



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334  
269-216-5220 Fax 375-7180 TDD 375-7198  
[www.oshtemo.org](http://www.oshtemo.org)

**NOTICE  
OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**Regular Meeting  
Thursday, January 30, 2020  
6:00 p.m.  
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes: January 09, 2020
6. Old Business
  - a. Discussion - Amendments to the Outdoor Lighting Standards Ordinance
  - b. Discussion - Accessory Buildings
7. New Business
  - a. Discussion – Setting Zoning Code amendment priorities
8. Any Other Business
9. Planning Commissioner Comments
10. Adjournment

**Policy for Public Comment  
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email ([oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org)), walk-in visits, or by appointment.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)  
(revised 5/14/2013)  
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday 8:00 am- 5:00 pm, and on Friday 8:00 am-1:00 pm. Additionally, questions and concerns are accepted at all hours through the website contact form found at [www.oshtemo.org](http://www.oshtemo.org), email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to [oshtemo@oshtemo.org](mailto:oshtemo@oshtemo.org) and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<b><u>Supervisor</u></b>		
Libby Heiny-Cogswell	216-5220	<a href="mailto:libbyhc@oshtemo.org">libbyhc@oshtemo.org</a>
<b><u>Clerk</u></b>		
Dusty Farmer	216-5224	<a href="mailto:dfarmer@oshtemo.org">dfarmer@oshtemo.org</a>
<b><u>Treasurer</u></b>		
Grant Taylor	216-5221	<a href="mailto:gtaylor@oshtemo.org">gtaylor@oshtemo.org</a>
<b><u>Trustees</u></b>		
Cheri L. Bell	372-2275	<a href="mailto:cbell@oshtemo.org">cbell@oshtemo.org</a>
Deb Everett	375-4260	<a href="mailto:deverett@oshtemo.org">deverett@oshtemo.org</a>
Zak Ford	271-5513	<a href="mailto:zford@oshtemo.org">zford@oshtemo.org</a>
Ken Hudok	548-7002	<a href="mailto:khudok@oshtemo.org">khudok@oshtemo.org</a>

<b>Township Department Information</b>		
<b><u>Assessor:</u></b>		
Kristine Biddle	216-5225	<a href="mailto:assessor@oshtemo.org">assessor@oshtemo.org</a>
<b><u>Fire Chief:</u></b>		
Mark Barnes	375-0487	<a href="mailto:mbarnes@oshtemo.org">mbarnes@oshtemo.org</a>
<b><u>Ordinance Enf:</u></b>		
Rick Suwarsky	216-5227	<a href="mailto:rsuwarsky@oshtemo.org">rsuwarsky@oshtemo.org</a>
<b><u>Parks Director:</u></b>		
Karen High	216-5233	<a href="mailto:khigh@oshtemo.org">khigh@oshtemo.org</a>
Rental Info	216-5224	<a href="mailto:oshtemo@oshtemo.org">oshtemo@oshtemo.org</a>
<b><u>Planning Director:</u></b>		
Iris Lubbert	216-5223	<a href="mailto:ilubbert@oshtemo.org">ilubbert@oshtemo.org</a>
<b><u>Public Works:</u></b>		
Marc Elliott	216-5236	<a href="mailto:melliott@oshtemo.org">melliott@oshtemo.org</a>

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**DRAFT MINUTES OF A REGULAR MEETING HELD JANUARY 9, 2020**

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**Agenda**

**Election of Officers: Chair, Vice Chair and Secretary**

**Appointment of Planning Commission Liaison to the Zoning Board of Appeals**

**Old Business**

**a. Discussion – Nonhazardous Materials**

**New Business**

**a. Discussion – Permitted Uses vs. Permitted Uses with Conditions vs. Special Uses**

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A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, January 9, 2020, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

**ALL MEMBERS**

**WERE PRESENT:** Bruce VanderWeele, Chair  
Ron Commissaris  
Dusty Farmer, Secretary  
Micki Maxwell  
Mary Smith, Vice Chair  
Anna Versalle  
Chetan Vyas

Also present were Iris Lubbert, Planning Director, James Porter, Township Attorney and Martha Coash, Meeting Transcriptionist. Two other persons were in attendance.

**Call to Order and Pledge of Allegiance**

Chairperson VanderWeele called the meeting to order at approximately 6:00 p.m. and invited those present to join in reciting the “Pledge of Allegiance.”

**Approval of Agenda**

Since no changes were necessary, the Chair asked for a motion of approval. Mr. Commissaris made a motion to approve the agenda as presented. Mr. Vyas supported the motion. The motion was approved unanimously.

## **Public Comment on Non-Agenda Items**

Chairperson VanderWeele asked if anyone in the audience cared to address the Commission on a non-agenda item. As no one came forward, he moved to the next item.

## **Approval of the Minutes of the Meeting of December 12, 2019**

The Chair asked if there were additions, deletions or corrections to the Minutes of the Meeting of December 12, 2019.

Ms. Smith noted her comments on page four regarding banners and flags that were intended to be temporary but were still in place, should have referred to Olga's, not Spectrum as listed.

