off-street parking areas for three (3) or more automobiles shall have individual spaces marked and shall be so designed, maintained and regulated that no parking or maneuvering incidental to parking shall be on any public street, walk, or alley, and so that any automobile may be parked and maneuvered without moving or damaging another.
  - (c) For purposes of rough computation, an off-street parking space and necessary access and maneuvering room may be estimated at three hundred (300) square feet, but off-street parking requirements will be considered to be met only when actual spaces meeting the requirements above are provided and maintained, or improved in a manner appropriate to the circumstances of the case, and in accordance with all ordinances and regulations of the township.

**Sec. 36-502. – 36-599      Reserved.**

## Article 6      Condominium Developments

### **Sec. 36-600. Condominium Developments**

- (A) Pursuant to authority conferred by Section 141 of the Condominium Act, (MCLA 559.241), Public Act 59 of 1978, as amended, all site condominium developments must be approved by the Flushing Township Planning Commission.
- (B) Fees: Fees for the review of site condominiums shall be established from time to time by resolution by the Flushing Township Board.

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- (C) Zoning Compliance. All site condominium subdivisions and structures herein shall comply with all the use, size, sign, height, area and setback regulations of the zoning district in which the subdivision is located unless modified through the development of "Planned Unit Development".
- (D) Site Condominium Subdivision review and approval procedures. Application for review and approval of site condominium procedures shall be made pursuant to the approval procedures outlined for "Planned Unit Developments", if applicable, and "Site Plan Review".
- (E) Site Condominium Subdivision review application - Required information. A person, firm or corporation shall provide the following information with respect to the project:
1. Information as required under the Site Plan Review Provisions of this ordinance.
  2. Location and size of condominium units, limited common areas, general common areas, sidewalks, landscaping features, signs and utilities.
  3. Street and utility specifications and sectional diagrams.
    - (a) If a site condominium subdivision is proposed to have private streets the Planning Commission shall require that the private streets be developed to the standards contained in 20-305.
    - (b) All public streets shall comply with the requirements of the township's subdivision control ordinance.
  4. A copy of the proposed Master Deed and restrictions.
  5. A completed Environmental Assessment Worksheet.
- (F) Expansion or Conversion of Site Condominium projects. Prior to expansion or conversion of a condominium project to additional land, the new phase of the project shall undergo site plan review and approval.

**Sec. 36-601. – 36-699      Reserved.**

## Article 7      District Regulations

<b>Sec. 36-700. Table of Purposes</b>	
<b>Zoning District</b>	<b>Purpose</b>
RSA - Residential Suburban Agricultural District	The purpose of this district is to provide a rational pattern of residential development within existing agricultural areas while continuing to permit agricultural operations.
RU-1 – Residential Urban District	The purpose of this district is to provide a transition from urban to rural agricultural areas. Low Density single-family residential uses are the principal use in this district with limited agricultural uses permitted.
RU-2 - Residential Urban Medium Density District	The purpose of this district is to provide areas where development can occur with a greater range of types of single-family detached and single-family attached residences.
RU-3 - Residential Urban High Density District	The purpose of this district is to provide areas for high density multi-family developments and complimentary uses.

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<b>Sec. 36-700. Table of Purposes</b>	
<b>Zoning District</b>	<b>Purpose</b>
RU4- Residential Urban Mobile Home Park District	The purpose of this district is to permit siting of mobile home parks within the township and provide for the appropriate accessory uses.
SR – Sports and Recreation District	The purpose of this district is to permit the appropriate siting of large scale sports and recreational land uses in the township.
C-1 Local Commercial District	The purpose of this district is to provide sites for local commercial businesses that provide services to residential neighborhoods. The district is designed to permit the location of these uses adjacent to the neighborhoods they serve while protecting residences from the impact of non-residential uses.
C-2 General Commercial District	This district is intended to provide an area for establishment of a general business within the township.
C-3 Commercial Shopping Center District	This district is intended to provide an area for large scale commercial developments that are beyond the scope of neighborhood or general commercial businesses.
M-1 Light Manufacturing District	This district is designed to permit heavy commercial and light industrial uses that do not require availability of water and/or sewer and which is adequately buffered from incompatible uses.
M-2 - Heavy Manufacturing District	The purpose of this zone is to provide locations adjacent to existing urban areas for heavy industrial activities.

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<b>Sec. 36-701. Table of District Regulations</b>								
Zoning Districts	Lot Area (sq ft)	Lot Width (ft)	Lot Depth (ft)	Setbacks			Lot Coverage (%)	Maximum Building Height (Stories)
				Front (ft)	Side (ft)	Rear (ft)		
RSA	30,000 9,900(a)	100 80 (a)	200	20	10	25	25	2.5
RU-1	20,000 9,900(a)	100 80 (a)	N/A	20	10	25	30	2.5
RU-2	20,000 9,900(a)	100 80 (a)	400	20	20	25	N/A	2.5
RU-2 (3 Family Homes)	26,300 16,500(a)	100 80 (a)	400	20	20	25	N/A	2.5
RU-2 (4 Family Homes)	29,600 19,600(a)	100 80 (a)	400	20	20	25	N/A	2.5
RU-2 (duplexes, lodging houses and tourist homes)	23,000 13,200(a)	100 80 (a)	400	20	20	25	N/A	2.5
RU-2 (garden apartments or townhouses)	1 ac	-	400	40	40	40	N/A	2.5
RU-3	(b)	N/A	N/A	80	80 100 (c)	80 100 (c)	N/A	2.5 (d)
RU-4		N/A	N/A	(e)	(e)	(e)	N/A	2.5
SR	N/A	N/A	N/A	80	80 100 (c)	80 100 (c)	N/A	2.5
C-1 (Amended 10/4/05)	15 ac	N/A	150*	50*(g)	50*(g)	50*(g)	N/A	2.5
C-2 (Amended 10/4/05)	22,500	150*	150*	50* (h)	50* (h)	50* (h)	N/A	2.5
C-3	22,500	150*	N/A	80	80 100 (c)	80 100 (c)	N/A	2.5
M-1	4 ac 1 ac (f)	N/A	N/A	80	80 150 (c)	80 150 (c)	N/A	2.5
M-2	4 ac 2 ac (f)	N/A	N/A	80	80 200 (c)	80 200 (c)	N/A	2.5

**Footnotes:**

- (a) For lots with municipal water and sewer
- (b) Minimum lot area shall be that necessary to meet required front, side and rear setbacks
- (c) When the lot line is adjacent to a single family residential zone
- (d) The height may be extended over 2.5 stories as long as it is within the firefighting capability of the township and is not a violation of other applicable township ordinances
- (e) See mobile home development provisions of Article 4 Site Regulations.
- (f) 1 acre lots are permitted within an industrial park
- (g) At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. Any lot zoned C-1, as of the effective date of this ordinance, which does not meet the currently established minimum yard requirements may be used for any permitted C-1 use, provided the total of the front and rear yards equals at least 40% of the total lot depth, and the total of the side yards equals at least 40% of the lot width, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. The Planning Commission may, at its discretion require a buffer along any line abutting residential property.
- (h) At the discretion of the Planning Commission the minimum dimensions of the front and rear yard and the side yards may be adjusted so that the total of the front and rear yards is a minimum of 100 feet and the total of the side yards is a minimum of 100 feet, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. Any lot zoned C-2, as of the effective date of this ordinance, which does not meet the currently established minimum yard requirements may be used for any permitted C-2 use, provided the total of the front and rear yards equals at least 40% of the total lot depth, and the total of the side yards equals at least 40% of the lot width, and provided any building or structure on the lot is located at a minimum of 30' from the road right of way and a minimum of 20' from the rear lot line and any property line abutting residential property. The Planning Commission may, at its discretion require a buffer along any line abutting residential property.

# Charter Township of Flushing

Zoning District Uses											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
<b>Residential and Related Uses</b>											
Adult foster care family home	P	P	P								
Adult foster care small group (1-6 persons)	P	P	P								
Apartment buildings				P							
Bed and Breakfast (not over 5 guest rooms)	P	P	DS								
Cluster subdivisions	DS	DS									
Commercial uses of a convenience or service nature and designed to provide for the needs of mobile home park residents.					DS						
Detached single family homes	P	P									
Detached single family homes subject to the dimensional requirements of the RU-1 district			P								
Duplexes subject to the conditions listed for duplexes in the Special Use Permit provisions of this ordinance			P	P							
Garden apartments and townhouses as subject to their design standards specified in Article 4 Site Regulations of this ordinance			P	P							
Home occupation	P	P	P	P							
Lodging houses (not over 5 guest rooms)			P	P							
Mobile home parks subject to the mobile home development provisions of Article 4 Site Regulations					P						
Planned Unit Development		DS	DS	DS							
Senior housing				DS							
Similar uses as determined by the Township Planning Commission	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS
Three and four unit multi-family dwellings			P	P							
Three family dwellings			P	P							
Tourist homes (not over 5 guest rooms)				P							
Townhouses	DS										
Two unit multi-family dwellings	DS	DS									
<b>Civic, Non-Profit, Institutional, Recreation and Related Uses</b>											
Adult foster care congregate care facility				DS							

# Charter Township of Flushing

Zoning District Uses											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Adult foster care large group homes				DS							
Adult Foster Care Small Group Home (7-12)			DS								
Archery ranges	DS	DS	DS								
Assisted living facility				DS							
Child care center		DS					P	P	P	P	P
Churches	DS	DS	DS				DS	DS	DS		
Clubs	DS	DS	DS				DS	DS	DS		
Community buildings	DS	DS	DS				DS	DS	DS		
Dog field trails						P					
Driving ranges	DS	DS	DS			DS					
Essential services	DS	DS		DS		DS		DS	DS	DS	DS
Essential service structures, excluding power plants	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS
Golf courses and country clubs	DS	DS	DS			DS					
Golf driving range; and lighted golf courses outside of miniature golf courses.						DS					
Government institutions								DS	DS	DS	DS
Group day care home	NS	NS	NS								
Home for the Aged				DS				DS			
Hospice facility				DS				DS			
Hospitals or sanitariums		DS	DS								
Human cemeteries	DS	DS	DS								
Ice skating rink and roller skating rink						P					
Miniature golf course		DS	DS								
Non-profit library	DS	DS	DS				DS	DS	DS		
Nursing home				DS				DS			
Pet cemeteries	DS	DS									
Public or private park						P					
Recreation vehicle and campground parks						DS					
Rifle, pistol ranges; skeet, trap ranges; archery ranges						P					
Schools	DS	DS	DS				DS	DS	DS		
Ski slope						P					
Subacute care facility				DS				DS			

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Zoning District Uses											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Swimming Pool (Public)						P					
Tennis Courts						P					
Toboggan run						P					
Township municipal buildings and identification signs for them	DS	DS	DS				P	P	P		
Use customarily incidental to the operations and management of sport or gun clubs or public or private recreation facilities.						P					
<b>Agricultural and Related Uses</b>											
Agricultural implements, equipment and machinery								DS	P	P	P
Agricultural labor camp	DS										
Agricultural research and testing	DS										
Agricultural Tourism Facility	DS										
Earth Removal	DS										
Facilities for bulk collections, storage and distribution of agricultural products to wholesale and retail markets	DS										
Farm animals for non-commercial purposes on less than 20 acres as permitted by Sec. 36-419.	P										
Feed lots	DS										
General or specialized farming	P	DS									
Greenhouses	P	DS									
Greenhouses - Non Retail	P										
Greenhouses – Retail	DS										
Kennels	DS										
Nurseries	P	DS									
Private Landing Strip	DS										
Private or public stables	DS										
Raising of cattle, swine, sheep, goats, dogs, cats, fowl or rabbits, provided the site is at least 20 acres in size and no pens, corrals, kennels or barns are closer then 75 feet from any property line or 150 feet from any existing right-of-way	P										
Roadside stands	DS										



Charter Township of Flushing

<b>Zoning District Uses</b>											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Sale of produce	DS										
Storage and sale of seed, feed, fertilizer and other agricultural products	DS										
Truck gardening	P	DS									
Veterinary services to livestock	DS										
<b>Accessory Uses, Structures and Buildings</b>											
Accessory structures in front yard	DS	DS									
Child care center		DS					A	A	A	A	A
Church Revival	A	A	A				A	A	A		
Customer or employee parking lot	DS	DS									
Display or storage of merchandise only within established building setback lines but not on public property.							A	A	A	A	A
Off-site signs	DS										
On-site signs	A	A	A	A	A	A	A	A	A	A	A
On-Site Roof-Mounted Solar Energy Collector	A	A	A	A	A	A	A	A	A	A	A
On-Site Ground-Mounted Solar Energy Collector (15 percent Lot Coverage or Less)	A	A	A	A	A	A	A	A	A	A	A
On-Site Ground-Mounted Solar Energy Collector (Over 15 percent of Lot Coverage)	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS	DS
Rummage Sale	A	A	A	A							
Temporary construction field office	A	A	A	A	A	A	A	A	A	A	A
Temporary dwellings except destruction of structures by fire, acts of God, or any act of a public enemy (Sec 20-312)	DS	DS	DS	DS							
Temporary travel trailer	NS	NS	NS	NS							
Transient amusement enterprises, including circuses, carnivals, etc.	DS	DS	DS	DS							
<b>Commercial and Related Uses</b>											
Aircraft, automobiles, automotive parts								DS	DS	P	P
Amusement, commercial. Including skating rinks, indoor hooting galleries, games of skill and science, miniature golf courses, and arcades								DS	DS		
Amusement park									DS	DS	

# Charter Township of Flushing

Zoning District Uses											
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Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Art, antique, book, curio, gift or novelty shop							DS	P	P		
Auction								DS	P	DS	
Auditorium								DS	DS	DS	DS
Automobile bumping, painting, welding, upholstery and general repair service								DS	DS	P	P
Automobile sales lot for new or used cars								DS	DS	P	
Automobile, truck and tractor rental								DS	P	DS	
Awning sales and services								DS	P		
Bakeries							DS	DS	P		
Baking shop where no baking is done on the premises							P	P	P		
Ballroom and/or dancehall								DS			
Barber and beauty shop							P	P	P		
Bars and taverns							DS	DS	DS		
Bicycles, sales and service								DS	P		
Billboard, unlighted, lighted or flashing										DS	
Boats and marine supplies, retail sales and service								DS	DS	P	
Bowling alley or billiard or pool hall								DS	DS	DS	
Broadcasting or recording studio, radio or television								DS	DS	DS	DS
Business activities of a neighborhood character							DS	DS			
Business machines								DS	DS	P	
Bus station								DS	DS		
Carnival or circus, or enterprise of a similar type including pony rings									DS	DS	
Car wash								DS	P		
Casket sales								DS	DS		
Catering establishment								DS	P	DS	
Cleaning and dying distribution shop (no processing)								DS	DS	DS	P
Cleaning establishment								DS	DS	DS	P
Clothing store							DS	DS	P		
Dancing school								DS			
Delicatessen							DS	DS	DS		

Charter Township of Flushing

<b>Zoning District Uses</b>											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Department store and/or variety store								DS	P		
Drawing reproduction/printing								DS	DS	P	
Dressmaking							DS	DS	DS		
Dress shop							DS	DS	P		
Drive-in theaters									DS	DS	DS
Drive-thru's							DS	A	A		
Drugstore								DS	P		
Dry cleaning and dyeing establishment								DS	DS	DS	P
Electrical contractor, sales and service								DS	P	P	P
Express office and/or terminal								DS	DS	DS	
Extraction of fruit juices								DS	DS		
Fairground									DS	DS	
Feed store								DS	P		
Floor covering and wallpaper store								DS	P		
Florist, retail sales							P	P	P		
Fuel distribution facility										P	P
Funeral home or mortuary							DS	DS			
Furniture and/or appliance store								DS	P		
Government Institutions								DS	DS	DS	DS
Hardware								DS	DS	P	
Hotel									P	DS	
Indoor theaters								DS	DS		
Industrial and residential machinery and tools (gross weight no to exceed one thousand (1,000) pounds									DS	P	P
Interior decorating store							DS	P	P		
Intoxicating liquor, package sales								DS	DS		
Jewelry store							DS	DS	P		
Kennel for boarding only of dogs, cats and other household pets, including animal hospital which activities are conducted wholly within the building, including veterinary hospital								DS	DS		
Large service business									DS	P	P
Laundry collecting shop, self service laundry							DS	DS	DS		

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Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Laundry, commercial and industrial									DS	DS	DS
Local store selling at retail, fish, fruit, food, hardware, meats (no butchering) vegetables and beer and wine under SDM license.							DS	DS			
Lodge (non profit fraternal or religious associations)								DS	DS		
Machine shop, incidental to a permitted use.								DS	DS	P	P
Medical or dental clinic and/or laboratory								DS	DS		
Millinery store							DS	DS	P		
Mini-Storage Facilities								DS	DS	P	P
Monument sales								DS	P	P	P
Motel and motor court								DS	P	DS	
Motorcycles and motor scooters sales and service								DS	P	P	
Mover, terminal, garage and storage									DS	P	P
Newspaper publishing								DS		P	P
Office equipment – retail sales								DS	P		
Parking, public for which a charge is made								DS	DS	DS	P
Pawnshop								DS		DS	
Pet shop and bird store								DS	P		
Photographer							DS	DS	P		
Plumbing, heating and air conditioning contractor - sales and service								DS	P	P	P
Racetrack								DS	DS	P	P
Railroad right-of-way, including switching, storage, freight yards and sidings								DS	DS	P	P
Rental Establishments – goods and equipment								DS	DS		
Residential apartments on 2nd floor of commercial uses							P	P	P		
Restaurants and drive-in restaurants							DS	DS	DS	DS	
Restaurants, Open Front							DS	P	P		
Restaurants, with live entertainment or outdoor seating								DS	DS		
Sales and service, general							DS	DS	P		
Secondhand store							DS	DS	P		

# Charter Township of Flushing

<b>Zoning District Uses</b>											
SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Service stations								DS	P		
Shoe repair							DS	P	P		
Small engine repair/Lawnmower repair and service (indoor only)							DS	DS	P		
Stadium, baseball, football or any other type						DS		DS	DS	DS	DS
Stationary store							P	P	P		
Supermarket								DS	P		
Tailor shop catering to custom tailoring and minor cleaning and pressing activities							P	P	P		
Taxidermist								DS		P	
Trailer sales and service								DS	P	P	
<b>Industrial and Related Uses</b>											
Acetylene gas manufacture											DS
Acid manufacture											DS
Ammonia, bleaching powder, alcohol or chlorine manufacture											DS
Asphalt mixing plant, manufacture or refining											DS
Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts, such as condensers, transformers, crystal holders										P	P
Automobile wrecking and junk yards if carried on wholly within a building											DS
Blacksmith, machine, wrought iron shop, excluding punch presses over 20-ton capacity, drop hammer and automatic screw machines										DS	P
Blast furnaces or coke ovens											DS
Boiler works											P
Brick products, tile or clay products manufacture											P
Building, enclosed (except for on-site delivery vehicles) including warehouses										P	P
Building material sales yard, including but not limited to rock, sand, gravel and the like										P	P

Charter Township of Flushing

<b>Zoning District Uses</b>											
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Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Cement, lime, gypsum, or plaster of paris manufacture											DS
Chemical manufacture											P
Coal yard											P
Commercial Solar Energy Collector	DS										
Concrete products or cement products manufacture											P
Contractor's equipment storage yard or plant or centers.										P	P
Distillation of bones, coal, tar or wood											DS
Distribution plants, parcel delivery service, ice and cold storage plants										P	P
Drying, freighting or trucking terminals										P	P
Drop forge industries using power hammers											DS
Dye stuff manufacture											P
Explosives, manufacture or storage											DS
Fat rendering, except as an incidental use											DS
Fertilizer manufacture											DS
Food processing, smoking, curing, or canning											P
Freight classification yards											P
Freight yard										P	P
Garbage, offal or dead animals dumping or reduction											DS
Glue manufacture											DS
Incineration of garbage											DS
Industrial park										P	P
Iron, steel, brass or copper foundries or fabrication plants											P
Laboratories, experimental or testing, chemist shop										P	P
Laundry, cleaning and dyeing works and carpet or rug cleaning										DS	P
Manufacturing, assembly, processing, storage, packing and/or treatment of raw materials or previously processed material										DS	P

# Charter Township of Flushing

<p align="center"><b>Zoning District Uses</b></p> <p>SCHEDULE OF USES (Uses Permitted by Right (P), Uses Permitted by Non-Discretionary Special Use Permits (NS), Uses Permitted by Discretionary Special Use Permit (DS), Accessory Uses and Buildings (A))</p>											
Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Manufacturing, compounding, assembling, or treatment of articles or merchandise from the following previously prepared materials; bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious metals or stones, shell, textiles, tobacco, wood (excluding planing mill), yarns and paint not requiring a boiling process.											P
Manufacturing, compounding, processing and packaging or treatment of bakery goods, candy cosmetics, dairy products, drugs, perfumes, pharmaceuticals, toiletries, condiments (except fish, meat, fowl, vegetables, vinegar and yeast)										P	P
Manufacturing of and maintenance of electric and neon signs, billboards, commercial advertising structures, sheet (light) metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.										P	P
Manufacturing of musical instruments, toys, novelties, rubber or metal stamps										P	P
Manufacturing of pottery, figurines or similar ceramic products, using previously pulverized clay.										P	P
Meat packing plants											DS
Oil drilling and production of oil, gas, or hydrocarbons											P
Paint, oil (including linseed), shellac, turpentine, lacquer or varnish manufacture											P
Paper and pulp manufacture											DS
Plumbing or sheet metal shop										P	P
Poultry or rabbit killing incidental to a retail business on same property										P	P
Power plants											P

# Charter Township of Flushing

<b>Zoning District Uses</b>											
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Types of Uses	Districts										
	RSA	RU-1	RU-2	RU-3	RU-4	SR	C-1	C-2	C-3	M-1	M-2
Public utility service yard and electrical receiving transforming station										P	P
Quarry and stone mills											P
Railroad repair shops											P
Retail lumberyard including incidental millwork										P	P
Rock crushing											DS
Rolling mills											P
Rubber manufacturer											P
Salt works											P
Sawmills											DS
Slaughter of animals and killing of poultry											DS
Smelting of tin, copper, zinc or iron ores											DS
Soap manufacture											DS
Stockyard or feeding pen											DS
Storage, sorting, collecting, or piling of rags, paper, iron or junk											DS
Stove or shoe polish manufacture											P
Tanneries or the curing or storage of raw hides											DS
Tar or tar products manufacture or distilling											DS
Vehicle assembly including painting, upholstering, rebuilding, conditioning, body and fender work, repairing, tire recapping or retreading, battery manufacture										DS	P
Wholesale storage of petroleum											P
Wool pulling or scouring											P

Dist reg table revised 4 1 0603 revised 20 701

(Ord No. 2021-01 Amended by adoption August 12, 2021)

(Ord No. 2018-01 Amended by adoption July 12, 2018)



**Article 8 – 16 Reserved**

**Sec. 36-702. 36-1600**

## Article 17 Signs

### **Sec. 36-1700. Purposes.**

The purposes of these sign regulations are: To encourage the effective use of signs as a means of communication in the township; to maintain and enhance the aesthetic environment; to support the township's goals for residential and economic development; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This sign ordinance is adopted under the zoning authority of the township in furtherance of the more general purposes set forth in the zoning ordinance.