Ms. Maxwell made a motion to approve the Minutes of the Meeting of December 12, 2019 as presented, with the correction as noted by Ms. Smith. Mr. Commissaris supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item.

## **Election of Officers**

The Chair solicited nominations for officers for the positions of Chairperson and Vice Chairperson for 2020.

Ms. Smith confirmed with Mr. VanderWeele that he would be willing to continue as Chairperson and nominated him for the position of Chairperson for 2020. As there were no other nominations, the Chair asked for a vote.

The vote to elect Mr. VanderWeele to continue in the position of Chairperson for 2020 was unanimous.

Ms. Smith confirmed that Ms. Maxwell would be willing to accept the position of Vice Chairperson for 2020 and nominated her for that position for 2020. As there were no other nominations, the Chair asked for a vote.

The vote to elect Ms. Maxwell to the position of Vice Chair for 2020 carried unanimously.

The Chair noted the bylaws were changed to eliminate the position of Planning Commission Secretary and that Commission members needed to designate a recording secretary for 2020. He asked for a motion.

Ms. Farmer made a motion to designate Martha Coash as recording secretary for the Planning Commission for 2020. Mr. Commissaris supported the motion. The motion was approved unanimously.

### **Appointment of Planning Commission Liaison to the Zoning Board of Appeals**

Chairperson VanderWeele noted the need to also appoint a Commission Liaison to the Zoning Board of Appeals.

Ms. Farmer determined Ms. Maxwell was eligible and willing to continue as Liaison to the Zoning Board of Appeals for 2020 and nominated her for that position. The vote to appoint Ms. Maxwell as liaison for 2020 was unanimous.

Chairperson VanderWeele moved to the next agenda item.

### **Old Business**

#### **a. Discussion – Nonhazardous Materials**

Ms. Lubbert introduced this item, discussed at an earlier meeting and postponed for further study. She reminded the Commission that Taplin, Inc., an environmental services firm within Oshtemo Township, wishes to build a structure to process nonhazardous waste within their facility located at the corner of Drake Road and Michigan Avenue, just west of Bud and Doug Walter Auto Sales. Currently a nonhazardous materials treatment and disposal facility is not permitted within the Township Zoning Ordinance.

The firm's owners met with Township staff in early August 2019 to discuss the possibility of constructing this facility. After discussion with Taplin, staff decided to investigate the use and determine if ordinance language could be written to allow for this development. Staff conducted research on the requirements of nonhazardous material management through the Environmental Protection Agency and the Michigan Department of Environment, Great Lakes and Energy. Other treatment companies were reviewed to determine if special requirements must be met. Finally, a search of ordinance language related to nonhazardous treatment facilities was conducted.

The results of these searches determined treatment of nonhazardous material should occur within an enclosed building with a secondary containment system provided to ensure the results of any process within the facility do not impact ground water. The secondary containment system would be particularly important in Kalamazoo County, as all our water is ground water. Permission from the City of Kalamazoo to discharge the resultant water from the treatment process would need to be obtained.

Taplin's request was originally presented to the Planning Commission at their regular October 24<sup>th</sup> meeting along with a drafted ordinance amendment allowing for nonhazardous materials treatment and disposal facilities within the I-2: Industrial District

as a special use. At this meeting, the Planning Commission expressed concerns about the request and moved to postpone the item in order to obtain additional information from Taplin, Inc.

Ms. Lubbert noted Mr. Steve Taplin, representing Taplin, Inc., was present to answer any questions that the Commission has regarding his proposal to allow for nonhazardous materials treatment and disposal facilities within Oshtemo Township.

Chairperson VanderWeele thanked Ms. Lubbert for her report and asked Mr. Taplin to speak with the Commission.

Mr. Taplin explained hazardous waste can be toxic, flammable or corrosive and is defined by very specific criteria. If waste falls outside of those criteria it is defined as nonhazardous waste and needs to be managed, which may involve added treatment and a separation process which generates recycling of waste and reclaiming water. His business deals with that type of waste as well as foundry waste water which is generated on a regular basis and transported to Taplin for processing and then transported from there.

Ms. Farmer expressed concerns about loading/unloading at the facility as well as the business' proximity to residential uses, and noted zoning goes with property not with the person. She felt the business sounded very useful to the community, but that more research and reassurance from experts was needed before moving forward.

Mr. Vyas asked whether there would be an increase in noise for neighbors.

Mr. Taplin assured the Commission that the requested operation would be done inside and negative air (in not out) is managed accordingly. There should be no odor pollution but carbon treatment filters could be employed on the HVAC system. He said there would not be an increase frequency of trucks coming and going or loading/unloading or more resulting noise.

Attorney Porter said Taplin, Inc. has been a good corporate citizen for years and that the Township probably needs draft language provided by their own engineer for specifics in case the business changes hands and to determine how to define what can be treated and how odor can be contained.

Mr. Taplin said he knew it would take some time to address Township concerns and acknowledged his company does work people do not know about. He pointed out his company was the first responder for the Enbridge oil spill and is one of the largest firms in the State doing this kind of work. He explained it is good for the area to have a local firm that manages waste so it does not have to be trucked elsewhere. He does not anticipate bringing in waste from similar companies for processing.

Ms. Smith explained hazardous waste operations, air and odors are regulated by the DEQ and the EPA. The Commission does not have to consider those things; their

responsibility is to determine whether the proposed use is appropriate for zoning.

Chairperson VanderWeele thanked Mr. Taplin for coming to speak to the Commission. He determined the consensus of the group was to turn the request back over to Ms. Lubbert to find an expert advisor to help review and revise the applicable zoning. He acknowledged timelines can stretch out when trying to find an expert to assist, but they will try to keep this moving forward.

Mr. Commissaris asked if there would be a need for zoning consideration given that the business is near residential property. He also noted some confusing language that will need clarification regarding prohibited uses.

Attorney Porter said that those things will be addressed.

## **New Business**

### **a. Discussion – Permitted Uses vs. Permitted Uses with Conditions vs. Special Uses**

Ms. Lubbert explained Oshtemo Township's Zoning Code outlines three different types of uses within each Zoning District: Permitted Uses, Permitted Uses with Conditions, and Special Uses. When a site plan for new construction or a significant alteration is submitted within a zoning district it will fall into one of these three categories, each triggering a different level of review. Apart from single-family homes, duplexes, and accessory buildings, all site plans are required to be reviewed by the Planning Commission or the Zoning Board of Appeals. The Township's Site Plan review process is outlined in Article 64 of the Zoning Code. In summary, the Planning Commission reviews all Special Uses, the Zoning Board of Appeals reviews Permitted Uses and Permitted Uses with Conditions, and staff administratively reviews smaller alterations and temporary uses.

She said site plans that fall under review by the Zoning Board of Appeals or the Planning Commission go through a six week or more public review process. She provided a brief summary of the three types of uses requiring this level of review:

- **Permitted Uses:** In every zoning district within the Township there are listed Permitted Uses. These are the uses allowed in a zoning district without contention and often are used to define the character and intensity of that district. For example, in the Township's R-1: Residence Zoning District the listed permitted uses are: private one family dwellings, essential services (excluding buildings and regulatory stations), accessory buildings and uses customary to the foregoing, and family daycare homes. Based on the listed uses it is clear the intent of this district is for low-density single-family development. Submitted site plans that fall under the Permitted Use category can only legally be reviewed on the criteria outlined in the Zoning Ordinance. Often these uses are referred to as "uses by right". When a site plan for a Permitted Use is under review and meets

the requirements of the Ordinance, it is required by law to be approved. In these cases, the reviewing body is not permitted to request any additional conditions aside from what the Zoning Code requires.

- Permitted Use with Conditions: These types of uses follow the same principles of Permitted Uses except that there are additional conditions that the submitted site plan needs to meet in order to be approved. Similar to Permitted Uses, when a site plan for a Permitted Use with Conditions is under review and meets the requirements of the Ordinance, it is required by law to be approved. In these cases, the reviewing body is not permitted to request any additional conditions aside from what the Zoning Code requires.
- Special Uses: Special Uses are permitted uses identified in a zoning district that may have potentially unique characteristics that could be incompatible with other uses permitted in such zoning district. Unlike the previous two use types, the reviewing body of a site plan that falls into this category is permitted some discretion in their review. This discretion is meant to allow for flexible zoning control and still afford protection of property values and orderly and compatible development. If they find the use not compatible or if other concerns arise, even if the request meets the zoning requirements, they have the authority to deny the request or request modifications.

Ms. Lubbert noted that it is the Township's practice to take all three of these use types through the Township's six week or more public review process, which involves staff coordination with the applicant, one or more staff reviews of the submittal to ensure zoning compliance, the creation of a staff report that can be several pages long that outlines compliance or non-compliance of a project, and a presentation and public hearing at the reviewing body.

For site plans that fall into the Permitted Use and Permitted Use with Conditions categories, the Zoning Board of Appeals can only approve or deny an application based on whether the request meets the code or not. As noted, the reviewing body cannot request alterations or deny a request if the requirements of the code are met. Currently, staff determines the compliance of the case through review and outlines that compliance in a staff report for the Zoning Board of Appeals to consider.

She said in many jurisdictions, as there are no considerations beyond what is outlined in the code, reviews of Permitted Uses and Permitted Uses with Conditions are administrative. She requested the Planning Commission discuss and consider the possibility of transferring Permitted Use and Permitted Use with Condition site plan reviews to Township Staff for administrative review and approval. This change would drastically decrease the amount of administrative time needed in these types of reviews and streamline the process for Permitted Use and Permitted Use with Condition site plans, with the overall goal an increase in efficiency.

Staff understands certain types of Permitted Uses or Permitted Uses with



Conditions can be controversial and the Township may still wish to have certain requests be considered by a reviewing body as well as allow public comment. However, under the current set up, even if the public is against a specific proposal, the reviewing body cannot react to the public's concern as they are required by law to approve a request of this nature if the plan meets zoning standards. She proposed moving these controversial types of uses from Permitted Uses or Permitted Uses with Conditions to Special Uses. Not only would this allow for the continuance of public comment, it would also allow the Township the ability to respond to public concern and place conditions on these types of requests.