(Ord. No. 63, § 1.1, 2-22-96)

### **Sec. 36-1701. Applicability-Effect.**

No sign may be erected, placed, established, painted, created or maintained in the township, except in conformance with this article.

(Ord. No. 63, § 1.2, 2-22-96)

### **Sec. 36-1702. Definitions and interpretation.**

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

*Abandoned sign* means a sign which no longer correctly directs or exhorts any person, advertises a bonafide business, lessor, owner, product or activity conducted, or product available on the premises where such sign is displayed.

*Alter* means to make any change beyond normal maintenance. (See definition "lot") This includes, but is not limited to, changes in size, shape, height or copy.

*Animated sign* means any sign that uses movement or change of lighting to depict action or create a special effect or scene.

*Area, sign face* shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. This does not include any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.

*Awning* means a retractable or fixed shelter, projecting from and supported by the exterior wall of a building, constructed of materials on a supporting framework.

*Awning sign* means a sign painted on, printed on or attached flat against, the surface of an awning.

*Banner* means any sign of lightweight fabric or similar material that is mounted to a pole or building by a frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Beacon* means any light with one (1) or more beams directed into the atmosphere or directed at one or more points not on the same zone lot as the light source; also, any light with one (1) or more beams that rotate or move.

## Charter Township of Flushing

*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.

*Building sign* means any sign attached to any part of a building, as contrasted to a freestanding sign.

*Business* means a separate business location, defined by walls, and having its own customer entrance. Multiple activities taking place in or various product lines offered within a particular building shall not be construed as separate business.

*Canopy* generally means a permanent roof-like shelter that extends from part or all of a building face and is constructed of nonrigid material, except for the supporting framework.

*Canopy sign* means a sign displayed and affixed flat on the surface of a canopy and which does not extend vertically or horizontally beyond the limits of the canopy.

*Changeable copy sign* means a sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face of the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for purposes of this article. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a "time and temperature" portion of a sign and not a changeable copy sign for purposes of this article.

*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.

*Copy area* means the area, in square feet, of the smallest rectangle which describes the area enclosed by the actual lettering on the sign, not including the supporting structure or decorative embellishments thereof.

*Copy* means that part of a sign, consisting of letters, numbers characters, diagrams, logos or other matter intended to communicate or transmit information to those observing the sign.

*Directly or indirectly illuminated* means, unless otherwise expressly stated, to be lighted by a stationary light source emitting a constant white light.

(Ord. No. ##### 9-10-2015)

*Farm sign* means a sign erected on a premises where agricultural products are grown, raised, harvested or prepared for sale, which advertises the sale of the agricultural products at the premises.

(Ord. No. ##### 9-10-2015)

*Flag* means any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

*Freestanding sign* means any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

*Incidental sign* means a sign, generally informational, that has a purpose secondary to the use of the zone lot on which it is located, such as "no parking," "entrances," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zone lot on which the sign is located shall be considered incidental.

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*Institutional uses.* For purposes of this article, this shall identify institutional uses permitted in residential zoning districts. Such uses shall include, but are not necessarily limited to churches, schools, funeral homes and cemeteries.

*Lot* means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as herein required. Such lot shall have direct frontage on an approved public street or on a private street where authorized by the zoning ordinance, and may consist of:

- (A) A single lot of record.
- (B) A portion of a lot of record.
- (C) A combination of contiguous lots of record, or contiguous portions of lots of record.
- (D) A parcel of land described by metes and bounds; or a lot or portion of a lot and parcel of land described by metes and bounds.
- (E) The condominium unit and limited common area in a site condominium.

*Maintenance.* For purposes of this article, the cleaning, painting, repair or replacement of defective parts of a sign in a manner which does not alter the basic copy, design or structure of the sign.

*Marquee* means any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

*Marquee sign* means any sign attached to, in any manner, or made a part of a marquee.

*Multi-tenant sign* means a single sign used by more than one (1) business.

*Nonconforming sign* means any sign that does not conform to the requirements of this article.

*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.

*Person* means any association, company, corporation, firm, organization or partnership, singular or plural, or any kind.

*Plaza / mini mall / strip mall* means a building or group of buildings containing more than one (1) business.

*Portable sign* means any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to "A" or "T" frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicle parked and visible from the public right-of-way, unless such vehicle is used in the normal day-to-day operations of the business.

*Principal building* means the building in which is conducted the principal use of the zone lot on which it is located. Zone lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

*Projecting sign* means any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve (12) inches beyond the surface of such building or wall.

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*Residential sign* means any sign located in a district zoned for residential uses, RSA, RU-1, RU-2, RU-3 and RU-4 that contains no commercial message and conforms with all requirements of the zoning ordinance.

*Roadside Stand Sign* means a sign erected at a roadside stand or which advertises the location of a roadside stand. A roadside stand sign shall be limited to advertising the name of the stand, the agricultural products offered for sale, prices and hours of operation.

(Ord. No. ##### 9-10-2015)

*Roof line* means either the edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette, and, where a building has several roof levels, this roof or parapet shall be the one belonging to that portion of the building on whose wall the sign is located.

*Roof sign* means any sign erected and constructed wholly on and over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

*Roof sign-Integral* means any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

*Setback* means the distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

*Sign* means any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purposes of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

*Street* means a strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails or other thoroughfares.

*Strobe lights* means a type of blinking or flashing light.

*Street frontage* means the distance for which a lot line of a zone lot adjoins a public street, from one (1) lot line intersecting such street to the furthest distant lot line intersecting the same street.

*Suspended sign* means a sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

*Temporary sign* means any sign that is used only temporarily and is not permanently mounted. A sign for which a building permit is not required.

*Vehicles* includes, but is not limited to automobiles, trucks, trailers, railroad cars, construction equipment and other such mobile equipment whose major legal purpose is other than the display of advertising.

*Wall area* means that area of an exterior wall starting at sidewalk level and extending up to the eaves on a vertical plane, and, in the case of a mansard roof, including the generally vertical surface on such roof.

*Wall sign* means any sign attached parallel to, but within twelve (12) inches of a wall or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building and which displays only one (1) sign surface.

*Wall sign, painted* means any sign painted, drawn, stenciled, pasted or otherwise directly applied to the exterior of a building or structure.

*Window sign* means any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, event, commodity, sale or service, that is placed inside a window or upon the window panes or glass and is legible to off-premises traffic, pedestrian or vehicular.

*Zone lot* means a single parcel of land that is of sufficient size to meet minimum zoning requirements for area, coverage and use, and that can provide such yards and other open spaces as required by the zoning regulations.

(Ord. No. 63, § 1.3, 2-22-96)

**Sec. 36-1703. Computations.**

- (A) *Computation of area of individual signs.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle or combination thereof. The area will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed. This will not include any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.
- (B) *Computation of area of multifaced signs.* The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one point when two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign area shall be computed by the measurement of one (1) of the faces.
- (C) *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction, or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zone lot, whichever is lower.

(Ord. No. 63, § 1.4, 2-22-96)

**Sec. 36-1704. Design, construction and maintenance.**

All signs shall be designed, constructed and maintained in accordance with the following standards:

- (A) All signs shall comply with applicable provisions of the appropriate building and electrical codes used by the township at all times.
- (B) Except for banners, flags, temporary signs and certain nonpermanent window signs conforming in all respects with the requirements of this article, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure.
- (C) All signs shall be constructed and maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Ordinance, at all times.

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Further, all signs and components thereof shall be kept in a neat, clean and attractive condition.

(Ord. No. 63, § 1.6, 2-22-96)

### **Sec. 36-1705. Signs in the public right-of-way.**

No signs shall be allowed in the public right-of-way, except for the following:

#### **(A) *Permanent signs.***

1. Permanent signs, including: Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information and direct or regulate pedestrian or vehicular traffic.
2. Bus stop signs erected by a public transit company.
3. Informational signs of a public utility regarding its poles, lines, pipes or facilities.
4. Awning and suspended signs projecting over a public right-of-way in conformity with the conditions of this article.

#### **(B) *Temporary signs.*** Temporary signs meeting the following requirements/conditions:

1. In specific instances where there is insufficient privately owned property to effectively place a temporary sign. Under no circumstances, however, may the sign impede vision of traffic or other premises. The face of such sign shall be no closer than ten (10) feet from the road right-of-way line.
2. Such signs shall contain no commercial message, and shall conform to all requirements of this article.

#### **(C) *Emergency signs.*** Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.

#### **(D) *Other signs forfeited.*** Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the township shall have the right to recover from the owner or person placing such a sign the full cost of removal and disposal of such sign.

(Ord. No. 63 § 1.7, 2-22-96)

### **Sec. 36-1706. Signs exempt from regulation under this article.**

The following signs shall be exempt from regulation under this article:

- (A) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;
- (B) Any sign inside a building that is not legible from a distance of more than three (3) feet beyond the lot line of the zone lot or parcel on which such sign is located;
- (C) Works of art that do not include a commercial message;
- (D) Holiday lights and decorations with no commercial message, but only for sixty (60) days before and after the appropriate holiday; and
- (E) Traffic control signs on private property, such as "stop," "yield" and similar signs, the face of which meet department of transportation standards and which contain no commercial message of any sort.

(Ord. No. 63, § 1.8, 2-22-96)

**Sec. 36-1707. Signs prohibited under this article.**

All signs not expressly permitted under this article or exempt from regulation hereunder in accordance with the previous section are prohibited in the township. Such signs include, but not limited to:

- (A) Signs which consist of banners, posters, pennants, ribbons, streamers, strings of light bulbs, spinners or elements creating sound, except those exempt under the previous section, or as specifically permitted in commercial/temporary sign Sec. 36-1712.
- (B) Signs which incorporate flashing or moving lights.
- (C) Signs which obstruct the ingress to or egress from a required door, window, fire escape or other required exit way.
- (D) Signs which are unlawfully installed, erected or maintained.
- (E) Projecting signs.
- (F) Signs which have any visible moving part, visible revolving parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic or mechanical means, including intermittent electrical pulsations or by action of normal wind currents, other than for the conveyance of noncommercial information which requires periodic change.
- (G) Signs that are mounted or displayed on a vehicle parked on private property or within a public right-of-way, when such vehicle is parked for the purpose of displaying a sign.
- (H) Signs painted directly upon walls, sidewalks or driveways.
- (I) Signs which are structurally unsafe or constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or is not kept in good repair, or is capable of causing electrical shocks to persons likely to come in contact with it or vehicles colliding with it.
- (J) Signs which, by reason of their size, location, context, coloring or manner of illumination may be confused with or construed as a traffic control sign; or which either hides from view any approved traffic or street sign or signal, confuses or misleads traffic, obstructs vision necessary for traffic safety or distracts from visibility of traffic signs.
- (K) Inflatable signs and tethered balloons.
- (L) Roof signs.

(Ord. No. 63, § 1.9, 2-22-96)

**Sec. 36-1708. Permits required.**

- (A) If a sign requiring a permit under any provision of this article is to be placed, constructed, erected or modified on a zone lot, the owner of the lot shall secure a sign permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of section.
- (B) Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign in accordance with this section.
- (C) No signs shall be erected in the public right-of-way except in accordance with Sec. 36-1705.



- (D) No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this article (including those protecting existing signs) in every respect.

(Ord. No. 63, § 1.10, 2-22-96)

**Sec. 36-1709. General permit procedures.**

The following procedures shall govern the application for, and issuance of, all sign permits under this article.

- (A) *Applications.* All applications for sign permits of any kind shall be submitted to the building inspector or his designee on an application form or in accordance with application specifications published by the building inspector.
- (B) *Fees.* Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the governing body of the township from time to time by resolution.
- (C) *Completeness.* Within five (5) business days of receiving an application for a sign permit, the building inspector or designee shall review it for completeness. If the building inspector or designee finds that it is complete, the application shall then be processed. If the building inspector or designee finds that it is incomplete, he/she shall, within such five-business day period, send to the applicant a notice of the specific ways in which the application is deficient, with appropriate references to the applicable sections of this article.
- (D) *Action.* Within seven (7) business days of the submission of a complete application for a sign permit, the building inspector or designee shall either: Issue the sign permit, if the sign(s) that is the subject of the application conforms in every respect with the requirements of this article; or reject the sign permit if the sign(s) that is the subject of the application fails in any way to conform with the requirements of this article. In case of a rejection, the building inspector or designee shall specify in the rejection the section or sections of the ordinance with which the sign(s) is inconsistent.

(Ord. No. 63, § 1.11, 2-22-96)

**Sec. 36-1710. Permits to construct or modify signs.**

Signs as permitted in this section shall be erected, installed or created only in accordance with a duly issued and valid sign construction permit from the building inspector. Such permits shall be issued only in accordance with the following requirements and procedures:

- (A) *Permit for new sign or sign modification.* An application for construction, creation or installation of a new sign or for alteration/modification of an existing sign shall be accompanied by detailed drawings to show the dimension, design, structure and location of each particular sign. One application and permit may include multiple signs on the same zone lot at any time.
- (B) *Inspection.* The building inspector or his/her designee shall cause an inspection of the zone lot for which each permit for a new sign or for modification of an existing sign is issued when notified that construction has been completed. If construction is not completed within one (1) year, the permit shall lapse and become void. If the construction is complete, and in full compliance with this article and with building and electrical codes, the building inspector shall affix to the premises a symbol identifying the sign(s) and the applicable permit by number or other reference. If the construction is substantially complete but not in full compliance with this article and applicable codes, the building inspector shall give the owner or applicant notice of the deficiencies and shall allow an additional thirty (30) days from the date of giving notice for the deficiencies to be corrected.

(Ord. No. 63, § 1.12, 2-22-96)

**Sec. 36-1711. Sign permits-Continuing.**

- (A) *Lapse of sign permit.* A sign permit, whether the sign be conforming or nonconforming, shall also lapse if the business activity on the premises is discontinued and is not renewed within thirty (30) days of a notice from the township to the last permittee, sent to the premises, that the sign permit will lapse if such activity is not renewed. Such signs shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which the sign may be found, within ten (10) days after written notification. Upon failure to comply with this notice within the time specified by the order, the building inspector or designee is hereby authorized to cause removal of the sign, and any expense incident thereto shall be paid by the owner of the building or structure to which the sign is attached.
- (B) *Assignment of sign permits.* A current and valid sign permit for a conforming sign shall be freely assignable to a successor as owner of the property or holder of a business license for the same premises, subject only to filing such application as the building inspector may require and paying any applicable fee. The assignment shall be accomplished by filing and shall not require approval.

(Ord. No. 63, § 1.13, 2-22-96)

**Sec. 36-1712. Temporary sign permits (private property).**

Temporary signs on private property shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements:

- (A) *Term.* A temporary sign permit shall allow the use of a temporary sign for a specified period not to exceed sixty (60) days in any one calendar year.
- (B) *Other conditions.* A temporary sign shall be allowed only in districts as outlined in this section and subject to all of the requirements for temporary signs as noted therein.

(Ord. No. 63, § 1.14, 2-22-96)

**Sec. 36-1713. Nonconforming signs.**

- (A) *Nonconforming existing signs, permits and terms.* Sign(s) which were made nonconforming by the adoption of this article, may remain in place and be maintained, provided that no action is taken which increases the degree or extent of conformity.
- (B) Any person with a nonconforming sign in place, as of February 22, 1996, shall file with the township clerk, within ninety (90) days of the date of adoption of the section notice of the nonconforming sign, which shall include the following information: The name of the property owner where the sign is located, the address of the property, a brief description of the sign, including the dimensions of the sign, the information conveyed by the sign and the location of the sign on the property. The notice shall be dated and signed by the property owner. In the event, a dispute arises as to whether a particular sign constitutes a valid nonconforming use under the statute, and a notice has been filed with the clerk with respect to the sign, it will be presumed the sign was not in place as of the date this section was adopted [February 22, 1996] and the burden shall be upon the property owner to prove the sign constitutes a valid nonconforming use.

(Ord. No. 63, § 1.15, 2-22-96; Ord. of 3-12-98)

**Sec. 36-1714. Violations.**

Any of the following shall be a violation of this article and shall be subject to the enforcement remedies and penalties provided by this article, by the zoning ordinance and by state law:

- (A) To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located;
- (B) To install, create, erect or maintain any sign requiring a permit without such permit;
- (C) To fail to remove any sign that is installed, created, erected or maintained in violation of this article, or for which the sign permit has lapsed; or
- (D) To continue any such violation. Each day of a continued violation shall be considered a separate violation when applying the penalty portions of this article.

Each sign installed, created, erected or maintained in violation of this article shall be considered a separate violation when applying the penalty portions of this article.

(Ord. No. 63, § 1.16, 2-22-96)

**Sec. 36-1715. Enforcement and remedies.**

Any violation or attempted violation of this article or of any condition or requirement adopted pursuant hereto, may be abated or corrected, by injunction or other appropriate court order obtained in an appropriate proceeding filed by the township with the county circuit court. Further, in addition to any other remedy sought by the township, any violation of this article shall be deemed a civil infraction, which shall be governed by Chapter 20 et seq., of this Code. In any case where a person has been issued a civil infraction notice or citation for violation of this article, within twelve (12) months immediately preceding a second or subsequent violation of this article, the second or subsequent violation of the ordinance shall be a misdemeanor.

(Ord. No. 63, § 1.17, 2-22-96)

**Sec. 36-1716. Fee schedule.**

Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.

(Ord. No. 63, § 1.18, 2-22-96)

**Sec. 36-1717. Applications for reconsideration, conferences, appeals, variances.**

(A) *Application for reconsideration.*

1. Any person aggrieved by a notice or order of the building inspector or designee issued in connection with any alleged violation of this chapter or of applicable rules and regulations issued pursuant thereto, may apply to the building inspector or designee for a reconsideration of such notice or order, if such application is made within five (5) working days after the notice or order has been issued.
2. The building inspector or designee shall set a time and place for an informal conference on the matter within five (5) working days of the receipt of such application, and shall advise the applicant of such time and place in writing.
3. At the informal conference, the applicant shall be permitted to present their grounds for believing that the notice or order should be revoked or modified to one (1) or more representatives of the building inspector.
4. Within five (5) days following the close of the informal conference, the building inspector or designee shall give notice to the applicant whether or not he/she will modify or set aside the notice or order.

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- (B) *Sign board of appeals.* The township zoning board of appeals shall constitute a board of appeals for the purposes of this article.
- (C) *Hearings.* Any person aggrieved by a notice or order of the building inspector or designee issued in connection with any alleged violation of the provisions of this chapter or any applicable rules and regulations pursuant thereto, may file with the board of appeals, a petition setting forth their reasons for contesting the notice or order.
- (D) *Petition filing.* Such petition shall be filed within ten (10) days after the notice or order is served on petitioner, except where the petitioner has made timely application to the building inspector or designee of his/her decisions upon the informal conference. The petition shall be accompanied by a fee. Appropriate fees shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
- (E) *Time of hearing-Notice.* Within forty-five (45) days after receipt of a valid petition, the board of appeals shall conduct a hearing. The building inspector or designee shall set the time and place of such hearing, and at least ten (10) days prior to the hearing date serve petitioner and the board of appeals with notice thereof in the manner provided for service of notice by subsection (j)(1) of this section.
- (F) *Action of board of appeals.*
1. The board of appeals shall have the power to modify or reverse, wholly or partly, the notice or order, and may grant an extension of time for the performance of any act required of not more than three (3) additional months, where the board of appeals finds that there is practical difficulty or undue hardship connected with the performance of this chapter or by applicable rules or regulations issued pursuant thereto, and that such extension is in harmony with the general purpose of this chapter to secure the public health, safety and welfare.
  2. The board of appeals shall return a decision upon each case within sixty (60) days after a request or appeal has been filed, unless a further time is agreed upon with the parties concerned. Notwithstanding the foregoing sentence, the board may, in appropriate cases, be permitted an extension of time after hearing the case, in which to make its decision provided such extension shall not exceed thirty (30) days. Any decision of the board shall not become final until the expiration of five (5) days from the date of entry of such order unless the board shall find that the immediate effect of the order is necessary for the preservation of the property or personal rights and shall so certify on the record.
  3. The concurring vote of a majority of the members of the board of appeals shall be necessary to reverse, wholly or partly, or modify any order, requirement, decision or determination of the building inspector or designee, or to decide in favor of the applicant any matter upon which they are required to pass or to effect any variation in this chapter.
  4. After a variance has been denied in whole or in part by the board of appeals, then such application shall not be resubmitted for a period of one (1) year from the date of the last denial, provided however, that a denied variance may be reconsidered by the board of appeals when, in the opinion of the building inspector, or the board of appeals newly discovered evidence or changed conditions warrant such reconsideration.

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- (G) *Scope of hearing.* At the hearing, the petitioner shall be given an opportunity to show cause why the notice or order should be modified or withdrawn, or why the period of time permitted for compliance should be extended.
- (H) *Stay.* An appeal shall stay all proceedings in furtherance of the action appealed from unless the building inspector or designee certifies to the board of appeals, after the notice of appeal shall have been filed with him/her that by reason of facts stated in the certificate, an emergency exists, in which case the proceedings shall not be stayed, except by a restraining order or by the circuit court, following timely notice of application therefor, to the building inspector or designee.
- (I) *Variances.* A variance may be allowed by the board of appeals only in cases involving practical difficulties or unnecessary hardships when the evidence in the official record of the appeal supports all the following affirmative findings:
1. That the alleged hardships or practical difficulties, or both, are exceptional and peculiar to the property of the person requesting the variance, and result from conditions which do not exist generally throughout the township.
  2. That the alleged hardships and practical difficulties, or both, which will result from a failure to grant the variance, include substantially more than mere inconvenience, or mere inability to attain a higher financial return.
  3. That allowing the variance will result in substantial justice being done, considering the public benefits identified to be secured by this chapter, the individual hardships that will be suffered by a failure of the board of appeals to grant a variance, and the rights of others whose property would be affected by the allowance of the variance, and will not be contrary to the public purpose and general intent and purpose of this chapter.

The above findings of fact shall be made by the board of appeals, which is not empowered to grant a variance without an affirmative finding of fact in each of the categories above. Every finding of fact shall be supported in the record of the proceedings of the board.

Nothing contained herein shall be construed to empower the board of appeals to substantially change the terms of this chapter, or to significantly add to the types of signs permitted on any premises.

(J) *Appeal procedure.*

1. The board of appeals shall give due notice of all hearings to all owners of record of real property within three hundred (300) feet of the premises in question; such notice shall be delivered personally or by first class mail addressed to the respective owners at the address given in the last assessment roll.
2. All persons shall be required to appear in person or to be represented by a duly authorized agent.
3. The board of appeals shall prepare an official record for each appeal and shall base its decision on this record. The official record shall include the relevant administrative records and administrative orders issued herein relating to the appeal.

(Ord. No. 63, § 1.19, 2-22-96)

### **Sec. 36-1718. General provisions.**

- (A) *Corner clearance.* No sign or structure appurtenant to a sign shall obstruct vision above a height of three (3) feet from the established street grades within the triangular area formed

at the intersection of the street right-of-way lines by a straight line drawn between the right-of-way lines at a distance along each line of thirty (30) feet from their point of intersection.

- (B) Building markers or memorial signs or tablets denoting the name or date of erection of a building when cut into any masonry surface or when constructed of bronze or other noncombustible material, are permitted in all districts without a permit.
- (C) Flags bearing the official design of a unit of government, education institution, or civic league or organization, fraternal benefit societies, order or association, or any organization operated exclusively for religious, charitable, scientific, literary or education purposes, are permitted in all districts without a permit.
- (D) It shall be unlawful for any person to display upon any sign or other advertising structure any obscene, indecent or immoral matter.
- (E) Illumination of signs shall be directed or shaded downward so as not to interfere with the vision of pedestrian or vehicular traffic on the adjacent street or adjacent property owners.

(Ord. No. 63, § 1.5, 2-22-96)

**Sec. 36-1719. Residential RSA (SFR), RU-1 (TFR)-Permanent signs.**

- (A) On premises used or occupied as a single- or two-family residence, there shall be permitted one (1) nonilluminated wall or freestanding residential sign not to exceed one (1) square foot in area. Permit is not required.
- (B) On single-family or two-family development premises, there shall be permitted one (1) directly or indirectly illuminated development entry wall sign or freestanding sign at each entrance of a subdivision. Freestanding signs shall be set back so that the face of the sign is not less than ten (10) feet back from right-of-way line, and shall not exceed four (4) feet in height. The area of such sign shall not exceed twelve (12) square feet. Permit is required.
- (C) A single-family residence, where a home occupation is conducted in accordance with township ordinances is permitted one (1) nonilluminated sign not exceeding two (2) square feet in area, and mounted flat against the wall of the dwelling. Permit is required.

(Ord. No. 63, § 1.5.1, 2-22-96)

- (D) On premises used to grow, raise, harvest or prepare agricultural products for sale, there shall be permitted one (1) non-illuminated farm sign not to exceed twelve (12) square feet.
- (E) On premises used to grow, raise, harvest or prepare agricultural products for sale on which there is located a roadside stand or with respect to an off-site roadside stand, there shall be permitted one (1) on-site and two (2) non-illuminated roadside stand signs not exceeding four (4) square feet. Prior permission shall be obtained from the owner of any property on which a sign is posted. The signs shall be temporary and shall be removed at the close of the period of permitted operation of the roadside stand.

(Ord. No. ### 9-10-2015)

**Sec. 36-1720. Residential RU-2 (MD), RU-4 (MHP)-Permanent signs.**

- (A) On premises used or occupied as a medium density multiple family, planned unit development or mobile home residence, there shall be permitted one (1) nonilluminated wall or freestanding residential sign not to exceed one (1) square foot in area. Also, there shall be permitted on multifamily developments, necessary nonilluminated incidental signs that do not exceed two (2) square feet in area and four (4) feet in height, except where exceeded by state law such as handicapped parking signs. Permit is not required.

- (B) On MD, PUD or MHP development premises, there shall be permitted one (1) directly or indirectly illuminated entry wall sign or freestanding sign at each entrance of a subdivision or park. Freestanding signs shall be set back so that the face or any part of the sign is not less than ten (10) feet back from right-of-way line, and shall not exceed four (4) feet in height. The area of such sign shall not exceed twelve (12) square feet. Permit is required.

(Ord. No. 63, § 1.5.2, 2-22-96)

**Sec. 36-1721. Residential RU-3 (HD)-Permanent signs.**

- (A) On premises used or occupied as a high density multifamily residence, there shall be permitted one (1) nonilluminated wall or freestanding residential sign not to exceed one (1) square foot in area. Also, on HD development premises, there shall be permitted necessary incidental signs that do not exceed two (2) square feet in area and four (4) feet in height, except where exceeded by state law such as handicapped parking signs. A permit is not required.
- (B) On high density multifamily development premises, there shall be permitted one (1) directly or indirectly illuminated development entry wall sign or freestanding sign at each entrance of the complex. Freestanding signs shall be set back so that the face or any part of the sign is not less than ten (10) feet back from right-of-way line, and shall not exceed four (4) feet in height. The area of such sign shall not exceed twelve (12) square feet. Permit is required.

(Ord. No. 63, § 1.5.3, 2-22-96)

**Sec. 36-1722. Residential, institutional uses permitted in residential zoning districts-Permanent signs.**

- (A) Where institutional uses are permitted in a residential zoning district, there shall be permitted one (1) residential sign which may be directly or indirectly illuminated not to exceed thirty-two (32) square feet in area. In the case of a freestanding sign, such sign shall not exceed fifteen (15) feet in height, and shall be set back so that the face or any part of the sign is not less than ten (10) feet back from right-of-way line. A permit is required.
- (B) Also, there shall be permitted necessary nonilluminated incidental signs that do not exceed two (2) square feet in area and four (4) feet in height, except where exceeded by state law such as handicapped parking signs.

(Ord. No. 63, § 1.5.4, 2-22-96)

**Sec. 36-1723. Residential, fraternity/sorority houses in residential districts.**

- (A) Where fraternity or sorority houses are permitted in a residential zoning district, there shall be permitted one (1) residential sign, which may be directly or indirectly illuminated, not to exceed twelve (12) square feet in area and four (4) feet in height.
- (B) Freestanding signs shall be set back so that the face or any part of the sign is not less than ten (10) feet back from right-of-way line. Permit is required.

(Ord. No. 63, § 1.5.5, 2-22-96)

**Sec. 36-1724. Residential, all districts-Temporary signs.**

All temporary signs must bear the name and address of the person causing the signs to be erected. No temporary signs are permitted in the public right-of-way.

- (A) There shall be permitted in all residential districts, nonilluminated political signs not exceeding twelve (12) square feet in area and four (4) feet in height. Signs must be removed within seven (7) days after the election for which they are erected. A permit is not required.

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- (B) There shall be permitted in all residential districts, one (1) nonilluminated contractor sign per premises during the period of construction. Signs shall not exceed twelve (12) square feet in area and four (4) feet in height. Signs must be removed immediately upon completion of the project. A permit is not required.
- (C) There shall be permitted in all residential districts, one (1) nonilluminated real estate sign (private or realty) per premises, not to exceed twelve (12) square feet in area and four (4) feet in height. Such signs shall be removed within seven (7) days after the sale, lease or rental of the property upon which erected. A permit is not required.
- (D) There shall be permitted in all residential districts, one (1) nonilluminated personal sign not to exceed six (6) square feet in area and four (4) feet in height, noting a personal event such as a birthday or graduation. Such sign shall be removed the day following the event for which the sign was erected and shall not be displayed for a period exceeding two (2) days. A permit is not required.
- (E) There shall be permitted in all residential districts, nonilluminated signs for religious or nonprofit events. Such signs shall not exceed twelve (12) square feet in area and four (4) feet in height, shall be removed within two (2) days after the event for which they are erected, and shall not be displayed for a period exceeding fourteen (14) days. A permit is not required for on-premises signs, but a permit is required for off-site signs. A maximum of ten signs are permitted per event.
- (F) There shall be permitted in all residential districts, nonilluminated signs for residential sales, such as, but not limited to, produce, rummage/garage sales. Such signs shall not exceed six (6) square feet in area and four (4) feet in height. All such signs shall have the date of the sale as part of the text and shall be removed within two (2) days after the event for which the signs were erected. A maximum of five (5) signs are permitted per sale. A permit is required.

(Ord. No. 63, § 1.5.6, 2-22-96; Amd. of 11-14-96, § 2)

### **Sec. 36-1725. Commercial-General provisions.**

- (A) All premises used or occupies for commercial purposes in any commercial district shall be permitted the following:
  - 1. Two (2) signs, one of which may be freestanding, so long as they meet all the requirements set forth in this article.
  - 2. One (1) additional non-freestanding sign at the second entrance if the premises has frontage on more than one (1) street, alley or parking lot.
  - 3. One (1) nonilluminated wall or window identification sign not exceeding two (2) square feet in area to identify multiple or hidden entrances.
  - 4. Incidental nonilluminated signs as required, not to exceed two (2) square feet in area and four (4) feet in height, except where required by state law such as handicapped parking signs.
- (B) In the case of plazas or mini-malls, a multi-tenant sign may be applied for which would identify the complex and list all the businesses contained therein. Individual freestanding signs are not permitted. Each individual business shall be permitted a separate wall, window, awning, canopy or marquee sign to identify itself.
- (C) In no case shall the height of a sign exceed the setback so as to prevent its falling onto an adjacent piece of property.



- (D) Premises which have no street frontage of their own may, with permission from the owner of the property that has frontage on the nearest street, apply for a joint sign. Such sign, while it must meet all other requirements of this article, may have an area that is one and one-half (1½) times the maximum square footage normally permitted.

(Ord. No. 63, § 1.5B, 2-22-96)

**Sec. 36-1726. Commercial, C-1, M-1, M-2 permanent signs.**

On premises used or occupied for commercial purposes in C-1 (local commercial) district or M-1 (light manufacturing) district, or M-2 (heavy manufacturing) district, there shall be permitted: As set forth in the general provisions, a premises shall be permitted a maximum of two (2) signs selected from options 1, 2, 3 and 4, except in the case of a second entrance, where one (1) additional wall or window sign is permitted.

- (A) One (1) internally or externally illuminated freestanding sign per premises with more than two hundred (200) feet of street frontage. Such sign shall not exceed eight (8) feet in height and thirty-two (32) square feet in area, and shall be set back so that the face or any part of the sign is at least ten (10) feet from the nearest existing road right-of-way line. Permit is required.
- (B) Up to two (2) wall signs, which may be internally illuminated not exceeding thirty-two (32) square feet in area. Permit is required.
- (C) Up to two (2) window signs, which may be internally illuminated not exceeding twenty-five (25) percent of the area of the window containing the sign. Permit is required.
- (D) One (1) awning, canopy or marquee sign, which may be internally illuminated not exceeding fifty (50) percent of the portion of the surface area containing the sign. One (1) nonilluminated suspended sign not exceeding one (1) square foot in area may be hung for identification. Permit is required.

(Ord. No. 63, § 1.5.7, 2-22-96)

**Sec. 36-1727. Commercial, C-2-Permanent signs.**

On premises used or occupied for commercial purposes in the C-2 (central commercial district), there shall be permitted: As set forth in the general provisions, a maximum for two (2) signs selected from options 1, 2, 3 and 4 shall be permitted per premises, except in the case of a second entrance, where one (1) additional wall or window sign is permitted.

- (A) One (1) internally or externally illuminated freestanding sign per premises with more than two hundred (200) feet of street frontage. Such sign shall not exceed fifteen (15) feet in height and sixty-four (64) square feet in area, and shall be set back so that the face or any part of the sign is at least fifteen (15) feet from the nearest existing road right-of-way line. Permit is required.
- (B) Up to two (2) wall signs, which may be internally illuminated not exceeding one (1) square foot per linear foot of frontage, but not to exceed a maximum of sixty (60) square feet in area. Permit is required.
- (C) Up to two (2) window signs, which may be internally illuminated not exceeding twenty-five (25) percent of the window area containing the sign. Permit is required.
- (D) One (1) canopy, awning or marquee sign, which may be internally illuminated not exceeding fifty (50) percent of the portion of the surface containing the sign. Permit is required.

- (E) Also, one (1) nonilluminated suspended sign, not exceeding one (1) square foot in area may be hung for identification. This shall not be considered when counting the number of signs per premises. Permit is required.

(Ord. No. 63, § 1.5.8, 2-22-96)

**Sec. 36-1728. Commercial C-3-Permanent signs.**

On premises used or occupied for commercial purposes in the C-3 (shopping center) district, there shall be permitted: As set forth in the general provisions, a maximum for two (2) signs selected from options 1, 2, 3 and 4 shall be permitted per premises, except in the case of a second entrance, where one (1) additional wall or window sign is permitted.

- (A) One (1) internally or externally illuminated freestanding sign per zone lot or premises with more than two hundred (200) feet of street frontage. Such signs shall not exceed twenty-five (25) feet in height and eighty (80) square feet in area, and shall be set back so that the face, or any part of the sign is at least twenty-five (25) feet from the nearest existing road right-of-way line. Permit is required.
- (B) Up to two (2) wall signs, which may be internally illuminated not exceeding one (1) square foot per linear foot of frontage, but not to exceed a maximum of sixty (60) square feet in area. Permit is required.
- (C) Up to two (2) window signs, which may be internally illuminated not exceeding twenty-five (25) percent of the window area containing the sign. Permit is required.
- (D) One (1) awning, canopy or marquee sign, which maybe internally illuminated not exceeding fifty (50) percent of the portion of the surface containing the ign. Permit is required.
- (E) Also, one (1) nonilluminated suspended sign, not exceeding one (1) square foot in area may be hung for identification. This shall not be considered when counting the number of signs per premises. Permit is required.
- (F) In the case of a plaza or mini-mall, there shall be permitted one (1) directly or indirectly illuminated freestanding sign which would identify the complex and all the businesses contained therein. Individual freestanding signs are not permitted. Each individual business shall be permitted one (1) separate wall, window, canopy, awning or marquee sign conforming to the requirements established earlier in this section.

(Ord. No. 63, § 1.5.9, 2-22-96)

**Sec. 36-1729. Commercial, all districts-Temporary signs.**

On premises used or occupied for commercial purposes in all commercial districts, there shall be permitted:

- (A) One (1) nonilluminated temporary sign not exceeding five (5) feet in height and thirty-two (32) square feet in area.
  - 1. Such sign shall not have exposed or protruding wheels.
  - 2. Such sign may be displayed up to sixty (60) days in any one year.
- (B) Permit is required for any temporary sign, and must be renewed annually.
- (C) Two (2) signs which consist of banners, pennants, posters or ribbons which are used for grand openings. Such signs shall be displayed only during the event or ten (10) days, whichever is shorter. Permit is required.

(Ord. No. 63, § 1.5.10, 2-22-96)

**Sec. 36-1730. – 36-1799      Reserved.**

## **Article 18    Special Use Permits**

### **Sec. 36-1800. Special Land Use Permit Review - Intent**

These special use permit review procedures are instituted to provide an opportunity to use a lot for an activity which, under usual circumstances, would be detrimental to other permitted land uses and cannot be permitted within the same district, which use can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. In order to provide maximum flexibility, special land uses have been classified as discretionary and nondiscretionary. It is the intent of these provisions to permit the review and approval of non-discretionary land uses by administrative personnel, while providing for more extensive standards and review procedures by the Planning Commission to review discretionary special land uses. These procedures are adopted to provide guidelines for the Planning Commission to follow in arriving at any decision over which such commission has jurisdiction, and to provide for the public health, safety, morals, and general welfare, as well as to provide for the interest of the property owner.

### **Sec. 36-1801. Review Procedures**

- (A) An application for the approval of a special land use shall be made by an owner of an interest in the land on which the special land use is to be located, to the township clerk accompanied by the necessary fees as provided by ordinance or resolution and documents as provided for herein. In the case of a discretionary special land use the application shall be accompanied by copies of a site plan drawn to a scale of one (1) inch equals twenty (20) feet and meeting the requirements of Sec. 36-1903. In the case of a non-discretionary land use the application shall be accompanied by a plot as required for issuance of a zoning permit along with any additional information required by the Zoning Administrator that is necessary for him/her to determine if the application meets the ordinance requirements
- (B) The special land use permit application may be accompanied by an application for a zone change, where such a zoning change is necessary to the consideration of the application, provided all applicable provisions for a zoning change application have been complied with. Where an application for a nondiscretionary special land use permit and zone change are considered together, the notice requirements for zoning amendments shall be followed. Where the application is for a non-discretionary special land use permit, the application shall be submitted to the Zoning Administrator who will have 14 days in which to determine if the application meets the specific non-discretionary standards established for that particular special land use. Where the discretionary special use permit application is not accompanied by an application for a zoning change, the following procedure shall apply:

(Amended by Adoption December 14, 2006, Sec.20-1801 (b))

1. Upon receipt of an application for a special land use which requires a decision on discretionary ground, one (1) notice that a public hearing for a special land use appeal will be held shall be published in a newspaper which circulates in the township and sent by mail, or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the property in question, and to the occupants of all structures within three hundred (300) feet including those outside the jurisdiction of Flushing Township. The notice shall be given not less than fifteen (15) days before the date the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in making notification. The notice shall:

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(Amended by Adoption December 14, 2006, Sec. 20-1801 (1))

- (a) Describe the nature of the special land use request.
    - (b) Indicate the property which is the subject of the special land use request.
    - (c) State when and where the public hearing will be held
    - (d) Indicate when and where written comments will be received concerning the request.
  2. The commission shall hear any person wishing to express an opinion on the request for the special land use permit and review the special land use permit application at the time the request is being considered.
  3. The Planning Commission may deny, approve, or approve with conditions, a request for special land use approval. The decision on a special land use shall be incorporated in a statement containing the conclusions relative to the special land use under consideration, which specifies the basis for the decision and any conditions imposed.
- (C) The zoning change application, if any, shall be referred within ten (10) days after receipt by the township clerk to the Planning Commission for its review.
1. Upon consideration of the request for zoning change, the commission shall review and communicate its recommendations on the zoning change application to the Township Board within ten (10) days after application was considered, in accordance with the procedure prescribed by applicable statute and this chapter.
- (D) The commission shall, within fourteen (14) days after the meeting or public hearing, at which the application of special land use was considered, advise the applicant, the building inspector, and the township clerk of its findings and of its approval with any conditions the commission may find necessary or appropriate, or its disapproval with its reasons in writing.
1. The conditions imposed by the commission may include those conditions necessary 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 used by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The conditions imposed shall meet all of the following requirements:
    - (a) Be designed to protect the natural resources, the health, safety, and welfare, and the social and economic well-being of those who will use the land, use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.
    - (b) Be related to the valid exercise of the police power, and purposes which are affected by the proposed use of activity.
    - (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
  2. The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except

upon the mutual consent of the landowner. The Planning Commission shall maintain a record of conditions which are changed.

- (E) The building inspector shall, upon receipt of notice of approval and upon application by the applicant, accompanied by a receipt attesting to the payment of all required fees, issue a building permit or other permit for the approved special use, provided he has found satisfactory compliance with all condition precedents imposed by such approval.
- (F) An aggrieved person entitled to notice under this section or a property owner aggrieved by the decision of the Planning Commission which decision has been made pursuant to this section, may appeal this finding of the Planning Commission to the Zoning Board of Appeals using the procedure outlined in Sec. 36-2209.

#### **Sec. 36-1802. Standards for Decisions Involving Special Land Use Requests**

At the meeting where an application for special land use is considered, the commission shall consider the requests in accordance with the following standards:

- (A) That the special land use shall be consistent with and promote the intent and purpose of this chapter.
- (B) That the proposed use will ensure that the land use or activity authorized shall be compatible with adjacent land uses, the natural environment and the capacities of public services and facilities affected by the proposed land use.
- (C) The special land use sought is consistent with the public health, safety, and welfare of the township.
- (D) A request for approval of the land use or activity, which is in compliance with the standards stated in this chapter, the conditions imposed pursuant to this chapter, and other applicable ordinances and state and federal statutes shall be approved by the commission.

#### **Sec. 36-1803. Standards for Non-Discretionary Special Land Use Permits**

- (A) Home Occupation.

A home occupation may be permitted within a single-family residential dwelling subject to the following conditions.

1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than twenty-five (25) percent of the floor area of the dwelling unit shall be used for the purposes of the home occupation, and shall be carried out completely within such dwelling.
2. There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation, other than one (1) sign not exceeding two (2) square feet in area, non illuminated, and mounted flat against the wall of the dwelling.
3. No home occupation shall be conducted in any accessory structure.
4. There shall be no sale of any goods manufactured elsewhere in connection with such home occupation except for sales incidental to the home occupation.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking, generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.

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6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses of persons off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference with any radio or television receivers off the premise, or causes fluctuations in line voltage off the premises.
7. Home occupations shall be carried on by a member or members of the family residing on the premises, and not over one (1) employee not residing on the premises.

### (B) Temporary Dwellings.

A mobile home or travel trailer may be permitted upon a lot for use as a temporary residence while construction is diligently pursued upon a permanent residence meeting all requirements of this chapter; provided, however;

1. all health requirements affecting the provisions of water and sanitary sewer services are complied with and approved by the building inspector
2. all such construction shall have been completed within one (1) year from the issuance of the building permit
3. nothing in this section or this chapter shall permit the occupancy of a cellar without a complete residential structure thereon sufficient to permit the issuance of an occupancy permit.

### (C) Temporary Travel Trailer

The Zoning Administrator may issue a discretionary special use permit for a travel trailer or recreational vehicle without charge, to a bona fide visitor and family desiring to occupy a travel trailer or other recreational vehicle while visiting a resident of this township, which permit shall expire thirty (30) days after issuance. No such permit shall be issued unless application is made by the visitor in control of such trailer or vehicle and the consent in writing of the owner or the occupant in control of the premises to such parking, use and occupancy and to the use of the sanitary facilities as provided in Sec. 36-319(l) is attached thereto. The travel trailer or recreational vehicle shall conform to the standards outlined in Sec. 36-319. No such permit shall be renewed by the building inspector, but this shall not prevent the Zoning Board of Appeals from authorizing such permit upon proper application as elsewhere provided, and not more than two (2) such permits shall be issued to any person in any one (1) twelve-month period.

(D) Circuses, carnivals or other transient amusement enterprises. Circuses, carnivals or other transient amusement enterprises may be permitted as a special use in any the RSA district, upon approval by the Zoning Administrator, pursuant to the following conditions

1. Posting of a bond running to the township in an amount sufficient to hold the township free of all liabilities incident to the operation of such activity and to indemnify any adjoining landowner for any damages resulting from the operation of such activity, and which damages shall be provable before the court having jurisdiction over the premises on which the damages occurred and payable through such court.
2. The site shall consist of at least 10 acres of land
3. The operation shall be located at least 500' from the nearest residence
4. Lighting shall be designed so as not to shine onto adjacent land or road right-of-way

5. The operation will last for no more than 7 days

**Sec. 36-1804. Requirements for Permitted Special Uses.**

**(A) Accessory Structures**

1. Accessory Structures in Front Yards. Accessory structures may be permitted in the front yard of a lot located in RSA and RU-1, subject to the following conditions:
  - (a) The lot the accessory structure is to be located on is at least 400 feet deep or contiguous to a river or lake.
  - (b) The accessory structure shall conform to all minimum front and side yard set backs required for principal structures in the district where the lot is located.
  - (c) The accessory structure shall be screened from view of the roadway and adjacent lots, or be designed to be compatible with surrounding residential structures in size, height, style of exterior finish, and landscaping.
2. No accessory building or structure shall be constructed prior to the construction of the primary residence on the same lot or parcel, except in accordance with one of the following:
  - (a) For principal permitted uses that do not require structures, an accessory building or structure may be constructed following township approval of the principal use and issuance of the required building permits.
  - (b) For single-family residences, a permanent accessory building or structure may be erected in order to secure tools and materials for the residence under construction after issuance of a building permit for the residence by the appropriate building authority. Construction of the accessory structure and residence shall be completed within one year of issuance of the building permit for the residence.