Ms. Lubbert said staff first presented this idea to the Zoning Board of Appeals for discussion at their special meeting on December 17<sup>th</sup>. The Board was unanimously supportive of exploring this option. If consensus is reached by the Planning Commission in support of these changes, staff would work with the reviewing bodies to determine which Permitted Uses and Permitted Uses with Conditions in each zoning district should be converted into Special Uses and then move to make the review of the remaining Permitted Uses and Permitted uses with Conditions administrative. This process would be phased and involve review from the Zoning Board of Appeals, the Planning Commission, and the Township Board.

Attorney Porter added almost everything that comes forward currently has to be considered through the entire process. This proposal would streamline the process by providing perfunctory approval without review by a reviewing body. The current process exceeds what is required by state law and adds not only time but cost.

Ms. Lubbert noted under the proposed changes the Zoning Board of Appeals would only consider variances and contended interpretations of the code, which would considerably lighten the Board's workload, likely allowing them to reduce their number of meetings a year. Currently, about 90% of site plans go through the public review process. Streamlining the process will reduce time for staff and the Zoning Board of Appeals. She added that this change to the approval process would also reduce the application review and approval time for many applicants by several months. Ms. Farmer noted that this proposed change would also reduce costs as the required public notice for public meetings in the Kalamazoo Gazette costs the Township tens of thousands of dollars each year. Eliminating much of that cost will result in being more fiscally responsible to residents.

Chairperson VanderWeele said he was personally in favor of this proposal and asked how it should be moved forward.

Ms. Lubbert said the endorsement received from the Zoning Board of Appeals was the first step. After gaining approval from the Planning Commission, she would take the proposal to the Township Board. If endorsed there, she would work first with the Zoning Board of Appeals, then the Planning Commission to review changes proposed, section by section, to develop a list of recommendations which would ultimately be taken to the Township Board for approval. Working on developing and implementing

changes in the process will take more work up front, but will save work in the long term.

Ms. Farmer said she agreed this was a positive move and would lessen the overall workload for Planning Staff but would like to see the Township develop a plan for marijuana businesses first.

Ms. Versalle commented the proposed process would provide a better channel for public comment for those things that need public comment.

Chairperson VanderWeele determined Commission support for this change and asked Ms. Lubbert to move forward with the development and approval process.

### **Any Other Business**

Ms. Lubbert invited Commission members to attend a “Planning on Essentials” workshop and noted she ordered additional Planning Commission toolkits from the Michigan Planning Association so all members can take advantage of that resource.

### **PLANNING COMMISSIONER COMMENTS**

Chairperson VanderWeele acknowledged and welcomed new Commission members Anna Versalle and Chetan Vyas.

Ms. Farmer expanded on her comment that it is important to timely work on ordinance regarding marijuana. She has received many inquiries since voters passed legalization legislation. Consideration and decisions regarding where marijuana business is appropriate, need to be addressed as soon as possible.

Ms. Lubbert indicated she would bring forward a list of requested and needed code amendments to the next meeting to set priorities.

In answer to a question regarding changes to the ordinance for marijuana from Mr. Commissaris, Ms. Lubbert said public hearings would be held as part of the process.

Attorney Porter recommended that decisions be center on selecting appropriate areas, not the number of licenses for commercial businesses such as growers, processors, retail and medical sales. He felt an overlay zone with setbacks would need to be created.

Ms. Lubbert added that there are currently no “best practices” regarding this issue yet; it makes sense to approach the issue tentatively, with the ability to add more rights in the future.

**ADJOURNMENT**

With there being no further business to consider, Chairperson VanderWeele adjourned the meeting at approximately 7:15 p.m.

Minutes prepared:  
January 11, 2020

Minutes approved:  
\_\_\_\_\_, 2020

DRAFT

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January 21, 2020

**Mtg Date:** January 30, 2020

**To:** Planning Commission

**From:** Iris Lubbert, AICP  
Planning Director

**Subject:** DISCUSSION CONT. Amendments to the Outdoor Lighting Standards Ordinance

Introduction: There has recently been some concern about how the newly implemented Outside Lighting Standards Ordinance (Section 54.60) could be interpreted, specifically the Ordinance's intent and the general usage of outdoor upward lighting. This discussion was triggered by the recently installed blue up lighting at the Holiday Inn Express at 1315 Westgate Drive, see image to the right. The building-mounted lighting section in the current Lighting Ordinance implies that this type of upward lighting is permitted with the Planning Commission's approval. However, this interpretation goes against the stated intent of the Township's lighting regulations. It should be noted that the blue upward lights were not part of the approved 2017 Holiday Inn Express' lighting plan and have been accordingly turned off. While reviewing this case, staff was made aware that the upward lighting standards were unclear and open to subjective interpretation. Please note that prior to the adoption of our current Lighting Ordinance on September 10th, 2019 upward lighting of this nature was strictly prohibited.



Photo taken by Township Ordinance Enforcement Officer in October 2019

At their regular December 12<sup>th</sup> Planning Commission meeting the Commission revisited Section 54.60 Outdoor Lighting Standards to discuss the intent of the regulations pertaining to upward lighting and determine if and what amendments may be needed to clarify the intent. It was determined that clarification was necessary. The Commission directed the Planning Director to revisit this section and explore the possibility of up lighting in more detail.