(Amended by adoption April 21, 2011, Sec. 36-1804(A) Accessory Structures)

(Amended by adoption Ord 2020-02 7-11-2020)

3. More than one dwelling prohibited. Notwithstanding any other provision In this Ordinance, there shall be permitted to each lot, which otherwise meets the criteria of this Ordinance for placement of a single family dwelling, only one (1) such dwelling. A second structure constructed or placed on a lot with an existing principal structure/ dwelling shall not be permitted or otherwise authorized as a dwelling and shall not be used as a dwelling.
  - (a) Temporary Dwelling. In the event a property owner desires to construct or place a new dwelling to a lot with an existing dwelling, with the Intent to remove the existing dwelling upon completion of the construction or placement of the new dwelling, the property owner may be granted authorization to do so, In the discretion of the Planning Commission under such terms and conditions as the Planning Commission determines appropriate to the particular request. (Ord No. 2021-02 Amended by Ord 5-13-2021)

**(B) Agricultural Labor Camps**

1. The dwelling units in agricultural labor camps provided for migratory employees engaged in agricultural activities on a farm shall be exempt from the minimum lot

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size and width requirements contained in this section. All structures in agricultural labor camps shall comply with the setback requirements established in this section and the provisions of Act No. 289 of the Public Acts of Michigan of 1965 (MCL 286.641 et seq., MSA 17.424(51) et seq.), as amended, and the administrative rules promulgated thereunder.

### (C) Agricultural Research Facility

1. Activities permitted include those normally permitted by right or SUP in the RSA district as well as necessary office and storage buildings.
2. Any office or storage buildings should be designed to blend in with the rural residential/agricultural area.

### (D) Agricultural Tourism Facilities

Agricultural Tourism Facilities are permitted by Discretionary Special Use Permit (DSUP) in the RSA Zoning District provided:

1. Adequate off-street parking is provided for the peak generation times of the proposed use.
2. Hours of operation are established that take into account the impact of traffic and noise on the surrounding land uses.

(Amended by adoption September 11, 2003)

### (E) Airports

1. Lights: All lights, used for landing strips and other lighting facilities, should be so arranged as not to reflect towards adjoining districts.
2. Fire and Safety Hazards: The storage and handling of flammable liquids, liquefied petroleum gases and explosives at the airport, comply with the State Rules and Regulations as established by Public Act #207 of 1941; the "Fire Prevention Act".
3. Off-Street Parking: Off-street parking should be provided in sufficient amounts to provide for the parking of automobiles and other motor vehicles used by the employees, patrons and visitors to the airport and which should not be less than one (1) parking space for each one (1) employee, and one (1) parking space for each one (1) aircraft harbored at the airport.
4. Fencing: A six (6) foot chain link fence shall be provided along hazardous areas as a barrier to prevent hazards of inadvertently entering onto airport properties.
5. All applicable State and Federal aviation safety regulations are complied with.
6. Lodges, schools, churches, or other assembly buildings shall not be located within one thousand (1,000) feet of any runway.

### (F) Amusement Park

1. Amusement parks shall be adequately buffered from surrounding areas.
2. Amusement parks shall be located on a county primary road.
3. Amusement park structures should be located in such a way as to ensure efficient movement of emergency vehicles through the site.

### (G) Auto Body Repair, Engine Repair

1. All repair work is to be conducted inside an enclosed building.



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2. All vehicles on site for over 24 hours shall be stored in an area enclosed by a six foot high obscuring fence.

### (H) Automobile Gasoline filling, and service station, subject to the following:

1. The minimum lot area for gasoline, filling, and service stations shall be fifteen thousand (15,000) square feet, for stations having no more than two (2) service bays and no more than two (2) pump islands. There shall be an added three thousand (3,000) square feet for each additional service bay and one thousand five hundred (1,500) square feet for each additional pump island. At least one (1) street lot line shall be at least one hundred fifty (150) feet in length along one (1) major thoroughfare. The lot shall be so shaped and the station so arranged as to provide ample space for vehicles which are required to wait.
2. The driveway or curb cuts for access to a service station shall not be permitted at such a location that will tend to create traffic hazards in the streets immediately adjacent thereto. Entrances shall be located no less than ten (10) feet from an adjoining property line, twenty-five (25) feet from an intersection street right of way line, extended to the curb or pavement.
3. A four foot, six inch masonry obscuring wall shall be provided and maintained on those property lines adjacent to or abutting a residential district.
4. The entire surface used for parking or driveways area of the service station shall be paved with concrete or asphalt.
5. Any vehicles stored at the site over 24 hours shall be in an area enclosed by a six foot high obscuring fence.

### (I) Automobile Sales Lot for New or Used Cars

1. The lot or area shall be provided with a permanent, durable, and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
2. Access to the outdoor sales area shall be at least sixty (60) feet from the intersection of any (2) streets.
3. No major repair or minor refinishing shall be done on the lot.
4. All lighting shall be shielded from adjacent residential districts.

### (J) Automobile Wrecking and Junkyards if carried on wholly within a building or provide for the following.

1. All junkyards shall be planted with evergreens and other suitable plantings and used for no other purpose.
  - (a) Such buffer shall be planted with evergreens and other suitable plantings and used for no other purpose.
2. All junkyards shall be enclosed on all sides by a tight unpierced fence or wall with a height of not less than the height of the stored objects, but in no case less than eight (8) feet.

### (K) Bed and Breakfast

1. The sleeping rooms of the tourist home operation shall be confined to the principal dwelling unit.

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2. Tourist homes are permitted in single-family detached dwellings only.
3. Tourist homes shall comply with the home occupation regulations of this ordinance.

### (L) Car Wash

Car Washes are permitted by right in the C-2 Zoning District and by Discretionary Special Use Permit in the C-1 Zoning District provided:

1. The driveway or curb cut shall be at least 10 feet from an adjoining property line, 25 feet if the adjoining property is zoned RSA, RU-1 or RU-2 or is the site of an existing single family residence.
2. A four foot, six inch masonry obscuring wall shall be provided and maintained on those property lines adjacent to property that is zoned RSA, RU-1 or RU-2 or is the site of an existing single family residence.
3. The entire surface used for parking, maneuvering or cleaning of vehicles shall be paved with concrete or asphalt.
4. All car washes shall have public sanitary sewer service and a public water supply or demonstrate adequate private water supply.

(Amended by adoption September 11, 2003)

### (M) Churches

1. Minimum of one acre plus 1/2 acre per 100 person seating in principle worship area.
2. Full-time schools or cemeteries that are part of the church operation must separately meet the SUP requirements for those uses, although parking requirements may be shared.
3. Parking shall not be permitted in the required front yard and must be fenced or bermed as required in Sec. 36-501.
4. No buildings shall be located closer than 75 feet from a side lot line or 25 feet from the rear lot line.

### (N) Cluster Subdivisions

1. The proposed subdivision shall consist of a tract of land at least twenty (20) acres in area, which shall be serviced by a public sanitary sewer line and public water.
2. The application shall be endorsed unequivocally for such development by all the owners of the tract, and procedure and documents shall be provided to assure development under a single administration and as approved by the Planning Commission.
3. Residential densities may be at not less than nine thousand nine hundred (9,900) square feet per dwelling unit based upon the total land area.
4. The developer shall dedicate not less than twenty (20) percent of the total land area for parks, woodlands, conservation district, playgrounds, golf courses, tennis courts, or other open space areas, such as to encourage the preservation of natural features. Such land may be dedicated to the township, or may be reserved for private use, in which case satisfactory arrangements shall be made, acceptable to the township for the development, operation, and maintenance of all such areas.

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- (a) The location, extent, and purpose of areas dedicated for open space or recreational use within any subdivision shall be approved by the Planning Commission and the Township Board.
- (b) The development, operation, and maintenance of dedicated land for private open space or recreational use shall be guaranteed by a trust indenture approved by the township and shall be filed with the register of deeds of the county simultaneously with the recording of the final plat of the subdivision.

### (O) Drive-in Business of Retail or Service Nature (including drive-in restaurants), subject to the following:

- 1. A setback of at least sixty (60) feet from the right of way line of any existing or proposed street must be maintained.
- 2. Access points shall be located at least sixty (60) feet from the intersection of any two (2) streets and when two points are located on the same street they shall be at least 60 feet apart.
- 3. All lighting shall be shielded from adjacent residential districts.
- 4. A six foot high completely obscuring wall shall be provided when the site abuts or is adjacent to more restrictive districts.

### (P) Duplexes

- 1. Duplex means a single dwelling structure designed and used for two separate households. Each unit of the duplex shall satisfy the requirements of this ordinance for a single family dwelling, except that it shall be permissible for the units of the duplex to share a common driveway and utilities, including a common well or municipal water connection, a common septic system or municipal sanitary sewer connection, gas, and electricity. The two units shall be separated by material having a minimum two hour fire rating;. Each unit of the duplex shall have a separate means of ingress and egress. The duplex and the lot on which the duplex is located shall be considered a single property with a single tax description. The units of a duplex may not be considered separate properties for tax or ownership purposes.
- 2. Lots for duplexes shall be at least 23,000 sq. ft. and at least 120 feet wide if public water or sewer are not available and used. If public water and sewer are used, the lots may be a minimum of 13,200 sq. feet and 105 feet wide.

### (Q) Earth Removal

- 1. The use of the land for the removal of soil, sand, gravel, or other earthy materials, is not permitted in any district until a earth removal permit from the Planning Commission is issued in accordance with the standards and limitations described hereinafter. Except, however, that no permit from the Planning Commission shall be required if a previously issued building permit has been applied for and obtained and earth removal required for the erection of such building for basements, grading, drains, pipes, or other services to the property has been described in detail in the application for such building permit and shown to be a necessary part of such proposed construction for which the permit is issued. A temporary earth removal permit may be reviewed annually by the Planning Commission, but may only be revoked if the permit holder fails to meet the requirements of the permit. Such permit shall not be issued in any zoning district except RSA and then only if the owner or operator of land used for earth removal shall demonstrate to the Planning Commission that no dangerous condition, including dangerous conditions to children

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or trespassers upon the land, will be permitted to develop or remain, and also that no stagnant water shall be permitted to collect upon the land, nor shall the stability of the land or of any adjoining land be caused to become unstable or permitted to be left unstable, nor shall such a permit be granted if such earth removal shall leave the surface of the land in an unstable condition or unfit for the growing of turf or offensive to the future use of the land or the adjacent lands for the uses to which the land is then zoned.

2. The Planning Commission may require filing of a suitable indemnity bond or agreement as provided for in this section, the terms of which shall run to the protection of the township or to such party or parties of adjacent or nearby lands who may be adversely affected by failure to comply with the terms of such permit. The permit shall require a date certain for the restoration of the land and shall be conditioned upon the applicant complying with a definite time schedule of earth removal and restoration. The Planning Commission may require the applicant to take such necessary precautions including the fencing and posting of notices to insure the safety of nearby owners, including children or trespassers upon the property, and may require the applicant to secure liability insurance to protect any person who might be injured by the development of an attractive nuisance upon such land and may require that such insurance name as an insured party the township.
3. The permit may be suspended at any time by the Zoning Administrator if a serious or dangerous condition shall develop pending a hearing by the Planning Commission to determine if the SUP should be revoked.
4. An earth removal special use permit will be considered expired when the area covered by the permit has been excavated and restored as outlined in the permit.

### (R) Essential Services (All Districts)

1. For public service installations, including public utility transformer stations, gas regulator stations, radio, television and microwave transmitter towers. The lot area and width shall be not less than that specified for the district in which the proposed use is located.
2. The yard and setback requirements shall not be less than that specified for the district in which the proposed use is located.
3. No building shall be erected to a height greater than that permitted in the district in which the proposed use is located with the exception of commercial freestanding towers.
4. In residential areas all buildings shall be harmonious in appearance with the surrounding residences by suitable plant material and shall be fenced as approved by the Planning Commission.
5. Where mechanical equipment is located in the open, it shall be screened from the surrounding residential area by suitable plant material and shall be fenced as approved by the Planning Commission.

### (S) Greenhouses, Retail

Retail greenhouses are permitted by right in the C-1, C-2 and C-3 zoning districts and by Discretionary Special Use Permit in the RSA zoning district

1. In the RSA zoning district, a maximum of fifteen (15) percent of the area used for sales (both indoor and outdoor) shall be used to display products which were not

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grown or produced on site. This requirement shall not apply in the C-1, C-2 and C-3 Zoning District.

2. No outside storage shall be permitted in RSA.

(Amended by adoption September 11, 2003)

(T) Hospitals, Convalescent Homes, Sanitariums and Nursing Homes

1. Ambulance and delivery areas shall be obscured from view of the right of way and adjacent property and access to these areas shall be directly from the road.
2. Access will be from a county primary road.

(U) Human cemeteries: Public, Private or cemeteries subject to the following conditions:

1. The site shall be no less than ten (10) acres and shall be so designated as to provide all ingress and egress directly onto or from a public road.
2. The location of proposed service roads, entrances, and driveways shall be so designated in relationship to the public road that pedestrian and vehicular traffic safety is encouraged.
3. No principal or accessory building shall be closer than fifty (50) feet from any abutting residentially zoned boundary line.
4. The provisions of P.A. 368 of 1978 that require local health department review are to be followed.

(V) Industrial Park, subject to the following conditions:

1. Permitted uses shall include all uses permitted by right within this district. Special uses may be permitted, subject to the special use provisions of Article 18.
2. The minimum required land area for an industrial park shall be twenty (20) contiguous acres.
3. The development of an industrial park shall be in accordance with an overall plan for development to the park, which plan shall be approved by the Township Planning Commission.
4. The developer shall provide within the industrial park, a sanitary sewage system which shall be of sufficient size and design to collect all sewage from structures within the industrial park, and that system shall connect with the township system. If sewers are not available, the park's sanitary sewer system shall be designed so as to dispose of all sewage and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state, county health department, the county drain commissioner and the township.
5. The developer shall provide within the industrial park a storm drainage system which shall be of sufficient size and design as will in the opinion of the township's engineer collect, carry off, and dispose of all predictable surface water runoff within and draining into the industrial park, and shall be so constructed as to conform with the statutes, ordinances and regulations of the state, the county drain commissioner and the township.
6. If a public water system is not available the developer shall provide within the industrial park a potable water system which shall be of sufficient size and design to supply potable water to each of the structures to be erected in the development.

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- (a) The developer shall also provide a fire hydrant within four hundred (400) feet of each structure.
  - (b) Such water system shall conform to the statutes, ordinances and regulations of the state, the county health department, the county drain commissioner and the township.
- 7. All industrial parks shall have direct access to a paved state or county primary highway.
- 8. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the industrial park without undue congestion or interference with normal traffic flow.
  - (a) All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
- 9. No part of any parking access and/or service area may be located closer than one hundred fifty (150) feet from any residential property line.
- 10. Parking, loading or service areas used by motor vehicles shall be located entirely within the boundary lines of the industrial park.
- 11. Any industrial park adjoining any residential development shall be provided with a buffer of at least sixty (60) feet along the adjacent property line. Such buffers shall be planted with evergreens and other suitable plantings and used for no other purposes. A landscaped planting area of at least sixty (60) feet shall also be provided along all street frontage.
- 12. Lighting facilities shall be required where deemed necessary for the safety and convenience of employees and visitors.
  - (a) These facilities will be arranged in such a manner so as to protect abutting streets, and adjacent properties from unreasonable glare of hazardous interference of any kind.
- 13. Maximum building coverage on any lot within the industrial park shall not exceed thirty (30) percent.
- 14. Minimum lot sizes within an industrial park shall be one (1) acre.

### (W) Kennels

- 1. Kennels shall comply with all applicable county and state regulations.
- 2. Minimum lot size shall be at least two acres for the first four dogs and an additional 1/3 acre for each additional dog.
- 3. Building and dog runs shall be at least seventy five (75) feet from the lot line.
- 4. Animals shall be boarded within enclosed buildings.
- 5. Exterior runs may only be used during daylight hours.

### (X) Mini-Storage Facilities (Outdoor and/or Indoor Storage)

Mini-Storage Facilities, with either outdoor or indoor storage, are permitted by right in the M-1 and M-2 Zoning Districts and by Discretionary Special Use Permit in the C-2 and C-3 Zoning Districts.

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1. Minimum parcel area for the entire development is four (4) acres.
2. Access to the facility shall be from a county primary road.
3. All outdoor storage areas shall be appropriately screened from surrounding property, as determined by the Planning Commission.
4. Maximum building height shall be nineteen (19) feet.
5. Parking for the storage leasing office and a caretaker's residence shall meet the parking requirements in Article 5 of this Ordinance's parking regulations. A ten (10) foot wide parking strip shall be required in front of each row of storage units and a twelve (12) foot wide travel lane provided between buildings (see Figure 18-1).

(Amended by adoption September 11, 2003)

(Y) Open Space Community Second Reading on December 10, 1998

Effective on Publication December 17, 1998

Amendment Effective April 26, 2001

1. Intent: It is the intent of this section to offer an alternative to traditional suburban residential development for the purpose of:
  - Encouraging the use of township land in accordance with its character and adaptability;
  - Assuring the permanent preservation of open space, agricultural lands, and other natural resources;
  - Allowing innovation and greater flexibility in the design of residential developments;
  - Facilitating the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner;
  - Ensuring compatibility of design and use between neighboring properties; and,
  - Encouraging a less sprawling form of development, thus preserving open space as undeveloped land.

These regulations are intended to preserve a traditional rural character to the land use pattern in the township through the creation of small residential nodes contrasting with open space and less intensive land uses. This section is not intended as a device for ignoring the zoning regulations of the township, the standards set forth therein, nor the planning concepts upon which the zoning ordinance has been based.

These regulations are intended to result in a specific development substantially consistent with zoning ordinance standards, yet allow for modifications from the general standards to insure appropriate, fair and consistent decision making.

2. Scope: For the purposes of this section, an "open space community" is defined as a predominantly single family residential development in which dwelling units are placed together into one or more groupings within a defined project area. The dwelling units are separated from adjacent properties or other groupings of dwellings by substantial open space that is perpetually protected from development.
3. Eligibility Criteria: To be eligible for open space community consideration, the applicant must present a proposal for residential development that meets each of the following:

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- (a) Recognizable Benefits: An open space community shall result in a recognizable and substantial benefit, both to the residents of the property and to the overall quality of life in the township. This benefit should accrue, in spite of any foreseeable detriments of the proposed developments.
  - (b) Minimum Project Size: The minimum size of an open space community development shall be five (5) acres of contiguous land. For the inclusion of dwellings other than single family units, an open space community must have a minimum gross site of twenty-five (25) acres.
  - (c) Open Space: The proposed development shall contain at least as much open space area as would otherwise be required by the existing zoning.
  - (d) Unified Control: The proposed development shall be under single ownership or control, such that there is a single person or entity having proprietary responsibility for the full completion of the project. The applicant shall provide sufficient documentation of ownership or control in the form of agreements, contracts, covenants, and/or deed restrictions that indicate that the development will be completed in its entirety as proposed.
  - (e) Guarantee of Open Space: The applicant shall guarantee to the satisfaction of the township planning commission that all open space portions of the development will be maintained in the manner approved in perpetuity. Documents shall be presented that bind all successors and future owners in fee title to commitments made as part of the proposal. This provision shall not prohibit a transfer of ownership or control, provided notice of such transfer is provided to the township and the land uses continue as approved in the open space community plan.
4. Project Design Standards: A proposed open space community shall comply with the following project design standards:
- (a) Location: An open space community may be approved in the RSA zoning district.
  - (b) Permitted Uses: An open space community is generally restricted to single family residential dwelling units. In projects of (25) acres or more, the Planning Commission may permit up to fifty percent (50%) of the dwelling units to be other than single family dwelling units, provided that the total number of dwelling units does not exceed the density for the site as computed in Subsection (5)h and the number and arrangement of the multi-family dwellings does not negatively impact the rural character of the area.
  - (c) Base Zoning Regulations: Unless specifically waived or modified by the planning commission, all zoning ordinance requirements for the underlying zoning district, except, for minimum lot area and other township regulations shall remain in full force. In no event shall the minimum lot area required for computation purposes of Subsection (5)h. be greater than the minimum square footage required for a lot in the RSA zoning district.
5. Open Space Requirements
- (a) An open space community shall maintain a minimum of forty percent (40%) of the gross area of the site as dedicated open space held in common ownership. Except as noted in Subsection (5)e. any undeveloped land area within the boundaries of the site may be included as required open space.



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- (b) All land within a development that is not devoted to a residential unit, an accessory use, vehicle access, vehicle parking, a roadway, or an approved land improvement, shall be set aside as common land for recreation, conservation, agricultural uses, or preserved in an undeveloped state.
- (c) The total area of dedicated open space shall equal or exceed the total area by which all dwelling unit lots are reduced below the minimum square footage required for a lot in the RSA zoning district.
- (d) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the planning commission, such as:

Recorded deed restrictions.

Covenants that run perpetually with the land, or A conservation easement established per the State of Michigan Conservation and Historic Preservation Act, Public Act 197 of 1980, as amended (M.C.L.399.251).

Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on an approved site plan, and shall never be changed to another use. Such conveyance shall:

- (1) Indicate the proposed allowable use(s) of the dedicated open space.
  - (2) Require that dedicated open space be maintained by parties who have an ownership interest in the open space.
  - (3) Provide standards for scheduled maintenance of the open space.
  - (4) Provide for maintenance to be undertaken by the Township of Flushing in the event that the dedicated open space is inadequately maintained, or is determined by the township to be a public nuisance, with the assessment of costs upon the property owners.
- (e) Area Not Considered Open Space: The following land areas are not included as dedicated open space for the purposes of this article:
  - (1) The area of any street right-of-way proposed to be dedicated to the public.
    - (2) Any submerged land area.
  - (f) Continuing Obligation: The dedicated open space shall forever remain open space, subject only to uses approved by the township on the approved site plan. Further subdivision of open space land or its use for other than recreation, conservation, or agricultural purposes except for easements for utilities and septic systems, shall be strictly prohibited.
  - (g) Allowable Structures: Any structures(s) or building(s) accessory to a recreation, conservation or agriculture use may be erected within the dedicated open space, subject to the approved open space plan. These accessory structure(s) or building(s) shall not exceed, in the aggregate, one percent (1%) of the required open space area.
  - (h) Dwelling Density: The permitted density of residential uses within an open space community shall be based upon a minimum lot area of 20,000 square feet. All computations shall be stated to the nearest square foot.