Ordinance Background: In September of 2018 the Township Board held a work session on lighting after hearing requests from local business owners on permitting LED string lighting within the Township. After receiving a directive from the Township Board, the Planning Commission drafted the Lighting Ordinance over a six-month period, utilizing the Dark Sky Society and Illuminating Engineer Society model ordinances and other township and city lighting ordinances as examples. The draft Ordinance was reviewed by a lighting provider, Circuit Electric, who assisted with

amendments to the ordinance language. After discussion and multiple public meetings, the Outside Lighting Standards Ordinance (Section 54.60) was adopted by the Township Board on September 10<sup>th</sup>, 2019.

**Requested Discussion:** With the Planning Commission's direction, Staff conducted additional research on up lighting and ways to control it. As the dark sky initiative was a consideration in the development of the original ordinance, staff explored options that would be in line with this initiative. After conducting research and analyzing how other communities regulate up lighting, staff would like to present two code amendment directions to the Commission for discussion, see attached. The Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer have reviewed and are supportive of both versions. Below is a summary of the two proposed directions and staff's reasoning for the proposed amendments. **Please note that both options include a number of smaller additional text amendments that staff recommends be considered to help with the clarity and intent of the code.**

**Option 1:** *This option would completely remove up lighting as a possibility for illuminating building facades.*

The dark sky initiative strongly recommends that all lighting fixtures be fully shielded and emit no light upward. To strictly follow the dark sky initiative best practices would mean prohibiting all upward lighting. Reviewing past staff reports and the language of the current code, it is Staff's understanding that this was generally the original intent of the adopted lighting ordinance. For example, item 3 in Section 54.10 (A) Statement of purpose states that the lighting regulations are intended to "minimize the determinantal effect of urban sky glow" and item 2 under 54.10 (B) Objectives states that outdoor lighting shall "be shielded, and downward directed so that the light intensity or brightness will not interfere with the enjoyment, health, safety, and welfare of surrounding properties". It should also be noted that prior to the adoption of our current Outdoor Lighting Standards Ordinance on September 10th, 2019 upward lighting of this nature was strictly prohibited.

Township Staff recommends that the Planning Commission pursue Option 1. It would be consistent with the dark sky initiative and the original intent of the code. Allowing up lighting of this nature, where the Township previously did not, could be deemed as taking a step backwards in our efforts to minimize urban sky glow.

**Option 2:** *This option allows for the up lighting of building facades with restrictions.*

The language proposed for Option 2 is based off research staff conducted on accepted practices that allow up lighting but also minimize light pollution. Staff recommends that if up lighting be allowed it be done in a way that is still respectful of the dark sky initiative. There are various ways to control up lighting, some ways more costly or cumbersome to implement than others, including the BUG rating system recommended by both the Illuminating Engineering Society and International Dark-Sky Association. However, based on the Township's current lighting code, staff

determined that the most consistent and efficient way to enforce up lighting standards would be through controlling the lumens of a fixture. Lumens, by definition, is the power of the light radiated by a light source. Through research staff found that up lighting fixtures emitting 1,800 lumens, comparable to a 100 Watt incandescent lamp, or less are considered “dark sky friendly”. Many municipalities and even State legislatures that have sought to reduce light pollution have implemented a 1,800 lumen cap for up lighting. Option 2 would permit a the up lighting of a building’s façade in a way that has been recognized to generally be in line with the dark sky initiative.

Thank you.

Attachments: Option A – no up lighting  
Option B – restricted up lighting

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**Option 1 and Staff's recommendation**

Proposed code modifications – removing up lighting

## 54.10 INTENT

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- A. Statement of purpose. The purpose of this Article is to regulate the placement and arrangement of lighting within the Township. These regulations are intended to:
1. Protect the public health, safety and general welfare by regulating lighting levels;
  2. Control light spillover and glare;
  3. Minimize the detrimental effect of urban sky glow;
  4. Encourage lighting systems which conserve energy and costs;
  5. Preserve community character and enhance the appearance of the Township;
  6. Provide for nighttime safety, and security.
- B. Objectives. Outdoor lighting shall satisfy the following objectives.
1. Avoid excessive light spillover onto any adjacent premises;
  2. Be shielded, and downward directed so that the light intensity or brightness will not interfere with the enjoyment, health, safety, and welfare of surrounding properties;
  3. Control illumination of vertical architectural surfaces.
  4. Provide for uniform lighting within sites.
  5. Enable the fair and consistent enforcement of these regulations.

## 54.20 APPLICABILITY

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Except as is otherwise provided below, these lighting requirements shall apply to all lighting installed on any property within the Township. Any lighting legally in existence before the effective date of this Ordinance that does not comply with these requirements shall be considered legal nonconforming and may remain, except as detailed in Section 54.80 and subject to the following provisions:

- A. Alterations to existing lighting.
1. When poles and support structures are destroyed or removed, they must be replaced with poles and supports that comply with all of the provisions of this Article.
  2. When luminaries are destroyed or removed, they must be replaced with luminaries that comply with all provisions of this Article.
- B. New parking lots or parking lot additions. When a new parking lot or addition to an existing parking lot is constructed, the new lot or lot addition must be provided with lighting in compliance with this Article.
- C. New structures, additions, or replacements. When a site is improved with new structures, or additions to, or replacements of existing structures, the lighting for the new structure, addition, or replacement on the site must meet the requirements of this Article.
- D. When fifty percent or more of existing outdoor light fixtures are being replaced or modified, then all lighting must be made to conform to the provisions of this lighting ordinance.