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The number of dwelling units allowable within an open space community project shall be determined in the following manner:

The applicant shall prepare, and present to the planning commission for review, a parallel design for the project that is consistent with state and township requirements and design criteria for a tentative preliminary plat. This design shall include all information as required by the guidelines adopted by the planning commission pursuant to Subsection (7)a. The planning commission shall review the design and determine the number of lots that could be feasibly constructed following the parallel design. This number, as determined by the planning commission, shall be the maximum number of dwelling units allowable for the open space community project.

- (i) **Regulatory Flexibility:** To encourage flexibility and creativity consistent with the open space community concept, the planning commission may grant specific departures from the requirements the zoning ordinance for yard, lot, and bulk standards as a part of the approval process. Any regulatory modification shall be approved through a finding by the planning commission that the deviation shall result in a higher quality of development than would be possible using conventional zoning standards. Regulatory modifications are not subject to variance approval of the Zoning Board of Appeals.
  - (j) **Access:** Direct access onto a county road shall be required to an open space community. The nearest edge of any entrance or exit drive shall be located no closer than two hundred (200) feet from any existing street or road intersection (as measured from the nearest intersection right-of-way line).
  - (k) **Internal Roads:** Construction of private roads or private access drives as a means of providing access and circulation is encouraged. Private roadways within an open space community are exempted from the design requirements of the township private road ordinance, if the planning commission makes the following findings:
    - (1) A deed restriction is placed on the project site that perpetually vests fee simple of the land area in the parties adjoining the road and prohibits future transfer to the public, and,
    - (2) A maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, is reviewed and approved by the township planning commission.
  - (l) **Natural and Cultural Features:** The development shall be designed to promote the preservation of natural and cultural features. These features are mapped in a general manner in the Township Master Plan and cover floodplain, wetlands, steep slopes, prime farmland soils, potential trailway areas and historical sites. The open space community plan should incorporate land containing these features into the open space element of the plan to the extent possible. In addition, if animal or plant habitats of significant value exist on the site, the planning commission, as a condition of approval, may require that the open space community plan preserve these areas in a natural state and adequately protect them as nature preserves or limited access areas.
6. **Project Standards:** In considering any application for approval of an open space community site plan, the planning commission shall make their determination on the

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basis of the standards for site plan approval set forth in Sec. 36-1900, as well as the following standards and requirements:

- (a) Compliance with the Open Space Community Concept: The overall design and land uses proposed in connection with an open space community shall be consistent the intent of the open space community concept, as well as with specific design standards set forth herein.
- (b) Compatibility with Adjacent Uses: The proposed open space community plan shall set forth in detail, all specifications with respect to height, setbacks, density, parking, circulation, landscaping, views, and other design features that exhibit due regard for the relationship of the development to surrounding properties, the character of the site, and the land uses. In determining whether this requirement has been met, consideration shall be given to:
  - (1) The bulk, placement, and materials of construction of proposed structures.
  - (2) Pedestrian and vehicular circulation.
  - (3) The location and screening of vehicular use or parking areas.
  - (4) The provision of landscaping and other site amenities.
- (c) Impact of Traffic: The open space community shall be designed to minimize the impact of traffic generated by the proposed development on surrounding uses.
- (d) Protection of Natural Environment: The proposed open space community shall be protective of the natural environment. It shall comply with all applicable environmental protection laws and regulations.
- (e) Compliance with Applicable Regulations: The proposed open space community shall comply with all applicable federal, state and local regulations.

### 7. General Requirements

- (a) Review Procedures: The application for approval of an open space community shall be made according to the procedures and guidelines required for approval of a Special Use Permit, with the following exceptions: Following the initial submission of an application for an open space community, but prior to completion of the proposed site plan the applicant shall meet with a subcommittee of the Planning Commission composed of not more than 3 members on the site of the proposed project to discuss the design of the project in compliance with Subsection (5).
- (b) Recording of Action: The applicant shall record an affidavit with the register of deeds containing the full legal description of the project site, specifying the date of final township approval, and declaring that all improvements will be carried out in accordance with the approved open space community plan unless an amendment is adopted by the township. In addition, all deed restrictions and easements shall be duly filed with the register of deeds of the county and copies of recorded documents presented to the township.
- (c) Initiation of Construction: If construction has not commenced within twenty-four (24) months of final approval, all township approvals become null and void. The applicant may apply in writing to the planning commission for an

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extension, not to exceed twelve (12) months. A maximum to two (2) extensions may be allowed.

- (d) Continuing Adherence to Plan: Any property owner who fails to maintain an approved site design shall be deemed in violation of the use provisions of the zoning ordinance and shall be subject to the penalties for same.

### 8. Scheduled Phasing

- (a) Scheduled Phasing: When proposed construction is to be phased, the project shall be designed in a manner that allows each phase to fully function on its own regarding services, utilities, circulation, facilities, and open space. Each phase shall contain the necessary components to insure protection of natural resources and the health, safety and welfare of the users of the open space community and the residents of the surrounding area.
- (b) Timing of Phases: Each phase of the project shall be commenced within twenty-four (24) months of the schedule set forth on the approved site plan. If construction of any phase is not commenced within the approved time period, approval of the site plan shall become null and void.

### 9. Revision of Approved Plans

- (a) General Revisions: Approved plans for an open space community may be revised in accordance with the procedures set forth in Article 19.
- (b) Minor Changes: Minor changes to an approved open space community plan may be permitted by the planning commission following normal site plan review procedures outlined in Sec. 36-1900, subject to the finding of all of the following:
  - (1) Such changes will not adversely affect the initial base for granting approval.
  - (2) Such minor changes will not adversely affect the overall open space community in light of the intent and purpose of such development as set forth in this article; and
  - (3) Such changes shall not result in the reduction of open space area as required herein.

### (Z) Pet Cemetery

- 1. Pet Cemetery means 1 (one) or any combination of the following:
  - (a) A burial ground for earth internments of animal remains.
  - (b) A mausoleum for crypt entombments of animal remains.
  - (c) A crematory for the cremation of animal remains.
  - (d) A columbarium for the deposit of cremated animal remains.
- 2. A pet cemetery may be used for disposition of dead dogs, cats, rabbits and other pets, but shall not include horses, cattle, swine or other farm or non-domesticated animals.
- 3. Special use permits to operate a pet cemetery shall be limited to operation of a burial ground, unless otherwise stated in the special use permit. The special use permit shall designate the specific areas which may be used as a burial ground and only the area so designated shall be used as a burial ground.
- 4. A crematory shall follow all requirements mandated by Federal and State law and regulations and shall be housed in a separate structure used exclusively for the

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crematory. The size, nature and location of the structure housing the crematory shall be set forth in the special use permit.

5. A special use permit shall not be issued for operation of a mausoleum and/or columbarium except upon review and approval of the plans and the specifications for the structure to house the mausoleum and/or columbarium
6. Grave markers installed in a burial ground shall be installed flush with the ground.
7. There shall be no decorations placed on animal grave sites except natural flowers or decorations, such as wreaths constructed from evergreens or other living materials. Under no circumstances shall there be decorations of paper or plastic.
8. All burial operations, mowing of burial grounds, maintenance work shall be undertaken during the hours of 9 a.m. until dusk
9. The site shall be no less than ten (10) acres and shall be so designated as to provide all ingress and egress directly onto or from a public road.
10. The location of proposed service roads, entrances, and driveways shall be so designated in relationship to the public road that pedestrian and vehicular traffic safety is encouraged.
11. No principal or accessory building shall be closer than fifty (50) feet from any abutting residentially zoned boundary line.
12. The provisions of P.A. 368 of 1978 that require local health department review are to be followed.
13. Construction of a fence or buffer strip along the property line of the site may be required as determined necessary by the Planning Commission.

### (AA) Planned Unit Development Provisions

(Amended by Adoption July 25, 2002)

A planned unit development may be permitted as a special use provided such development is found not detrimental to the public health, safety, and the general welfare of the occupants and the community and complies with the following minimum requirements.

#### 1. General Requirements

- (a) The minimum required land area for a planned unit development shall be sixty (60) contiguous acres.
- (b) The developer shall provide within the planned unit development a sanitary sewage system which shall be of sufficient size and design to collect all sewage from all present and proposed structures in the planned unit, shall connect with the township system, and shall be otherwise constructed and maintained in conformity with the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.
- (c) The developer shall provide within the planned unit development a storm drainage system which shall be of sufficient size and design as will in the opinion of the township's engineer and/or Planning Commission collect, carry off and dispose of all predictable surface water runoff within the development and any adjoining contributory areas, and shall be so constructed as to

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conform with the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.

- (d) No planned unit development shall be approved unless it shall have a central water supply system connected to a public water supply system.

- (1) The developer shall provide a fire hydrant within four hundred (400) feet of each structure.

- (2) Water systems shall conform to the statutes, ordinances, and regulations of the state, the county health department, the county drain commissioner and the township.

### 2. Permitted uses

- (a) Single-family attached or detached dwelling.
- (b) Apartment building or townhouse.
- (c) Accessory private garage.
- (d) Public or private park or recreation areas which may include a golf course, swimming pool, tennis court, ski slope, toboggan run, ice skating rink and other similar recreational uses, but which may not include any use or activity which produces noise, glare, odor, air pollution, fire or other safety hazards, smoke, fumes or other pollutants detrimental to existing or prospective occupants or the general public.
- (e) Municipal building.
- (f) School.
- (g) Church, temple, synagogue, parsonage or parish house, convent.
- (h) Theater for stage productions or films, but not a drive-in theater.
- (i) Studio of artist, sculptor, musician or photographer, but no goods or objects shall be sold or publicly displayed on the premises.
- (j) Restaurant.
- (k) Business activities of a local or neighborhood character, conducted within an enclosed building only, providing necessary services for the day to day operation of a household, and which can be supported economically by a small neighborhood area, including business of the type included in, although not limited to, the following:

- (1) Bakery shops where no baking is done on the premises.

- (2) Barber and beauty shop.
- (3) Cigar store.
- (4) Cleaning and dying distribution shop (no processing.)
- (5) Dairy products, retail sales.
- (6) Delicatessen.
- (7) Dressmaker, custom.
- (8) Drugstore.

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- (9) Florist, retail sales.
  - (10) Laundry collecting shop, self-service laundry, hand laundry.
  - (11) Local store selling, at retail, fish, fruit, food, hardware, meats (no slaughtering), and vegetables, and beer and wine under SDM license and gasoline from not more than one (1) pump island.
  - (l) Adult Foster Care Family Home
  - (m) Adult Foster Care Small Group Home
  - (n) Adult Foster Care Large Group Home
  - (o) Nursing Home
  - (p) Subacute Care Facility
  - (q) Home for the Aged
  - (r) Hospice Facility
  - (s) Adult Foster Care Congregate Care Facility
  - (t) Assisted Living Facility
  - (u) Senior Housing
  - (v) Signs      Amendment approved 5/11/00.
- (1) All signs under the residential sections of a Planned Unit Development shall meet the requirements of the sign ordinance Sec. 36-1720 Residential R-U2 (MD) and , R-U4 (MHP)
- (2) All signs under the commercial and recreational sections of a Planned Unit Development shall meet the requirements of Sec. 36-1725 Commercial-General Provisions, and Sec. 36-1726 Commercial C-1, M-1, M-2 Permanent Signs.
- (3) All signs in a Planned Unit Development shall need the approval of the Planning Commission.
3. Parking as provided according to Sec. 36-501 shall be required.
4. Density and Design Standards
- (a) Area limitations for various uses. Within a planned unit development the following percentages of the total land area shall be devoted to the specified uses:
- (1) A maximum of eighty (80) percent for residential use; land devoted to residential use shall be deemed to include those streets, alleys, parking areas, private open spaces and courts which abut and service primarily residences or groups of residences, but it shall not include usable open space which is available for use by the general public or by persons who do not live in the residences or groups of residences immediately adjacent to it, unless otherwise provided herein.
- (2) A maximum of twenty (20) percent for non-residential uses and required parking; provided, however, that open air recreational uses, other open spaces uses and land devoted to streets shall not be included in determining non-residential use.

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- (3) A minimum of twenty (20) percent for open air recreational uses and other reusable open space. Usable open space shall be defined as an open area designed and developed for common use by the occupants of the development or by others for recreation (whether commercial, private or public), courts, gardens or household service activities such as clothes drying, which space is effectively separated from automobile traffic and parking and is readily accessible; the term shall not include space devoted to streets and parking.
- (b) Residential density. The density of residences shall not exceed six (6) units per acre of the land within the development which is devoted to residential use and usable open space.
- (c) Lot size. There shall be no minimum lot size, no minimum setbacks, no minimum percentage of lot coverage and no minimum lot width for any unit. Provided, however, that in areas of single-family and/or townhouse structures which are to be sold and for which the care and maintenance of the grounds and exteriors associated with such structures will be the responsibility of the purchaser of such structures or such structures or parts of such provisions of the subdivision regulations. For purposes of determining overall densities within the planned unit development, the number of units located in such platted areas shall be included.
- (d) Height. The height of any structures within a planned unit development shall be related to the location of the structures such as to equal the distance to the adjacent property line; provided, however, the height limitation shall be related to the fire fighting capability of the township and provided further that this provision shall not affect any structure of less than twenty-five (25) feet.
- (e) Location of structures. The proposed location and arrangement of structures shall not be detrimental to existing or prospective adjacent structures or to existing or prospective adjacent structures or to existing or prospective development of the neighborhood.
- (f) Protection of open spaces. Open spaces between structures, including those spaces being used as public or private recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the Planning Commission shall specify.
- (g) Roads and parking areas. The dimensions and construction of roads, alleys and parking areas within the development, whether or not dedication of them to the township is contemplated, shall conform with all applicable state, county and township ordinances.

### 5. Procedure

- (a) Before any special use permit or building permit is issued for land or a building in a planned unit development, the developer shall obtain approval of an overall plan for development of the land. For this purpose, he shall submit to the Planning Commission a plan prepared by a registered community planner, or a registered architect which:
  - (1) Shall state the acreage's to be devoted to the specific uses;
  - (2) Shall set forth the proposed density of dwelling units;
  - (3) Shall include a major thoroughfare plan and public utility plan;



## Charter Township of Flushing

- (4) And shall include a separate plan showing the location of parks, open recreation areas, and other open spaces, schools, and other public or community uses.
  - (b) The criteria for approval of any planned unit development shall be those which are included within the Special Use Permit review procedures section of this chapter (Article 18). Criteria shall include the desirability of the planned unit development's design in terms of traffic safety, health, drainage, densities, land use relationships of proposed uses to each other and uses adjacent to the site and its overall relation to the community development plan
  - (c) If the plan is approved by the Planning Commission the developer shall thereafter submit a detailed plan, containing all the information required of this chapter.
- (1) The Planning Commission shall review the detailed plan to determine that it complies with this chapter and with the overall plan originally submitted by the applicant for the section in which the proposed structure is located.
- (2) Approval of any detailed plan shall lapse unless construction is started in that section within one (1) year.
- a. No conveyance of land within the development may be made until the developer has complied with all township, county and state regulations.

### (BB) Ponds

(Amended by adoption April 15, 1999 and on December 30, 2001)

#### **Definitions:**

**POND** - A natural or manmade body of water used to provide water for livestock, fish and wildlife, recreation, fire control, crop and orchard spraying and irrigation and other related uses for the personal use of the property owner and/or tenants.

For purposes of this section, pond shall not include a landscape, garden or ornamental pond with less than 100 square feet of surface area and a depth of 3 feet or less.

1. Intent: The regulations set forth in this section are designed to provide for the regulation of a pond and to specify the conditions and circumstances under which such ponds may be developed to protect the health, safety and general welfare of the residents of the community, preserve ecologically important features, and to prohibit development which, unregulated, may have an adverse effect upon the existing general and aesthetic character of the township.
2. General Provisions and Conditions
  - (a) It shall be unlawful for any person, firm, corporation, partnership, or other organization or entity to construct a pond within the Township without first securing a construction permit from the building official. A site plan has to be approved by the Planning Commission for conditions and site approval. A pond shall be a special use permitted on property zoned RSA.
  - (b) A pond shall not be constructed on a lot or parcel of land that is less than 2 acres in size.

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- (c) Water shall be maintained in all pond excavations, and built in a spring or natural water drainage area according to current County topography maps and drain districts, showing existing property grades and also future pond grades.
- (d) Ponds shall be engineered and designed according to all provisions and conditions of this Ordinance, including engineered drawings, drawn to scale by a qualified designer showing all site buildings, easements, size, setbacks, etc. Such plot plan shall be approved by the Building Inspector before a hearing shall be scheduled.
- (e) All soil and similar materials excavated during the construction of the pond shall remain on the property, unless an Earth Removal Permit has been obtained.
- (f) If a pond exceeds 4.9 acres it would be classified as a lake, and could be cause for other permit requirements.
- (g) The parcel should contain natural land forms which are so arranged that the change of elevation within the site includes slopes of ten (10) percent or less; and water drainage could provide water to fill pond.
- (h) The subject site and/or adjoining properties do not contain natural assets including trees, wood-lots, endangered species habitats, wetlands, 100 year floodplains, natural watersheds, or similar features that would be altered by the establishment of the pond.
- (i) The outside edge of the pond is not within fifty (50) feet of an existing County Drain.
- (j) The proposed pond is not located within one hundred (100) feet of a public road right-of-way, private easement, or school site.
- (k) The proposed pond is not within fifty (50) feet of an existing wetland.

### 3. Application and Review Procedures

- (a) Application shall be made to the Township Building Official. Applications shall contain the name and address of the applicant, a legal description of the property upon which the pond will be established, a site plan submitted site plan check list in accordance with Site Plan Review procedures and/or Sec. 36-1801 under P-1 - Earth Removal.
- (b) If and when it ever becomes necessary to obtain a permit from the Department of Natural Resources or the Genesee County Drain Commission, it shall be the responsibility of the landowner to obtain the permits prior to meeting with the Planning Commission.
- (c) The applicant shall also provide evidence from a civil engineer, or similar allied professional that water can be continuously maintained in the pond once it is constructed. A pond should be built in a spring area or a water drain off area to provide fresh water. (A well is not a qualified source of water).

### 4. Design Requirements: Private ponds shall be permitted as an accessory use provided they meet the following requirements.

- (a) The setback distance for the pond shall be a minimum of seventyfive (75) feet from the waters edge at its highest point from any adjoining property line.

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There shall be a minimum of 25 feet between the edge of any berm or other placement of elevated soils removed from the excavated pond and any adjoining property line. The total height, as measured from original grade, of any berm or elevated soils and any fence or other materials built or placed upon the berm, except trees or other vegetation, shall not exceed a total of 6 feet. This provision shall not prohibit the placement of an otherwise appropriate fence across a part of such berm, which may cause the height of the fence to exceed 6 feet at the point of crossing the berm.

- (b) There shall be a distance of not less than fifty (50) feet between the outside edge of the pond and any building.
- (c) There shall be a distance of not less than fifty (50) feet from the water's edge to any overhead transmission lines.
- (d) Slopes of the excavation shall not exceed a ratio of four-(4) feet horizontal to one-(1) foot vertical, to a depth below water of six-(6) feet on shallow walk in side, and no more than six-(6) feet horizontal to six-(6) feet vertical at three sides of pond. Ponds must be a minimum of 15 feet depth to existing grade in deepest spot to keep water from being stagnant, unless topography demands special consideration.
- (e) All areas disturbed during construction shall be seeded with bluegrass or other high quality grasses and maintained in good condition to prevent erosion.
- (f) The Township Planning Commission may, at its discretion, require the installation of a fence no less than four (4) feet in height to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.
- (g) The Township Planning Commission may, at its discretion, require the installation of a berm to be appropriately designed for height and width, whose slope shall be no more than at a 30 degree angle to prevent erosion and to protect the health, safety, and welfare of the property owners and or tenants, neighboring uses, and Township residents.

### 5. Limitations

- (a) No pond shall be located upon, cross, or extend beyond an existing property line and a permit shall not be issued for construction of a pond on more than one property, unless, in addition to the other requirements of this section:
  - (1) The owners of each property on which any part of the pond is to be located, submit a joint application for a special use permit, signed by each property owner.
  - (2) Each property owner executes a reciprocal easement, in recordable form, satisfactory to the planning commission which describes the benefits and burdens to each property, including adequate provisions to assure maintenance of the pond.
  - (3) The easement shall be recorded as a pre-condition to issuance of the permit.
- (b) Construction of a pond shall be completed within twelve (12) months of the issuance of the construction permit. Extension may be granted by the Planning Commission for a reasonable cause shown.

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- (c) The requirements contained herein shall not relieve the applicant from complying with other land development or environmental standards established by the Township or by other public agencies having jurisdiction.

### 6. Fees Required

- (a) Appropriate fee(s) for the purpose of obtaining a construction permit for a pond shall be established by the Township and shall be payable to the Township or its authorized agent. A schedule of fees as approved by the Township Board shall be maintained on file at the Township offices.
- (b) There shall be a minimum \$7,500 Performance Bond presented at the time permit is issued. Total amount of bond to be determined by the Planning Commission. The \$7,500 Earth Removal Performance Bond may be combined with the Performance Bond for a pond.
- (c) Bonding or insurance shall be in accordance with our Earth Removal Permit.

Adopted the 13th day of December, 2001 by unanimous vote of the Charter Township Board of Trustees.

(CC) Private Landing Strip: Private Landing Strips are permitted by Discretionary Special Use Permit in the RSA Zoning District provided:

1. Site Requirements – lodges, schools, churches or other public meeting places shall not be within five hundred (500) feet of said strip or hanger. No concentrated animal feeding operation shall be within one thousand (1,000) feet of the landing strip or hanger, or within the flight path of planes landing or taking off.
2. Performance Standards – all federal and state aviation safety regulations shall be complied with.

(Amended by adoption September 11, 2003)

(DD) Recreation Vehicle and Campground Parks

1. Site conditions. Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion subject to unpredictable and/or sudden flooding, subsidence, or erosion shall be used for any purpose which would expose persons or property to hazards.
2. Soil and ground cover. Adequate provisions shall be provided for the elimination of objectionable dust and for the prevention of soil erosion.
3. Minimum park size. Minimum park size for a recreation vehicle park and/or campground park shall be ten (10) acres.
4. Campsite size. The minimum campsite size for either a recreational vehicle site or campsite within a park will be five thousand (5,000) square feet unless otherwise specified by the Planning Commission in its site plan review.
5. Required separation between trailers and recreational vehicles. Trailers should be separated from each other and from other structures by at least ten (10) feet. Any accessory structure such as attached awnings, carports or individual storage facilities shall, for purposes of this separation requirement, be considered to be part of the trailer.

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6. Design of access to parks. Entrances and exits to the parks shall be designed for safe and convenient movement of traffic into and out of the park and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into and out of the park shall be through such entrances and exits. No entrance or exist shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for vehicles with trailers attached. No material impediment to visibility shall be created or maintained which obscures the view of an approaching driver. No entrance or exit from a park shall be permitted through a residential district nor require movement of traffic from the park through a residential district.
7. Parking. At least one and one-half (1 1/2) parking spaces shall be provided in the total park per travel trailer and recreation vehicle site. At least one (1) of these parking spaces shall be provided within each such site.
8. Accessory uses. Management headquarters, toilets, dumping stations, showers, laundry facilities, and other convenience uses and structures customarily incidental to operation of a park are permitted as accessory uses to the park. Such establishments and the parking areas primarily related to their operations shall not occupy more than five (5) percent of the gross area of the park. Except in the case of public-owned parks, such establishments shall be restricted in their use to occupants of the park. Such establishments shall present no visible evidence from any street outside the park of their commercial character which would attract customers other than occupants of the park. The structures housing such facilities shall not be accessible from a public street, but shall be accessible only from a street within the park.
9. Recreational facilities. A minimum of eight (8) percent of the gross site area for the park shall be set aside and developed as common use areas for open or enclosed recreation facilities.
10. Buffering, setbacks, screening and landscaping. Each park shall set aside along the perimeter of the district the following areas that shall be landscaped and used for no other purposes:
  - (a) Minimum front setback. Twenty-five (25) feet except when the park fronts on a state highway; then the minimum shall be fifty (50) feet.
  - (b) Minimum side setback. When abutting residential districts, the said setback shall be fifty (50) feet; when abutting a dedicated public right of way, the side setback shall be twenty-five (25) feet on the side street; when abutting any other zone district, the side setback shall be fifteen (15) feet along the interior lot line.
  - (c) Minimum rear setback. Fifteen (15) feet except when the rear yards abuts a dedicated public right of way or a residential district. If the rear yard abuts a dedicated public right of way, the minimum shall be twenty-five (25) feet. If the rear yard abuts a residential district, the minimum rear setback shall be fifty (50) feet.
  - (d) Where needed to enhance aesthetics or to insure public safety, the campgrounds shall be enclosed by a fence, wall, landscape screening, earth mounds or by other designs approved by the Planning Commission which will complement the landscape and assure compatibility with the adjacent environment.

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11. Water supply and sewage disposal. All camping sites for tents, campers and recreational vehicles shall have a public water supply system with water under pressure piped to within three hundred (300) feet of each vehicle, tent or camper site and with fire hydrants available within three hundred (300) feet of each campsite. An enclosed toilet and sewage facility approved by the state and county health departments with hot and cold running water available herein shall be provided in every private park for recreational vehicle, tent or camper. Such facility shall be located not further than five hundred (500) feet from every campsite within the park. If public sewer shall be available within five hundred (500) feet of any such park, the park sewer system shall be connected thereto.
12. Length of stay. No park shall be used as a permanent place of abode, dwelling or business or for indefinite periods of time. Occupancy extending beyond three (3) months in any twelve-month period shall be presumed to be permanent occupancy.

(EE) Restaurants, Open Front. Open Front Restaurants are permitted by Discretionary Special Use Permit in the C-1 Zoning District and by right in the C-2 and C-3 Zoning Districts.

1. Waste containers shall be provided.
2. Fences or landscaping shall be required to control blowing debris.
3. All signs placed on the building shall be flat and interior signs visible to patrons through glass or an opening shall not exceed twenty-five (25) percent of that area.
4. Additional parking shall be provided based on the capacity of any outdoor seating or lounge areas.
5. Outdoor eating areas shall be illustrated on a site plan and approved by the Planning Commission.
6. Where the use abuts a residential district there shall be no outdoor amplification, such as speakers, unless the applicant demonstrates compliance with the Township Noise Abatement Ordinance.

(Amended by adoption September 11, 2003)

(FF) Restaurants, with Live Entertainment and/or Outdoor Seating

Restaurants, with live entertainment and/or outdoor seating are permitted by Discretionary Special Use Permit in the C-2 and C-3 Zoning Districts, provided:

1. The principal building shall be setback at least one hundred (100) feet from a residential district.
2. A wall at least five (5) feet high shall separate the site from any adjacent residential district.
3. The applicant shall acquire any other permits required under township ordinance.

(Amended by adoption September 11, 2003)

(GG) Roadside Stand

1. The stand and any off street parking shall be outside the road right of way.
2. At least one parking space shall be provided for every 15 square feet of roadside stand.

(HH) Schools

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1. Fences for recreational facilities may exceed six feet with the approval of the Planning Commission.
2. Parking shall not be located within the required front yard setback and must be fenced or bermed as required in Sec. 36-501.

(II) Shopping Centers. The general plan for a shopping center shall include specific evidence and facts showing that it has considered and made provision for, and the development shall be executed in accordance with the following essential conditions:

1. The proposed development shall be constructed in accordance with an overall plan, shall be designed as a single architectural unit with appropriate landscaping, and shall provide initially for the construction of a minimum of fifteen thousand (15,000) square feet of floor area.
2. All buildings shall be arranged in an integral development.
3. Provision shall be made for safe and efficient ingress and egress to and from public streets and highways serving the center without undue congestion to or interference with normal traffic flow. All points of vehicular access to and from public streets shall be located not less than two hundred (200) feet from the intersection of any public street lines with each other.
4. No part of any parking access and/or service areas may be located closer than forty (40) feet of any property line adjacent to a residential district.
5. Parking, loading, or service areas used by motor vehicles shall be located entirely within the lot lines of the shopping center and shall be physically separated from public streets.
6. Any shopping center development adjoining any residential development shall be provided with a buffer of at least forty (40) feet along the adjacent property line.
  - (a) Such buffer shall be planted with evergreens and other suitable plantings and used for no other purposes.
  - (b) A landscaped planting area of at least twenty (20) feet shall also be provided along all street frontage.
7. All shopping center developments shall have access to a paved state or a county primary highway. No regular public access shall be made through a residential public street.
8. The site shall be developed and facilities shall be provided in such a manner so as to insure adequate drainage.
9. Lighting facilities shall be required where deemed necessary for the safety and convenience of shoppers and employees. These facilities will be arranged in such a manner so as to protect abutting streets and adjacent properties from unreasonable glare of hazardous interference of any kind.

(JJ) Stables

1. At least two acre per horse for the first twenty acres.
2. Foals born on parcels where horses are kept presently may be kept for up to two (2) years, but in no case shall there be more than one horse and one foal per two acre.

(KK) Stadiums and Race Tracks

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1. All ingress and egress shall be from a county primary road or state highway.
2. Acceleration and deceleration lanes shall be provided where possible.
3. When a side or rear lot line is adjacent to a residential district or a parcel with a residence, that lot line will be buffered by a landscaped area 100 feet wide.

### (LL) Townhouses

A townhouse means a dwelling structure designed and used as attached single family dwellings for 2, 3, but no more than four (4) separate households. Except as provided below, each unit of the townhouse shall satisfy the requirements of this ordinance for a single (family) household dwelling. Each unit of the townhouse shall have a ground floor and shall have at least two separate means of ingress and egress. There shall be no community doors or means of access directly from one unit to another. Each unit shall have: 1) its own driveway or access to a public road, 2) its own space for the parking of motor vehicles, 3) separately supplied and metered utilities 4) separate well or municipal water connection, 5) separate septic system or municipal sanitary sewer connection. Each unit of the townhouse shall be separated from the other units by a wall or other construction with a minimum two hour fire rating. The townhouse may be constructed with a 0 side lot, i.e., a common wall. Each unit within a townhouse may be owned separately, designated a separate parcel with a separate tax parcel identification number. Each unit shall include the real property immediately contiguous to the front and back of the unit with the side lot lines being the extension of the center of the common walls of the unit to the back and to the front lot lines. The side lots of the parcel on which the townhouse is located shall be part of the property of the corresponding end units of the townhouse. (Adopted the 10th day of January, 2008, by vote of the Charter Township of Flushing Board of Trustees)

### (MM) Veterinarian

1. Crematoriums are permitted as an accessory use only.
2. Veterinarian facilities must be located directly on a county primary road.
3. All buildings must be 75 feet from the side lot lines.
4. Boarding of animals while being treated is permitted as an accessory use only and all boarding must be within an enclosed building.
5. Exterior runs for animals may only be used in the daylight hours.

### (NN) Residential Wind Energy Systems

1. General – Residential wind energy systems may be permitted in all zoning classifications subject to a Discretionary Special Use Permit and appropriate building permit. An application for a Discretionary Special Use Permit shall include a current site plan drawn to scale showing all property lines, existing structures, the proposed placement of the wind energy system, including footprint, maximum height, all electrical or utility connections and applicant's preliminary study of sustained winds at the proposed location.
2. Purpose – It is the purpose of this ordinance to promote the safe use of small wind energy systems that are designed to reduce the on-site consumption of utility-supplied electricity.

This ordinance applies to all wind energy systems constructed and operated in Flushing Township whether or not the system is capable of feeding produced energy into the local utility grid.

3. Definitions



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**Residential Wind Energy System** – A wind energy system consists of a wind turbine(s) tower, and associated conversion electronics which has a rated capacity of not more than ten kilowatts (in total if multiple turbines are placed) and which is intended to reduce on-site consumption of utility power.

**Tower** – As described in this ordinance, the term “tower” refers to the vertical component of a wind energy system, whether guyed or freestanding for the exclusive purpose of elevating the wind turbine/generator and attached blades or rotors above the ground. The term “tower” may also refer to the structure that elevates a wind anemometer for the purpose of feasibility studies preliminary to placement of a wind energy system.

**Shadow Flicker** – The phenomenon created by light casting a shadow on moving turbine blades. Where this shadow is cast, creates a potential annoyance to adjoining property owners.

4. **Regulations** – Maximum height of a freestanding or guyed wind energy installation shall be eighty (80) feet to the top of the blade at the maximum vertical position. Installations, which are attached to existing structures in excess of fifty (50) feet in height, may exceed the eighty foot limitation.

The minimum height for blade ground clearance shall be twenty feet.

All ground-mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.

The tower shall be designed and installed so as not to provide a ladder or other publicly accessible means of climbing the tower, for a minimum of height of 12 (twelve) feet above the ground.

Guy wires associated with towers shall be marked and clearly visible to a height of six feet above the ground.

The tower shall not be lighted, used for placement of antennas or other purposes and not related directly to the support of a wind turbine.

Set back to the base of the tower shall be no less than one and a half times the total height of the installation. Any guy wire anchors may be no closer than ten feet from the property boundary. (It is noted that for safety reasons, this setback requirement restricts the placement of wind energy systems to relatively large lot sizes).

Noise level associated with a wind energy installation shall be limited to a maximum of 55 decibels as measured at the property line nearest the tower.

All wind energy installations must be equipped with manual and automatic over speed controls to limit the blade speed to the engineered design limits of the installation.

Tower and turbine placement shall be such that shadow flicker does not interfere with adjoining property owners.

A wind energy installation that is not functional for a period of twelve (12) consecutive months, shall be promptly removed by the owner.

A wind energy installation must comply with all applicable FAA regulations, including any necessary approvals for installations close to airports.

A wind energy installation shall not contain advertising and must be constructed of material rendering the installation visually unobtrusive.

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Installations of wind energy systems of more than ten (10) kilowatts will be considered commercial installations and be treated on an individual basis.

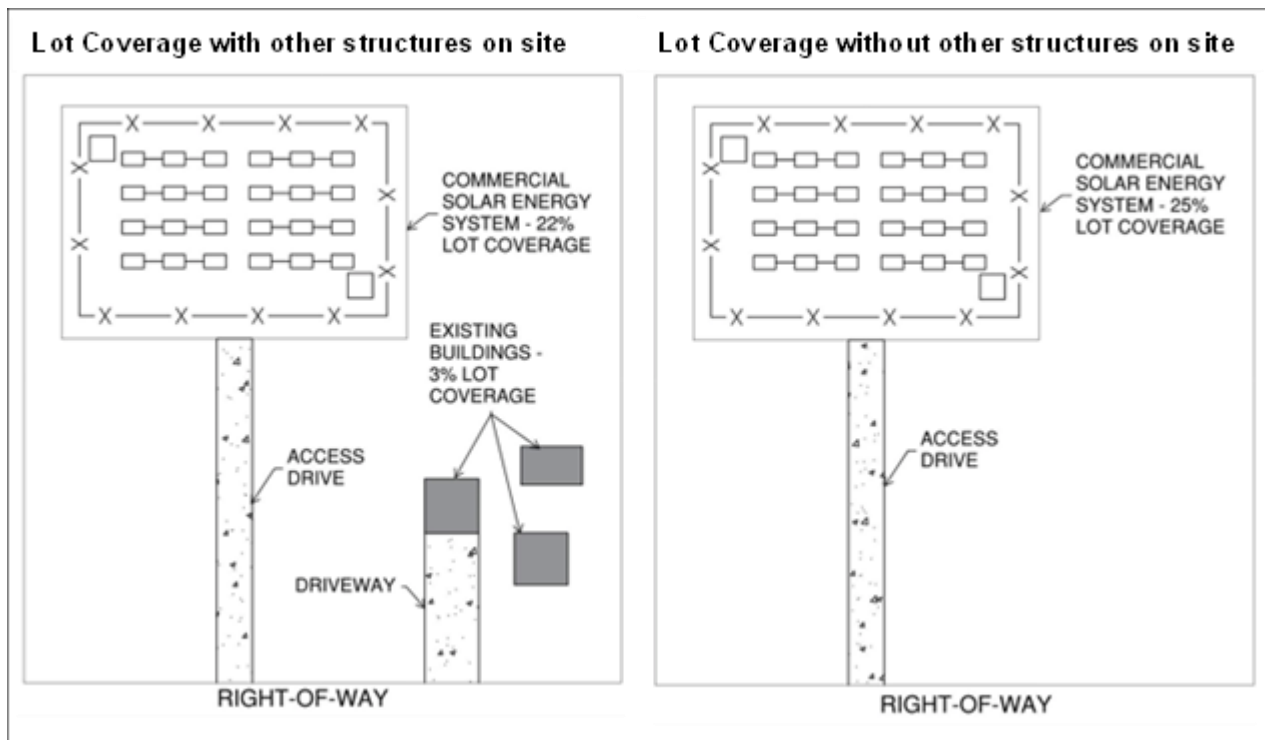
All installations of wind energy systems shall be done in accordance with State and Federal construction and electrical codes.

(Amend by Adoption on December 10, 2009 Sec. 36-1804 to add subsection NN to provide for the use and regulation of residential wind energy)

### (OO) Commercial Solar Energy System

1. The commercial solar energy system must meet all requirements in **Error! Reference source not found.** (a) all solar energy collectors.
2. All commercial solar energy systems shall follow the following requirements:
  - (a) Ground-mounted solar energy collectors shall not exceed 12 feet in height measured from the ground at the base of such equipment. The height of the ground-mounted solar energy collector shall be measured from ground level to the highest point of the solar panel.
  - (b) The total area of the commercial solar energy system shall be included in calculations to determine lot coverage and shall not exceed a maximum lot coverage of twenty-five (25%) percent regardless of the residing zoning district (Figure 3).

Figure 3: Commercial Solar Energy Lot Coverage Illustrations



3. Commercial solar energy systems must be located on lots larger than 2 acres.
4. Visual Buffer Requirements:
  - (a) Residential Property: When a commercial solar energy system is adjacent to a residential use, the system shall be set back at least three hundred (300)

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feet from the property line and at least five hundred (500) feet from any dwelling unit. A landscaped visual buffer shall be provided within the setback area that obscures the commercial solar energy system from view.

- (b) **Street Frontage:** Commercial solar energy systems shall be setback at least three hundred (300) feet from any road right-of-way. A landscaped visual buffer shall be provided within the setback area that obscures the commercial solar energy system from view.
  - (c) **Visual Buffer:** A required landscaped visual buffer, including a greenbelt and/or landscaped berm, that meets the minimum standards of Sec. 36-324 shall be installed to effectively screen the commercial solar energy system from view. The visual buffer shall be installed prior to the placement of solar collectors to the extent feasible and must be maintained by the property owner. The Planning Commission may require the installation of additional vegetation and other landscaping or visual screening in excess of the minimum requirements to screen residential districts and uses. The planting of native ground covers shall be maintained on site during the operation, until the site is decommissioned.
  - (d) **Setback:** Required setback areas and visual buffers may be used for agricultural purposes or left in a natural state. In addition to the residential and street frontage setback requirements in this Section, commercial solar energy systems shall meet the required front, side, and rear setbacks for the RSA zoning district. If a commercial solar energy system is located on a site that includes multiple parcels owned by the same property owner that form a single contiguous site, some setback requirements may be waived by the Planning Commission during site plan review.
  - (e) The Planning Commission may approve substitution of vegetation for an obscuring fence, wall, and other protective barriers as long as it meets requirements in Sec. 36-408.
  - (f) The planting of native ground covers shall be maintained on site during the operation, until the site is decommissioned.
- 5. The applicant shall provide verification that adequate infrastructure exists to transport the electricity generated by the commercial solar energy system into the larger grid system.
  - 6. Power and communication lines running between banks of solar energy collectors may be placed above ground, provided the lines are placed no higher than the top of the solar panels.
  - 7. Power and communication lines to electric substations or interconnections with buildings shall be buried underground. The requirement for underground power and communication lines may be waived in the following circumstances.
    - (a) Where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
    - (b) When required by the utility company.
    - (c) When granted a waiver by the Planning Commission during site plan review.
  - 8. The installation of the ground-mounted solar energy collectors shall not disturb the existing topography.

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9. Commercial solar energy systems shall be centrally located on a property, or in the least visibly intrusive location whenever possible.
10. Upon submittal of a special land use application and site plan for review by the township, the applicant shall deposit funds into an escrow account to address the costs of professional planning, engineering, legal, and other required reviews. The amount of the deposit shall be determined in the township's fee schedule, which is reviewed annually. Any remaining funds will be returned to the applicant following final action. The township may request additional funds be deposited if the escrow is expended prior to final action on the application.

### (PP) Decommissioning:

1. Any commercial solar energy system that is not operated or found to be inoperable due to disrepair for a continuous period of six (6) months shall be considered abandoned. If it is found abandoned, the Planning Commission, upon notice by the Zoning Administrator, shall provide written notice to the applicant/owner/operator of a hearing before the Planning Commission to hear evidence that the commercial solar energy system should not be decommissioned.
2. If a commercial solar energy system is repaired, a Licensed Professional Engineer (hired at the expense of the owner or operator) shall certify its safety prior to the resumption of operation.
3. Within ninety (90) days of the hearing where the Planning Commission has determined that a commercial solar energy system is abandoned or inoperable, the owner/operator shall obtain a permit from the township, and any other necessary entities to remove all structures and equipment, consistent with the approved decommissioning plan.
4. Failure to obtain necessary permits within the 90-day period provided in this subsection shall be grounds for the township to remove the commercial solar energy system at the Owner's expense, consistent with the decommissioning plan.
5. Decommissioning shall include removal of all equipment, including all materials above and below ground, and internal or perimeter access roads. The site shall be restored to a condition that reflects the character of the site prior to installation of the commercial solar energy system including topography, vegetation, soils, drainage, and any unique environmental features.
6. The restoration shall include road repair and hazardous waste cleanup, if any, all re-grading, soil stabilization, and re-vegetation necessary to return the subject property to a stable condition consistent with conditions existing prior to establishment of the commercial solar energy system.
7. The restoration process shall comply with all state, county, or local erosion control, soil stabilization, and/or runoff requirements or ordinances and shall be completed within one year. Extensions may be granted upon request to the Planning Commission prior to expiration of the one-year requirement for completed decommissioning.

### (QQ) Decommissioning Plan:

1. Prior to site plan approval, a commercial solar energy system shall have a plan approved by the township for decommissioning the site that describes the expected duration of the project, how the improvements will be decommissioned, a Professional Engineer's estimated cost of decommissioning, and the financial

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resources necessary to accomplish decommissioning. The decommissioning plan shall address all applicable items in the previous subsection as well as the following.

- (a) The financial resources for decommissioning shall be in the form of a bond or similar financial instrument with a replenishment obligation and shall be deposited by an agent acceptable to the township.
- (b) The financial resources for decommissioning shall be one hundred twenty-five (125%) percent of the estimated removal and restoration cost. The Planning Commission shall require independent verification of the adequacy of this amount from a Professional Engineer.
- (c) The Planning Commission, Building Official, and Zoning Administrator shall annually review the amount deposited for removal, site restoration, and administration costs to ensure it is adequate for these purposes. If the Planning Commission determines that these amounts are not adequate, the township shall require the owner/operator to make additional deposits to increase the amount of the surety bond to cure such inadequacy.
- (d) If decommissioning is not completed by the applicant within one year of receiving the necessary permits for decommissioning, the township shall have access to the financial resources for the expressed purpose of completing decommissioning. Funds may be used for administrative fees and costs associated with decommissioning.
- (e) The township is granted the right of entry onto the site, pursuant to reasonable notice, to effect or complete decommissioning.
- (f) The township is granted the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the applicant or applicant's successor for decommissioning costs in excess of the amount provided for in the decommissioning plan and to file a lien against any real estate owned by applicant or applicant's successor, or in which they have an interest, for the amount of the excess, and to take all steps allowed by law to enforce said lien.

### (RR) Change in Ownership

1. The township must be notified in advance of any change in ownership of a commercial solar energy system. The following information shall be provided in the notification:
  - (a) The current owner's name, address, and contact information (email and phone number).
  - (b) The proposed new owner's name, address, and contact information (email and phone number).
  - (c) The property address, including Parcel ID number.
  - (d) If there is to be a change in responsibility for oversight and operation of the system, the name, address, and contact information for the new operator (email and phone number) will be required as well.

(Ord No. 2022-06 Amended by adoption December 12, 2022)

## **Sec. 36-1805. TOWER ORDINANCE**

(Approved 5/27/99)

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AN ORDINANCE TO ESTABLISH GENERAL GUIDELINES FOR THE SITING OF WIRELESS COMMUNICATIONS TOWERS AND ANTENNAS; TO PROVIDE DEFINITION PERTINENT THERETO; TO PROVIDE FOR THE ISSUANCE OF PERMITS AND LEASE AGREEMENTS; TO PROVIDE THAT WIRELESS TELECOMMUNICATIONS TOWERS ARE PERMITTED USES IN ALL ZONING DISTRICTS AFTER SPECIAL APPROVAL; TO PROVIDE FOR PERMITTED LOCATIONS; TO PROVIDE CONDITIONS FOR PERMITTED USES, ACCESSORY USES AND USES AFTER SPECIAL APPROVAL; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR AN EFFECTIVE DATE.