## 54.30 DEFINITIONS

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**Ambient lighting** - The general overall level of lighting in an area.

**Baffle or light shield** - An opaque or translucent element to screen a light source from direct view.

**Building canopy** - A portion of the building, whether structural or architectural in character, that projects outward.

**Bulb or lamp** - The source of electric light. The term "bulb or lamp" is to be distinguished from the whole assembly (see Luminaire).

**Canopy structure** - An overhead structure which is designed to allow vehicles or pedestrians to pass under it.

**Color rendering index (CRI)** - a scale from 0 to 100 percent measuring a light source's ability to show object colors "realistically" or "naturally" compared to a familiar reference source, either incandescent light or daylight.

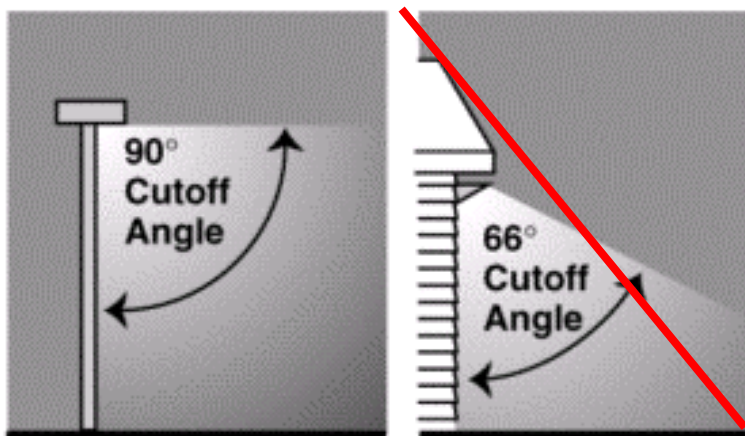
**Encased** – a lamp obscured by translucent sheathing.

**Existing lighting** - Any and all lighting installed prior to the effective date of this Ordinance.

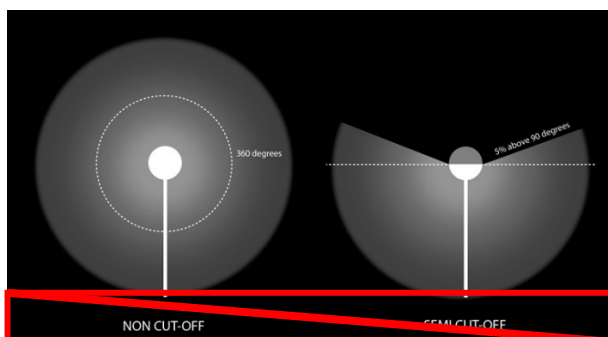
**Exterior lighting** - Temporary or permanent lighting that is installed, located, or used in such a manner to emit light outside. Fixtures that are installed indoors that are intended to draw attention to the exterior of the building from the outside are considered exterior lighting for the purposes of this Article.

**Fixture** - The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

**Fixture, cutoff** – A fixture that allows no emissions above the horizontal plane passing through the lowest point on the fixture from where light is emitted.



**Fixture, non-cutoff** – A fixture that allows light to emit beyond the horizontal plan of the lowest point of the fixture and/or allows light emissions in all directions.



**Foot-candle** - A unit of measurement for quantifying the brightness of illumination produced on a surface. One foot-candle is equal to one lumen per square foot.

**Glare** - Harsh, uncomfortably brilliant light caused by the ability to see an unshielded light source.

**Kelvin rating** – A unit to measure the color temperature of a light source, the higher the Kelvin rating (expressed in K), the whiter the light source.

**Lamp** - The component of a luminaire that produces the light.

**Light pole** - The structure to support and elevate a luminaire.

**Light trespass** - Light that is unnecessarily emitted beyond the boundaries of the property on which the luminaire is located.

**Lighting ratio** - The ratio of foot-candles from the minimum to the maximum point calculations or readings for a given area. This ratio is an indicator of lighting uniformity. The lower the ratio the better the uniformity.

**Luminaire** – The complete lighting system, including the lamp and light fixture.

**Lumen** - A unit of measurement for quantifying the amount of light energy emitted by a light source (power of the light radiated by the light source).

**Photometric plan** - A diagram prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a state licensed professional engineer, architect, or landscape architect showing predicted maintained lighting levels produced by the proposed lighting fixtures, including any freestanding and building mounted lighting.

**Recessed** - When a light is built into a structure or portion of a structure such that the light is fully cut off by the structure to which it is attached.

**Shielded** - A bulb or lamp concealed by a baffle or light shield.

**Spotlight** - A luminaire designed to light only a small, well defined area or object.

**Urban sky glow** - The brightening of the night sky due to manmade lighting.

**Visibility** - Being perceived by the human eye.

## 54.40 EXEMPTIONS

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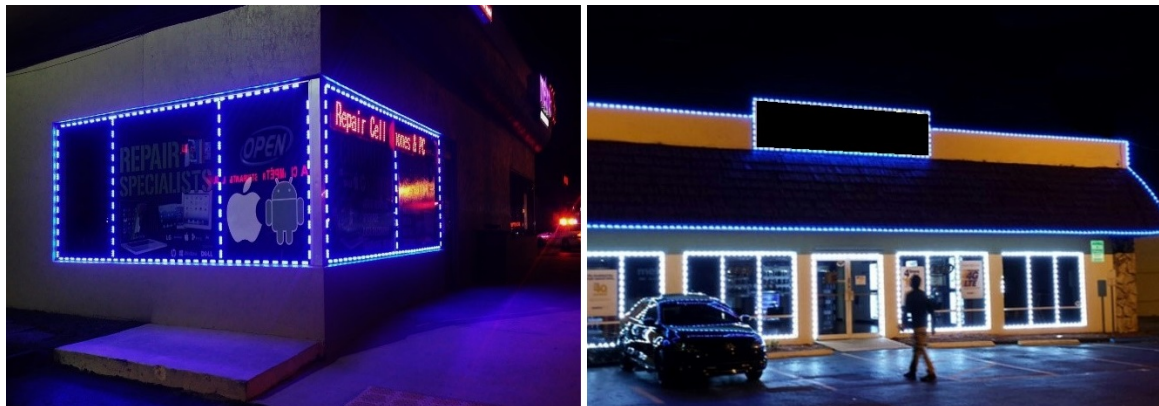
- A. Emergency lighting necessary to conduct rescue operations, support public safety, provide emergency medical treatment, to illuminate emergency means of egress, or address any other emergency situation.
- B. Lighting operated by a public utility or agency during the course of constructing, repairing, or replacing public utilities and infrastructure.
- C. Temporary construction lighting, provided it is discontinued daily immediately upon completion of the work.
- D. Temporary holiday decorative lighting, from November 15th through January 5th.
- E. Lights on communication towers and other hazards to aerial navigation as may be required by the Federal Aviation Administration.
- F. Lighting used to illuminate a flag of the United States, subject to Section 54.60.D.

- G. Lighting associated with Department of Agriculture recognized agricultural activities.
- H. Typical residential light fixtures on residential buildings and associated accessory buildings, which do not violate Section 54.50, are exempt from the cut-off requirement when mounted at a height of eight feet or less.
- I. All outdoor light fixtures existing and legally installed prior to the effective date of this Ordinance.

### 54.50 PROHIBITED LIGHTING

---

- A. Lighting of a blinking, flashing, rotating, or fluttering nature, including changes in light intensity, brightness or color except for public safety purposes.54.50
- B. Beacon and/or search lights except for public safety purposes.
- C. Fixtures that direct light upward, unless **expressly** permitted by this Article.
- D. Roof mounted lighting.
- E. Lighting of an intensity or brightness that interferes with enjoyment, health, safety, and welfare of surrounding properties.
- F. Unshielded **fixtures, including** luminous tubes, LEDs, incandescent or fluorescent lighting, as an architectural detail on the exterior of any structure or the interior of any windows; including but not limited to rooflines, cornices, eaves, windows, and door openings.



### 54.60 OUTDOOR LIGHTING STANDARDS

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- A. General Provisions
  - 1. Cut-Off Fixtures. All luminaires are required to be cut-off fixtures, unless otherwise permitted in this Article.
  - 2. Security Lighting. Security or flood lighting shall be attached to buildings and controlled by motion sensors, which extinguish within 10 minutes of activation.
  - 3. Direction of Lighting. Lighting plans shall be designed to direct light into the development and away from adjacent property. **Unless expressly permitted by this Article, all outdoor lighting shall be fully shielded and directed downward, parallel to the ground, to prevent off-site glare and illumination.**
  - 4. Light Levels at Property Line. Site and area lighting of nonresidential properties shall be designed such that light levels do not exceed 0.1 foot-candles at any point along the perimeter of the

property adjacent to residential zoning or uses and 0.5 foot-candles adjacent to all other zoning and uses.