### (A) Definitions

1. "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
2. "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.
3. "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.
4. "FAA" means the Federal Aviation Administration.
5. "FCC" means the Federal Communications Commission.
6. "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.
7. "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit has been issued or a Use After Special Approval has been properly granted prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.
8. "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.
9. "Township" means the Charter Township of Flushing.

### (B) Purpose

The purpose of this section is to establish general guidelines for the siting of wireless communications towers and antennas.

### (C) Goals

The goals of this section are to:

1. Protect residential areas and land uses from potential adverse impacts of towers and antennas.

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2. Encourage the location of towers in non-residential areas.
3. Minimize the total number of towers throughout the community.
4. Strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers.
5. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
6. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques.
7. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
8. Consider the public health and safety of communication towers.
9. Avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Charter Township of Flushing shall give due consideration to the Township's master plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

### (D) Applicability.

1. New Towers and Antennas. All new towers or antennas in the Township shall be subject to these regulations, except as provided in Sections D (2) through (4), inclusive.
2. Amateur Radio Station Operators Receive Only Antennas This section shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
3. Preexisting Towers or Antennas Preexisting towers and preexisting antennas shall not be required to meet the requirements of this section, other than the requirements of Section E (6) and (7).
4. AM Array For purposes of implementing this section, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

### (E) General Requirements.

1. Principal or Accessory Use Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
2. Lot Size For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

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3. **Inventory of Existing Sites** Each applicant for an antenna and/or tower shall provide to the Zoning Administrator an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Township or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for an administrative approval or Use After Special Approval under this section or other organizations seeking to locate antennas within the jurisdiction of the Township, provided, however that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.
4. **Aesthetics** Towers and antennas shall meet the following requirements:
  - (a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
  - (b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
  - (c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
5. **Lighting** Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.
6. **State or Federal Requirements** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this section shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.
7. **Building Codes, Safety Standards** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Township concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner's expense.



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8. Measurement For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Township irrespective of municipal and county jurisdictional boundaries.
9. Not Essential Service Towers and antennas shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential services, public utilities, or private utilities.
10. Franchises Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Township have been obtained and shall file a copy of all required franchises with the Zoning Administrator.
11. Public Notice For purposes of this section, any Use After Special Approval request, variance request, or appeal of an administratively approved use or Use After Special Approval shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section H(2)(g)(1), Table 2, in addition to any notice otherwise required by the Zoning Ordinance.
12. Signs A small sign no larger than 8" x 8" shall be affixed to the base of each tower, or to the gate of any fence surrounding the tower; and shall set forth the name of the owner of the tower, the owner's address and telephone number, and the name or title and telephone number of a person to be contacted in the event of an emergency relating to the tower. No other signs shall be allowed on an antenna or tower.
13. Buildings and Support Equipment Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 9.
14. Multiple Antenna/Tower Plan The Township encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

### (F) Permitted Uses.

1. General The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a Use after Special Approval.
2. Permitted Uses The following uses are specifically permitted:
  - (a) Antennas or towers located on property owned, leased, or otherwise controlled by the Township provided a license or lease authorizing such antenna or tower has been approved by the Township.

### (G) Administratively Approved Uses.

1. General The following provisions shall govern the issuance of administrative approvals for towers and antennas.
  - (a) The Zoning Administrator may administratively approve the uses listed in this Section.
  - (b) Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in Section G(2)(a) and G(2)(c) of this ordinance and a nonrefundable fee as established by resolution of Flushing Township Board to reimburse the Township for the costs of reviewing the application.

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- (c) The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with G(2)(d) and G(2)(e) of this ordinance.
  - (d) The Zoning Administrator shall respond in writing to each such application within sixty (60) days after receiving it by either approving or denying the application. Reasons for denial shall be set forth in the written notification.
  - (e) In connection with any such administrative approval, the Zoning Board of Appeals may, in order to encourage shared use, grant a variance to waive any zoning district setback requirements in Section G(2)(d) or separation distances between towers in Section G(2)(e) by up to fifty percent (50%).
  - (f) In connection with any such administrative approval, the Zoning Administrator may, in order to encourage the use of monopolies, administratively allow the reconstruction of an existing tower to monopole construction.
  - (g) If an administrative approval is denied, the applicant shall file an application for a Use After Special Approval pursuant to Section G prior to filing any appeal that may be available under the Zoning Ordinance.
2. List of Administratively Approved Uses The following uses may be approved by the Zoning Administrator after conducting an administrative review:
- (a) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, on any property zoned M-1, M-2 or C-3.
  - (b) Locating antennas on existing structures or towers consistent with the terms of subsections (1) and (2) below.
    - (1) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multifamily structure of eight or more dwelling units, provided:
      - a. The antenna does not extend more than thirty (30) feet above the highest point of the structure;
      - b. The antenna complies with all applicable FCC and FAA regulations; and
      - c. The antenna complies with all applicable building codes.
    - (c) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Zoning Administrator and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
      - (1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.

3. Height

- (a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.
- (b) The height change referred to in subsection (a) may only occur one time for each communication tower.
- (c) The additional height referred to in subsection (a) shall not require an additional distance separation as set forth in Section G. The tower's pre-modification height shall be used to calculate such distance separations.

4. Onsite location

- (a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.
- (b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
- (c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section G(2)(e). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section G(2)(e).
- (d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section G(2)(e) shall only be permitted when approved by the Zoning Board of Appeals.
- (e) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in subsection (c) and the requirements of this ordinance; the tower meets the setback requirements in Section G(2)(d) and separation distances in Section G(2)(e); and the tower meets the following height and usage criteria:
  - (1) for a single user, up to ninety (90) feet in height;
  - (2) for two users, up to one hundred twenty (120) feet in height; and
  - (3) for three or more users, up to one hundred fifty (150) feet in height.
- (f) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Administrator is in conformity with the goals set forth in section (c) of this ordinance.
- (g) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(H) Use After Special Approval.

1. General The following provisions shall govern the granting of a Use after Special Approval for towers or antennas by the Planning Commission:
  - (a) If the tower or antenna is not a permitted use under subsection (F) of this ordinance or permitted to be approved administratively pursuant to subsection (G) of this ordinance, then a Use After Special Approval shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
  - (b) Applications for Use After Special Approval under this Section shall be subject to the procedures and requirements as determined by the Township Planning Commission, except as modified in this Section.
  - (c) In granting a Use After Special Approval, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - (d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
  - (e) An applicant for a Use After Special Approval shall submit the information described in this Section and a non-refundable fee as established by resolution of the Township Board to reimburse the Township for the costs of reviewing the application.
2. Towers
  - (a) Information required. In addition to any information required for applications for Use After Special Approval, (as outlined on the permit document), applicants for a Use After Special Approval for a tower shall submit the following information:
    - (1) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Master Plan classification of site and all properties within the applicable separation distances set forth in Section G(2)(e), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Planning Commission to be necessary to assess compliance with this section.
    - (2) Legal description of the parent tract and leased parcel (if applicable).
    - (3) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
    - (4) The separation distance from other towers described in the inventory of existing sites submitted pursuant to subsection (E)(3) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.
    - (5) A landscape plan showing specific landscape materials.

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- (6) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
  - (7) A description of compliance with subsections (E)(3), (4), (5), (6), (7), (10), (12), and (13), (F)(2)(d), (H)(2)(e) and all applicable federal, state or local laws.
  - (8) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
  - (9) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality. The backhaul provider must be the holder of a telephone franchise in Flushing Township.
  - (10) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
  - (11) A description of the feasible location(s) of future towers or antennas within the Township based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.
  - (12) A statement verifying a "safe fall" zone for the tower, antenna or pole, including any and all attachments, shall be certified and sealed by a licensed engineer or architect and furnished with the application. Manufacturer's specifications of a safe fall zone may be substituted. No building, sidewalk, parking lot or other area in which pedestrian or vehicular traffic is anticipated shall be permitted within the safe fall area.
  - (13) A statement verifying that the tower, antenna or pole, including any and all attachments, will withstand wind speeds of up to 100 m.p.h. with no ice and 74 m.p.h. with up to 1/2 inch radial ice, shall be certified and sealed by a licensed engineer or architect and furnished with the application. Manufacturer's specifications may be substituted.
  - (14) The system shall be certified by a licensed engineer to verify that the signal(s) being transmitted will not interfere with the ability of surrounding uses to receive signals from different radio, television, telephone or other electronic equipment.
- (b) Factors considered in granting a Use After Special Approval for Towers. In addition to any standards for consideration of Use After Special Approval applications, the Planning Commission shall consider the following factors in determining whether to grant a Use After Special Approval, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this section are better served thereby:
- (1) Height of the proposed tower;
  - (2) Proximity of the tower to residential structures and residential district boundaries;

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- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress; and
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section G(2)(c) of this ordinance.

In the event that the application is denied, the reason for denial shall be set forth in writing

- (c) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
  - (1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
  - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
  - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
  - (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - (5) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
  - (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

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(d) Setbacks. The following setback requirements shall apply to all towers for which a Use After Special Approval is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this section would be better served thereby:

(1) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

(2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(e) Separation. The following separation requirements shall apply to all towers and antennas for which a Use after Special Approval is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this section would be better served thereby.

(f) Separation from off-site uses/designated areas.

(1) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(2) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units <sup>1</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower <sup>2</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>3</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or nonresidential uses	None; only setbacks apply
1. Includes modular homes and mobile homes used for living purposes. 2. Separation measured from base of tower to closest building setback line. 3. Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any property zoned RU-3 or RU-4.	

(g) Separation distances between towers.

(1) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

Existing Towers - Types
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	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

- (h) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate.
- (i) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a Use After Special Approval is required; provided, however, that the Planning Commission may waive such requirements if the goals of this section would be better served thereby.
  - (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.
  - (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
  - (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

### (l) Buildings or Other Equipment Storage.

1. Antennas Mounted on Structures or Rooftops The equipment cabinet or structure used in association with antennas shall comply with the following:
  - (a) The cabinet or structure shall not contain more than 312 square feet of gross floor area or be more than 9 feet in height. In addition, for buildings and structures which are less than sixty-five (65) feet in height, the related unmanned equipment structure, if over 200 square feet of gross floor area, shall be located on the ground and shall not be located on the roof of the structure.
  - (b) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 25 percent of the roof area.
  - (c) Equipment storage buildings or cabinets shall comply with all applicable building codes.
2. Antennas Mounted on Utility Poles or Light Poles The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:
  - (a) In residential districts, the equipment cabinet or structure may be located:



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- (1) In a front or side yard provided the cabinet or structure is no greater than 9 feet in height or 312 square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 42-48 inches and a planted height of at least 36 inches.
- (2) In a rear yard, provided the cabinet or structure is no greater than 9 feet in height or 312 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of six (6) feet and a planted height of at least 36 inches.
- (b) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 9 feet in height or 312 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 8 feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.
3. Antennas Located on Towers The related unmanned equipment structure shall not contain more than 312 square feet of gross floor area or be more than 9 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.
4. Modification of Building Size Requirements The requirements of Section (I)1. through 3. may be modified by the Zoning Administrator in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation.

### (J) Removal of Abandoned Antennas and Towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the Township notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety-(90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

### (K) Nonconforming Uses

1. Not Expansion of Nonconforming Use Towers that are constructed, and antennas that are installed, in accordance with the provisions of this section shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. Preexisting towers Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.
3. Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas Notwithstanding Section (J), bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a Use After Special Approval and without having to meet the separation

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requirements specified in Sections G(2)(d) and G(2)(e). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section J.

### (L) Zoning Districts

Article VII (Residential Suburban Agricultural) RSA  
Article VIII (Residential Urban District) RU-1  
Article IX (Residential Urban Medium Density District) RU-2  
Article X (Residential Urban High Density) RU-3  
Article XI (Residential Urban Mobile Home Park) RU-4  
Article XII (Sports and Recreation District) SR  
Article XIII (Local Commercial District) C-1  
Article XIV (General Commercial District) C-2  
Article XV (Commercial Shopping Center District) C-3  
Article XVI (Light Manufacturing District) M-1  
Article XVII (Heavy Manufacturing District) M-2

Flushing Township Zoning Ordinance as amended, are amended to add the following sections and/or subsections:

1. Section 20-704. Uses permitted by discretionary special use permit: (32) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
2. Section 20-804. Uses permitted by discretionary special use permit: (30) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
3. Section 20-904. Uses permitted by discretionary special use permit: (16) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
4. Section 20.1004. Uses permitted by discretionary special use permit: (6) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.
5. Section 20.1103. Uses permitted by discretionary special use permit: (3) Wireless Telecommunication Towers and antennas as provided in Ordinance 67-98.

### (M) Severability

The various parts, sections and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

### (N) Repealer

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

**Sec. 36-1806. – 36-1899      Reserved.**

## Article 19    Site Plan

### **Sec. 36-1900. Site Plan Review Procedure - Intent**

The site plan review procedures are instituted to provide an opportunity for the Township Planning Commission to review the proposed use of a site in relation to adjacent land uses,

environmental factors, drainage, pedestrian and vehicular circulation, off-street parking, structural relationships, public services and facilities, landscaping, accessibility, and other site design elements which may have an adverse effect on the public health, safety, morals, and general welfare, as well as to provide for the interest of the property owner.

#### **Sec. 36-1901. Developments Requiring Site Plan**

Site plan review procedures shall apply to all proposed uses, except one- and two-family dwellings. Condominium projects, including those involving one- and two-family dwellings shall require site plan review. Site plan review for mobile home parks shall be in accordance with the standards promulgated by the Mobile Home Parks Commission.

Any commercial district that abuts a residential area may require additional set backs and buffers for the health safety and welfare of the residentially zoned area.

#### **Sec. 36-1902. Site Plan Review Requirements**

Before any building permit shall be issued, a site plan drawn to a scale of one (1) inch equals twenty (20) feet, and at least two (2) copies of this site plan shall be submitted to the township clerk. Such site plan shall contain the following information:

- (A) Statistical data including: number of dwelling units, size of dwelling units (e.g., one-bedroom, two-bedroom, and three-bedroom), if any, and total gross acreage involved. In all other cases, the location, type, horsepower, fuel, dimensions and other data of all machinery to be used on the proposed site.
- (B) The location of principal and accessory buildings on the lot and the relationship of each structure to the other.
- (C) Vehicular traffic and pedestrian circulation features within and without the site.
- (D) The location and dimensions of all off-street parking areas including maneuvering lanes, service lanes, off-street loading spaces and other service areas within the development.
- (E) The location, dimensions and proposed use of all on-site recreation areas, if any.
- (F) The location of all proposed landscaping, fences or walls.
- (G) The height and dimensions of all structures.
- (H) Front, rear and side elevations of any typical structure proposed for development.
- (I) The location and capacity of private or public water and sanitary services and solid waste disposal facilities servicing the site.
- (J) The locations, dimensions and lighting of all signs.
- (K) The location, intensity and orientation of all lighting.
- (L) A location map indicating the relationship of the site to the surrounding land use for an area of not less than one (1) square mile.
- (M) A physiographic map showing the natural topography, the soil types, and suitability for intended use, natural features such as wood lots, lakes, drains, streams, and ditches, and surface coverage data (such as paved areas and structures) related to storm water runoff characteristics.
- (N) The site plan shall be sealed by a professional engineer, architect, landscape architect or community planner.

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- (O) Location and size of interior and exterior areas and structures to be used for storage use, loading/unloading, recycling, or disposal of hazardous substances.
- (P) Location of all underground and above ground storage tanks for such uses as fuel storage, waste oil holding tanks, chemical storage, hazardous waste storage, collection of contaminated storm water or wash water, and all similar uses.
- (Q) Location of exterior drains, dry wells, catch basins, retention/detention areas, sumps and other facilities designed to collect, store to transport storm water or waste water. The point of discharge for all drains and pipes shall be specified on the site plan.
- (R) Delineation of areas on the site which are known or suspected to be contaminated, together with a report on the status of site cleanup.
- (S) Submission of the "Hazardous Substances Reporting Form for Site Plan Review."
- (T) Submission of the "State/County Environmental Permits Checklist."
- (U) 100 year floodplain.
- (V) Topographic lines at 1' intervals.
- (W) Proposed and existing utilities including water, sewer, storm sewer and lighting.
- (X) Driveway location.
- (Y) Current zoning of parcel and if the proposed use is not permitted in the district the parcel is zoned, an indication as to the proposed zoning. (Amended by adoption July 25, 2002)
- (Z) Statement on the plan as to whether wetlands exist on the site. (Added by adoption July 25, 2002)

### **Sec. 36-1903. Site Plan Review Procedures**

Amended by adoption July 25, 2002

The site plan review process is intended to allow the Township the opportunity to review a proposed development prior to its construction, to determine compliance with the requirements of this Ordinance.

- (A) Step One – preliminary site plan review – The applicant shall submit a complete site plan to the Zoning Administrator at least fifteen (15) days prior to the Planning Commission meeting. The Zoning Administrator shall submit one copy to any Township or State official as determined by the Planning Commission. In those instances where the Zoning Administrator or Planning Commission determines it necessary, the Township will submit a site plan for review by professional consultants. The applicant shall be responsible for reimbursing the Township for the cost of this review. Fees charged to the applicant must be paid prior to the issuance of a building permit for the site. The Planning Commission shall review the site plan to determine whether all required information is included, as well as identify any issues or concerns associated with the preliminary site plan. The Planning Commission shall then direct the applicant to submit a site plan which considers the Planning Commission preliminary review comments for final review.
- (B) Step Two – final site plan review
  - 1. The Planning Commission shall review the site plan to determine its compliance with the requirements of this Ordinance, any conditions attached during preliminary review and proof of approval from all county, state and federal departments or agencies. Following their review of the site plan, the Planning Commission shall do one of the the following:

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- (a) Approve the site plan.
  - (b) Approve the site plan with conditions.
  - (c) Postpone the decision on the site plan pending required additional information.
  - (d) Deny the site plan.
2. Record of review – A record of the decision shall be filed with the Township Clerk, including:
- (a) A copy of the submitted site plan, signed by both the applicant and the Zoning Administrator.
  - (b) A copy of any meeting minutes related to the site plan.
  - (c) A copy of any other relevant records related to the site plan.
- (C) Construction observation – During the installation of all public utilities and township approved private infrastructure such as private roads and retention/detention basins, construction observation services will be provided by the Township Engineer or other appropriate owners representative such as the Genesee County Road Commission or Water and Waste Services. All costs will be paid by the applicant. The improvements that are to have construction observation services provided will be identified during final site plan approval.
- (D) As-Builts – As-built drawings shall be provided to the township of all improvements requiring construction observation, unless determined unnecessary by the Planning Commission. A Certificate of Occupancy shall not be issued on a development until as-builts have been provided as required.
- (E) Any disapproval of a site plan by the Planning Commission may be appealed to the Township Board of Zoning Appeals under provisions of Sec. 36-2209.

### **Sec. 36-1904. Approval**

Site plans that contain the information required by the foregoing subsections and are in compliance with the ordinance standards and with modifications imposed by the Planning Commission as well as other applicable ordinances and state and federal statutes and agencies shall be approved. Site plans designed or constructed in noncompliance with requirements of other local, county, state or federal agencies are a violation of the approved site plan and the Township reserves the right to take enforcement action where such action is not preempted by state or federal law. Mobile home site plans meeting the criteria in Sec. 36-417 and the requirements of the Michigan Mobile Home Commission shall be approved.

### **Sec. 36-1905. Conditions**

The modifications imposed by the commission may include those conditions necessary to ensure the public services and facilities affected by a proposed planned use or activity will be capable of accommodating increased service and facility loads used by the land use or activity, to protect the natural environment and conserve natural resources and energy, to ensure compatibility with adjacent uses of land, and to promote the use of land in a socially and economically desirable manner. The Planning Commission shall not have the authority to impose conditions upon mobile home park plans. These modifications and conditions imposed shall meet all of the following requirements:

- (A) Be designed to protect the natural resources, the health, safety and welfare and the social and economic well-being of those who will use the land use or activity under consideration,

residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole.

- (B) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
- (C) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.

#### **Sec. 36-1906. Performance Guarantee**

To ensure compliance with this zoning ordinance and any conditions imposed thereunder, the commission may require that a cash deposit, certified check, irrevocable bank letter of credit, or surety bond acceptable to the township, covering the estimated costs of improvements associated with the project for which site plan approval is sought be deposited with the clerk of the township to ensure faithful completion of the improvements. The performance guarantee shall be deposited at the time of the issuance of the permit authorizing the activity or project. When a performance guarantee of this kind is required, the Planning Commission shall at the time of the imposition of this condition, establish procedures whereby a rebate of any portion of the deposit is made in reasonable proportion to the ratio of work completed on the required improvements as work progresses. The Planning Commission shall not require a cash deposit, certified check, irrevocable bank letter of credit, or surety bond as part of the review of a mobile home park site plan.

#### **Sec. 36-1907. Approval**

The site plan contains information required by the foregoing subsection is in compliance with the ordinance standards and complies with the modifications imposed by the commission, as well as other applicable ordinances, and state and federal statutes, shall be approved. Mobile home park site plans meeting the criteria in Sec. 36-417 and the requirements of the Michigan Mobile Home Parks Commission shall be approved.

#### **Sec. 36-1908. Standards for Approval**

All site plan reviews shall use the following set of standards to judge whether the plan should be approved or denied.

- (A) **Off Site Improvements.** No off site improvements can be required as a condition for site approval, unless the applicant has volunteered to construct such improvements as documented by their site plan drawing. However, if the lack of such off site improvements will create unacceptable conditions, said lack is sufficient justification for denial of a site plan.
- (B) **District Regulations.** The project must comply with the applicable district regulation regarding use, dimensions, off street parking and any other aspects of development.
- (C) **Special Use Standards.** If the site plan review is being conducted for a proposed Special Land Use Permit, any Special Use Standards relating to the use must also be satisfied.
- (D) **Transportation.** Transportation facilities serving the parcel must be sufficient to provide safe and efficient access to the parcel and circulation within it. Consideration shall be given to roads rights of way, surface type, number of lanes, driveway design and location, vehicular circulation within the parcel, parking, snow removal from transportation facilities, pedestrian circulation, emergency vehicle access, and accessibility for handicapped persons. When the adequacy of public road service to the parcel is questioned, the input of

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the Genesee County Road Commission shall be sought. All parking areas shall be adequately screened to minimize headlight glare from shining onto adjacent property.

- (E) **Utilities.** Public utilities, including water, sewer and storm drainage facilities, must be adequate to serve the proposed use or sufficient provisions shall be made to provide these services on site. Private utility services, including electricity, telephone and natural gas, must be sufficient to serve the needs of the project. When the adequacy of any public utility service to the site is in question, the input of the appropriate public utility provider shall be sought.
- (F) **Fire Protection.** The proposed project must comply with applicable fire safety regulations. Also, current fire department personnel and equipment must be sufficient to serve the project or sufficient provisions shall be made to provide these services. Finally, location number and capacity of fire hydrants, if applicable, must be adequate to serve fire suppression needs.
- (G) **Environment Natural.** features of the landscape should be retained whenever practicable to serve as a buffer between the project and adjoining properties or help to control erosion, contain storm water runoff, absorb noise, deflect wind currents, reduce glare or otherwise benefit the general health, safety or appearance of the neighborhood. Any buildings, fences, lighting, vegetation or other features that are introduced into the landscape should be designed to complement the site's surrounding environment and enhance the positive features of the project. The site will be developed with the goal of controlling any negative impacts the project might have, such as noise, smoke, vibration, odor, glare, heat or dust so that they will not be discernible beyond the property boundaries. Further, projects shall fully adhere to applicable environmental regulations promulgated by the Michigan Department of Natural Resources, Genesee County Health Department or other agencies. In addition:
1. Sites at which hazardous substances are stored, used or generated shall be designed to prevent spills and discharges to the air, surface of the ground, ground water, lakes, streams, rivers or wetlands.
  2. Secondary containment for above ground areas where hazardous substances are stored or used shall be provided. Secondary containment shall be sufficient to store the substance for the maximum anticipated period of time necessary for the recovery of any released substance.
  3. General purpose floor drains shall only be allowed if they are approved by the responsible agency for connection to a public sewer system, an onsite closed holding tank (not a septic system), or regulated through a State of Michigan ground water discharge permit.
  4. State and federal agency requirements for storage, spill prevention, record keeping, emergency response, transport and disposal of hazardous substances shall be met. No discharges to ground water, including direct and indirect discharges, shall be allowed without required permits and approvals.
- (H) **Consistency With Ordinance Intent.** The site plan should be generally consistent with the purpose and objectives of this ordinance and with the purpose of the Zoning District in which the subject parcel is located.

**Sec. 36-1909. – 36-1999      Reserved.**

## Article 20 Amendments

### **Sec. 36-2000. Initiation of Zoning Ordinance Amendment**

- (A) Any proposal for an amendment to the zoning ordinance text or map may be initiated by any qualified voter, resident on the township upon the filing with the township clerk of a petition containing the proposed text or map change and endorsed by not less than 100 township electors.
- (B) Any proposal for an amendment to the zoning ordinance map may be initiated by any owner of an interest in the lot as to the zoning of such lot upon the filing with the township clerk an application on forms provided by the township proposing the zone change, accompanied by a map at an appropriate scale showing the subject parcel in relation to adjoining parcels of land, and the necessary fees for such zoning change.
- (C) Any proposal for an amendment to the zoning ordinance text or map may be initiated by the Township Board or the Township Planning Commission, upon filing with the township clerk a resolution, duly adopted and proposing an amendment.

### **Sec. 36-2001. Zoning Amendment Review Procedures**

- (A) The township clerk shall give notice of the time and place of the Township Planning Commission meeting at which the amendment will be heard by one (1) publication in a newspaper of general circulation in the township.
  - 1. The notice shall be published not less than fifteen (15) days from the date of such hearing.
  - 2. The notice shall include:
    - (a) The places and times at which the tentative text and any maps of the zoning ordinance may be examined.
    - (b) Describe the nature of the request.
    - (c) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
    - (d) State when and where the request will be considered.
    - (e) Indicate when and where written comments will be received concerning the request.
- (B) The township clerk shall give similar notice to each electric, gas, and pipeline public utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the township clerk for the purpose of receiving such notice.
  - 1. Such notice shall be given by first class mail not less fifteen (15) days before the hearing. The township clerk shall maintain an affidavit of such mailing.
- (C) The township clerk shall deliver notice of the proposed amendment and public hearing date to the owner of the property in question, to all persons to whom any real property within three hundred (300) feet of the premises in question is assessed, and to the occupants of all structures within three hundred (300) feet, including those outside the jurisdiction of Flushing Township.



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1. Such notice shall be delivered personally or given by certified mail not less than fifteen (15) days before the hearing.
  2. If a tenant's name is not known, the term "occupant" may be used.
  3. Notification of surrounding property owners and occupants does not apply to rezoning requests involving 11 or more adjacent parcels.
- (D) The Township Planning Commission shall hold a public hearing on the property amendment and shall transmit notice of the proposed amendment and a summary of public hearing comments to the Township Board with its recommendations.
- (E) In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:
1. Whether the rezoning is consistent with the policies and uses proposed for that area in the Township's Master Land Use Plan;
  2. Whether all of the uses allowed under the proposed rezoning would be compatible with other zones and uses in the surrounding area;
  3. Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning; and
  4. Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the current zoning of the land.
- (F) Upon receipt of the recommendations of the Township Planning Commission the Township Board shall take action approving or disapproving the proposed amendment. If the Township Board chooses to hold a public hearing on the proposed amendment, they must comply with the notice requirements outlined in paragraphs (a), (b), and (c) above. If the Township Board wishes to make any changes to the ordinance before adopting it, they may, at their option, resubmit the amendment to the Planning Commission for further review.  
(Amended by Adoption December 14, 2006, Sec.20-2001 (a), (b), (c) and (f))

### **Sec. 36-2002. Conditional Rezoning**

#### **(A) Intent**

It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to owners of an interest in property (hereinafter "owner" shall mean owner of an interest in property) seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 16i of the Township Zoning Act (MCL 125.286i) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request. Unless the ordinance or amendment to the ordinance specifies a later date, the ordinance or amendment shall be effective upon expiration of seven (7) days after publication.  
(Amended Sec. 20-2002 (a) by Adoption December 14, 2006)

#### **(B) Application and Offer of Conditions.**

1. An owner of an interest in property may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or may be made at a later time during the rezoning process.

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2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district.
4. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
5. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.
6. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the provisions of this Ordinance.
7. The offer of conditions may be amended during the process of rezoning consideration provided that any amended or additional conditions are entered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs subsequent to the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing with appropriate notice and a new recommendation.

### (C) Planning Commission Review.

The Planning Commission, after public hearing and consideration of the factors for rezoning set forth in Sec. 36-2001(E) of this Ordinance, may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner.

### (D) Township Board Review

After receipt of the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall include, but not be limited to, a consideration of the factors for rezoning set forth in Sec. 36-2001(E) of this Ordinance. Should the Township Board consider amendments to the proposed conditional rezoning advisable and if such contemplated amendments to the offer of conditions are acceptable to and thereafter offered by the owner, then the Township Board shall, in accordance with Section 11 of the Township Zoning Act (MCL 125.281), refer such amendments to the Planning Commission for a report thereon within a time specified by the Township Board and proceed thereafter in accordance with said statute to deny or approve the conditional rezoning with or without amendments.

### (E) Approval.

1. If the Township Board finds the rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions acceptable to the owner and conforming in form to the provisions of this Section. The Statement of Conditions shall be incorporated by attachment or

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otherwise as an inseparable part of the ordinance adopted by the Township Board to accomplish the requested rezoning.

2. The Statement of Conditions shall:

- (a) Be in a form recordable with the Register of Deeds of the County in which the subject land is located or, in the alternative, be accompanied by a recordable Affidavit or Memorandum prepared and signed by the owner giving notice of the Statement of Conditions in a manner acceptable to the Township Board.
- (b) Contain a legal description of the land to which it pertains.
- (c) Contain a statement acknowledging that the Statement of Conditions runs with the land and is binding upon successor owners of the land.
- (d) Incorporate by attachment or reference any diagram, plans or other documents submitted or approved by the owner that are necessary to illustrate the implementation of the Statement of Conditions. If any such documents are incorporated by reference, the reference shall specify where the document may be examined.
- (e) Contain a statement acknowledging that the Statement of Conditions or an Affidavit or Memorandum giving notice thereof may be recorded by the Township with the Register of Deeds of the County in which the land referenced in the Statement of Conditions is located.
- (f) Contain the notarized signatures of all of the owners of the subject land preceded by a statement attesting to the fact that they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

- 3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The Township Clerk shall maintain a listing of all lands rezoned with a Statement of Conditions.
- 4. The approved Statement of Conditions or an Affidavit or Memorandum giving notice thereof shall be filed by the Township with the Register of Deeds of the County in which the land is located. The Township Board shall have authority to waive this requirement if it determines that, given the nature of the conditions and/or the time frame with which the conditions are to be satisfied, the recording to such a document would be of no material benefit to the Township or to any subsequent owner of the land.
- 5. Upon the rezoning taking effect, the use of the land so rezoned shall conform thereafter to all of the requirements regulating use and development within the new zoning district as modified by any more restrictive provisions contained in the Statement of Conditions.

(F) Compliance with Conditions.

- 1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall constitute a violation of this Zoning Ordinance and be punishable accordingly. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

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2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to an applicable Statement of Conditions.

### (G) Time Period for Establishing Development or Use.

Unless another time period is specified in the Ordinance rezoning the subject land, the approved development and/or use of the land pursuant to building and other required permits must be commenced upon the land within 18 months after the rezoning took effect and thereafter proceed diligently to completion. This time limitation may upon written request be extended by the Township Board if (1) it is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and (2) the Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

### (H) Reversion of Zoning.

If approved development and/or use of the rezoned land does not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 25.286i. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall thereafter be the same as applies to all other rezoning requests.

### (I) Subsequent Rezoning of Land.

When land that is rezoned with a Statement of Conditions is thereafter rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H above or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. Upon the owner's written request, the Township Clerk shall record with the Register of Deeds of the County in which the land is located a notice that the Statement of Conditions is no longer in effect.

### (J) Amendment of Conditions.

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G above or during any extension thereof granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended thereafter in the same manner as was prescribed for the original rezoning and Statement of Conditions.

### (K) Township Right to Rezone.

Nothing in the Statement of Conditions nor in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Township Zoning Act (MCL 125.271, et seq.)

### (L) Failure to Offer Conditions.

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

**Sec. 36-2003. Notice of Adoption**

- (A) Following adoption of zoning ordinance amendments by the Township Board, the amendments shall be filed with the Township Clerk, and a notice of ordinance adoption shall be published in a newspaper of general circulation in the local unit of government within fifteen (15) days after adoption.
- (B) A copy of the notice required under subsection (A) shall be mailed to the airport manager of an airport entitled to notice under Sec. 36-2001(B).
- (C) The notice required under this section shall include all of the following information:
  - 1. Either a summary of the regulatory effect of the amendment, including the geographic area affected, or the text of the amendment.
  - 2. The effective date of the ordinance or amendment.
  - 3. The place where and time when a copy of the ordinance or amendment may be purchased or inspected.

(Amended by Adoption December 14, 2006, Sec. 20-2003 added)

**Sec. 36-2004. Fees**

The Township Board shall set the fees for special meetings.

**Sec. 36-2005. – 36-2099      Reserved.**

**Article 21    Administration**

**Sec. 36-2100. Administration and enforcement.**

- (A) Administrative Official. The Zoning Administrator designated by the Township Board shall administer and enforce this chapter. He may be provided with the assistance of such other persons as the Township Board may direct.
  - 1. If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he shall notify, in writing, the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of any lot or structure; or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.
- (B) Zoning Permits Required. No structure including no accessory structure, shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Zoning Administrator. Fences shall be permitted by issuance of a fence permit as authorized in Sec. 36-408. No zoning permit shall be issued by the Zoning Administrator except in conformity with the provisions of this chapter, unless he received a written approval for a special use permit from the Planning Commission or a reversal on appeal, or variance from the board of zoning appeals, in accordance with provisions of this chapter. (Amended by adoption July 25, 2002)
- (C) Zoning Permit Application. All applications for zoning permits shall be accompanied by two (2) sets of plot plans drawn to the scale of one (1) inch to twenty (20) feet, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of structures already existing, if any; and the location and dimensions of the proposed

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structure or alteration, together with information concerning water runoff from such structure. The application shall include such other information as lawfully may be required by the Zoning Administrator, including data on existing or proposed structures or alteration; existing or proposed uses of the structure and lot; the number of families, housekeeping units, or rental units the structure is designed to accommodate; conditions existing on the lot; and such other information as may be necessary to determine conformance with, and provide for the enforcement of, this chapter.

1. One (1) copy of the plans shall be returned to the applicant by the Zoning Administrator after he shall have marked such copy either as approved, or disapproved, and attested to same by his signature on such copy. One (1) copy of the plans, similarly marked, shall be retained by the building inspector.

(D) Certificates of Occupancy and Zoning Compliance for New, Altered, or Non-conforming Uses. It shall be unlawful to use, or occupy, or permit the use, or occupancy of any structure or premises, or parts thereof, hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure, until a certificate of zoning compliance shall have been issued therefore, by the Zoning Administrator stating that the proposed use of the structure of lot conforms to the requirements of this chapter.

1. No non confirming structure or use shall be maintained, renewed, changed, or extended until a certificate of occupancy and zoning compliance shall have been issued by the Zoning Administrator. The certificate shall state specifically wherein the non conforming use differs from the provisions of this chapter, provided that upon enactment or amendment of the chapter, owners or occupants of non conforming uses or structures shall have six (6) months to apply for such certificates. Failure to make such application within such six (6) months shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this chapter.
2. No permit for erection, alteration, moving, or repair of any structure shall be issued until an application has been made for a certificate of occupancy and zoning compliance, and the certificate shall be issued in conformity with the provisions of this chapter upon completion of the work.
3. A temporary certificate of occupancy and zoning compliance may be issued by the Zoning Administrator for a period not exceeding six (6) months during alterations for partial occupancy of a structure pending completion of such alterations, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.
4. The Zoning Administrator shall maintain a record of all certificates of occupancy and zoning compliance, and a copy shall be furnished upon request to any person.
5. Failure to obtain a certificate of occupancy and zoning compliance shall be a violation of this chapter and punishable under the applicable provisions of this chapter.

(E) Expiration of Zoning Permit If the work described in any zoning permit has not begun within six (6) months from the date of issuance thereof, such permit shall expire, except as otherwise provided herein; it shall be canceled by the Zoning Administrator, and written notice thereof shall be given to the person affected. If the work described in any zoning permit has not been substantially completed within one (1) year of the date of issuance thereof, such permit shall expire. The building inspector may, on application, extend for not

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to exceed one (1) year from the start of construction, without additional charge, if a satisfactory degree of progress in construction is shown.

- (F) Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Occupancy and Zoning Compliance Zoning permits or certificates of occupancy and zoning compliance shall be issued by the Zoning Administrator on the basis of plans and applications approved, where necessary, by the Township Planning Commission or the board of zoning appeals and authorize only the use, conditions, arrangements, and construction set forth in such approved plans or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter, and punishable as provided under applicable provisions of this chapter.

### **Sec. 36-2101. Penalties of Violation**

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards required as conditions for the grants of variances, or appeals, or conditional use permits, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than three hundred dollars (\$300).

1. Each day such violations continue shall be considered a separate offense.
2. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.
3. Nothing herein contained shall prevent the township from taking such other lawful action as is necessary to prevent or remedy any violation.

### **Sec. 36-2102. Schedule of Fees, Charges, and Expenses**

- (A) Fees, charges, and expenses shall be assessed as part of any application required by this chapter to defray expenses incurred in processing such application.
- (B) The Township Board shall establish a schedule of fees, charges, and expenses, and establish a procedure for their collection.
1. The schedule of fees, charges, and expenses shall be conspicuously posted in the township hall.
  2. The schedule of fees, charges, and expenses may be altered or amended by resolution duly adopted by the Township Board.
- (C) No action shall be taken on any application or appeal until all applicable fees, charges, and expenses have been paid in full.

### **Sec. 36-2103. – 36-2199 Reserved.**

## **Article 22 Zoning Board of Appeals**

### **Sec. 36-2200. Composition.**

There is hereby established a Township Zoning Board of Appeals to be composed of five (5) members. One (1) of these members shall be a member of the Township Planning Commission, and the remaining members shall be selected from the electors of the township residing outside of the incorporated cities and villages. It shall be representative of the population distribution and of the various interest present in the township. One (1) member may be a member of the Township Board, but an elected officer of the township shall not serve as chairperson. An

employee or contractor of the Township Board may not serve as a member or an employee of the Township Zoning Board of Appeals.

**Sec. 36-2201. Removal.**

Members of the Zoning Board of Appeals may be removed by the Township Board for nonperformance of duty or misconduct in office upon written charges and after public hearing.

**Sec. 36-2202. Disqualification.**

A member of the Zoning Board of Appeals shall disqualify himself from a vote in which the member has a conflict of interest. Failure of a member to disqualify himself from a vote in which the member has a conflict of interest shall constitute misconduct in office.

**Sec. 36-2203. Terms of Office.**

The terms of members of the Zoning Board of Appeals shall be for three (3) years except for members serving because of the membership on the Planning Commission or Township Board, whose terms shall be limited to the time they are members of the Planning Commission or Township Board, respectively, and the period stated in the resolution appointing them. Successors shall be appointed not more than one (1) month after the term of the preceding member has expired. All vacancies for unexpired terms shall be filled for the remainder of the term.

**Sec. 36-2204. Quorum.**

The Township Zoning Board of Appeals shall not conduct business unless a majority of the members are present.

**Sec. 36-2205. Meetings.**

Meeting of the Township Zoning Board of Appeals shall be held at the call of the chairman and at such other times as the board may specify. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The board shall maintain a record of its proceedings which shall be filed in the office of the township clerk and shall be a public record.

**Sec. 36-2206. Duties.**

- (A) The Township Zoning Board of Appeals shall act upon all questions as they may arise in the administration of this chapter, including the interpretation of the zoning maps. It shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of an ordinance adopted pursuant to the township rural zoning act (MCL 125-271 et seq., MSA 5.2963(1) et seq.). It shall hear and decide all matters referred to it or upon which it is required to pass under this chapter.
- (B) A concurring vote of a majority of the membership of the Zoning Board of Appeals shall be necessary to constitute board action.
- (C) The Zoning Board of Appeals shall state the grounds of each determination.

**Sec. 36-2207. Decisions.**

Decisions of the Zoning Board of Appeals rendered in accordance with the provisions of this chapter shall be final. The person having an interest affected by this chapter may appeal to the circuit court.



**Sec. 36-2208. Variance Review Procedures.**

(A) Procedures.

1. An application for the approval of a variance shall be made, by an owner of an interest in the lot, to the township clerk accompanied by the necessary fees as provided by ordinance, or resolution and documents as provided by this chapter. The ZBA may only consider non-use variances, and may not grant use variances. (Adopted by Amendment December 14, 2006)
2. The application shall be accompanied by a plot plan drawn to the scale of one (1) inch equals twenty (20) feet, and containing the following information:
  - (a) Dimensional elements for which a variance is request.
  - (b) Dimensional relationships of the subject lot to the structures of all adjacent lots.
3. The application shall be accompanied by an affidavit by the applicant explaining:
  - (a) How the strict enforcement of the provisions of the township zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose, or would render conformity unnecessarily burdensome.
  - (b) The need for the variance is due to unique circumstances of the property
  - (c) The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provisions alleged to adversely affect such property.
  - (d) Why the requested variance would do substantial justice to the applicant as well as other property owners in the district, and lesser relaxation would not provide substantial relief and be more consistent with justice to others
  - (e) Why the requested variance will not be contrary to the spirit and intent of this zoning district and public safety.
4. Not less than fifteen (15) days before the meeting the township clerk shall provide notice as required in Sec. 36-1801 of this ordinance. (Amended by Adoption December 14, 2006)
5. The board shall consider the application for variance at its next regular meeting, which provides sufficient time for notice, as required therefore, or within not more than thirty-five (35) days after receipt of the application by the township clerk, and hear and question any witness appearing before the board.
6. The board shall approve, with or without conditions, or disapprove the application and shall communicate its action, in writing, to the applicant, the Township Board, the building inspector, Zoning Administrator, and the Township Planning Commission within thirty-five (35) days from the time of the meeting at which it considered the application. In cases of unusual complexity, or where it is otherwise deemed necessary, this time limit may be extended by the board.
  - (a) The board shall act on an application for a variance where it is found positively that:
    - (1) The applicant has shown practical difficulty by demonstrating that
      - i. The strict enforcement of the zoning ordinance would unreasonably prevent the owner from using the property for a

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- permitted purpose or would render conformity unnecessarily burdensome
  - ii. The need for the variance is due to unique circumstances of the property
  - iii. The conditions and circumstances unique to the property were not created by the owner, or his predecessor in title, within the time following the effective date of the provision alleged to adversely affect such property.
  - iv. The requested variance will not confer special privileges that are denied other properties similarly situated and in the same zoning district.
  - v. Granting of the variance will insure that the spirit of the ordinance is observed, public safety secured and substantial justice done.
7. The board may impose conditions upon the granting of a variance, which when granted, shall meet all of the following conditions:
- (a) Be designed to protect the natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land, use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity and the community as a whole.
  - (b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.
  - (c) Be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance for the land use or activity under consideration, and be necessary to ensure compliance with those standards.
8. The building inspector shall, upon receipt of the notice of approval and upon application by the applicant, accompanied by a receipt attesting to the payment of all required fees, issue a building permit or such other approval permitting the variance, subject to all conditions imposed by such approval.

### **Sec. 36-2209. Appeals Procedures.**

- (A) Intent These appeals procedures are instituted to hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of the township zoning ordinance, except the issuance of a variance which shall follow the procedures of Sec. 36-2208. In addition, these procedures are instituted to appeal Planning Commission decisions on Special Land Use permits and site plans
- (B) Procedures An appeal shall be filed by applying with the officer or body from whom the appeal is taken and with the board of zoning appeals within thirty (30) days of receipt of written confirmation of the decision specifying the grounds for the appeal.
- 1. The officer or body from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the appeal is taken.
  - 2. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer or body from whom the appeal is taken certifies to the board after the notice of appeal shall have been filed with him, that by reason of facts stated in the

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- certificate, a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by restraining order, which may be granted by the board, or by the circuit court, on application, on notice to the officer or body from whom the appeal is taken, and on due cause shown.
3. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of the township, county or state.
  4. The board shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. In appeals dealing with specific parcels of land including Planning Commission decisions on Special Use Permits and Site Plans, the notice requirements of Sec. 36-1801 shall be used. Upon the hearing, any party may appear in person or by agent or by attorney. The board may reverse or affirm, wholly, or partly, or may modify the order requirement decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the power of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. (Amended by Adoption, December 14, 2006, Sec.2-2209, (b) (4))
  5. At the meeting where such an appeal is considered, the board shall consider whether the decision of the administrative official or body was appropriate based on the provisions of this ordinance and the record provided to the board. The board may take additional testimony necessary to complete the record and make a proper determination.
  6. In making a determination on an appeal, the board shall have all of the powers of the administrative official or body the appeal is taken from, including, if applicable, the authority to impose conditions on approval, with the same restrictions on that authority that is imposed on the administrative official or body.
  7. The decision of the board shall be final, but any person having an interest affected by any such ordinance shall have the right to appeal to the circuit court.
  8. The concurring vote of a majority of the members of the board shall be necessary to reverse any order, requirements, decision, or determination of any such administrative official.
  9. Any grounds for any determination by the board shall be stated in writing.