5. Shared Parking Lots. Lighting designed to illuminate shared parking lots that span two or more parcels shall be exempt from the 0.5 foot-candle requirement at the shared property line only.
  6. Parking Lot and Drive Aisle Lighting Ratio. To provide for uniformity of lighting, the ratio of maximum to minimum levels of light within the parking lot and drive aisle areas of a nonresidential property shall not exceed 20:1. Exception shall be made for those areas along the perimeter of the property where a significant reduction in lighting is expected in order to comply with the provisions of the subsection above.
  7. Reduced Lighting. Lighting shall be significantly reduced during non-operational building hours, allowing only lighting necessary for security purposes. Lighting installations should include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting that affects urban sky glow. The lighting plan shall note when and how this reduction in lighting will occur.
  8. Color Temperature and Rendering. Lighting for all nonresidential developments shall have the following:
    - a. A minimum color rendering index (CRI) of 65.
    - b. A Kelvin rating between 3,000-5,000k.
- B. Pole-Mounted Lighting
1. All pole-mounted luminaires shall be affixed horizontally and angled parallel to the ground.
  2. No more than two luminaires shall be allowed per pole.
  3. Luminaire height of 15 feet or less shall not exceed 12,000 lumens per luminaire and shall be spaced a minimum of 30 feet apart.
  4. Luminaire height greater than 15 feet and not exceeding 25 feet shall not exceed 20,000 lumens per luminaire and shall be spaced a minimum of 40 feet apart.
  5. Luminaire height exceeding 25 feet shall be subject to approval by the reviewing body. The applicant must prove, to the reviewing body's satisfaction, that pole heights exceeding 25 feet are needed to ensure public health, safety, and welfare. If permitted, such lighting shall not exceed 40,000 lumens per luminaire and shall be spaced a minimum of 50 feet apart.
- C. Building-Mounted Lighting
1. Pedestrian walkways and doorways
    - a. Mounted height shall not exceed 14-feet in height.
    - b. Each luminaire shall not exceed 8,000 lumens and shall be spaced so the lighting for pedestrian walkways does not exceed 2.0 foot-candles and entryways do not exceed 6.0 foot-candles.
  2. Luminaires used for the sole purpose of illuminating a building façade:
    - a. May be up to 1.5 foot-candles averaged over each respective the building façade face.
    - ~~b. May Shall be located on the building-or be ground-mounted.~~

c. Light generated from said fixtures shall be downward directed and appropriately shielded so that no light is emitted beyond the building facade.

d. The lighting is done to accentuate an architectural or aesthetic element of the building, not the entire building

e. Shall strictly adhere to the reduced lighting clause outlined in 54.60(A)(7).

~~1. Architectural features. The use of architectural features on the building, such as a canopy, which prevent the projection of light beyond the architectural feature may satisfy the intent of this Section and allow the use of noncut-off fixtures, subject to the approval of the reviewing body.~~

#### B. Landscape Features and Green Belt Lighting

1. Landscape luminaires may include uplighting, which is specifically directed at the landscape or plant feature.
2. Shall be equipped with shields to help direct light to the landscape or plant feature and to help eliminate light spillover and glare.
3. Shall not exceed 300 lumens per luminaire.
4. Shall not exceed a height of 18-inches above grade.

#### C. Special Uses

1. Service station/fuel sales canopy structure
  - a. Luminaires shall be recessed so that the lens cover is flush with the lower surface of the canopy and shielded by a fixture or the edge of the canopy so that light is directed downward.
  - b. As an alternative, indirect lighting may be used where uplighting is reflected from the underside of the canopy. When this method is used, luminaires must be shielded so that direct light is focused exclusively on the underside of the canopy.
  - c. Luminaires shall not be mounted on the top or sides (fascia) of a canopy.
  - d. Internally illuminated signs in compliance with the Sign Ordinance may be placed on the fascia of the canopy.
  - e. The total light output directly below the canopy shall not exceed 30 foot-candles.
2. Outdoor dining areas
  - a. Decorative unshielded lighting may be used in outdoor dining areas as long as the lighting does not exceed 1.5 foot-candles and is designed to control light spillover and reduce glare to adjacent properties.
  - b. Lighting in outdoor dining areas adjacent to residentially zoned or used land must be extinguished by 11:00 pm or when the business closes, whichever is first.

#### D. Signage

1. Lighting may be used to illuminate signs, subject to Section 55.150.

### 54.70 INTERIOR LIGHTING

---

Where interior lighting and/or lighting displays are located within 10 feet of a bay of windows, glass doors, or other transparent areas of a building facade, walls, or roof (e.g., skylights), the lighting shall be shielded or screened to reduce visibility and prevent glare to patrons, individuals on adjacent and nearby properties, and/or motorists on adjacent streets.

### **54.80 EXISTING LIGHTING**

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All lighting established prior to this Ordinance shall be so arranged as to avoid glare or direct illumination onto any portion of any adjacent rights-of-way or onto any adjacent premises.

### **54.90 ADMINISTRATION**

---

A site lighting plan for uses requiring Site Plan review shall be submitted, in compliance with this Article, and shall provide the following information:

- A. Proposed location on premises of all outdoor light fixture(s), including all building-mounted lighting, architectural lighting, and landscape lighting.
- B. Manufacturer specification sheets, cut-sheets, or other manufacturer provided information for all proposed luminaires that provides a description of the illumination devices, fixtures, lamps, supports, reflectors, and other devices, including lumens produced.
- C. The height of all luminaires and poles.
- D. A photometric plan showing foot-candle readings every ten feet within the subject site and ten feet beyond the property lines, including lighting ratios.
- E. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the illuminance levels of the elevations, and the aiming point for any remote light fixture.

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**Option 2**

Proposed code modifications – **controlling up lighting**

**54.10 INTENT**

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- A. Statement of purpose. The purpose of this Article is to regulate the placement and arrangement of lighting within the Township. These regulations are intended to:
  - 1. Protect the public health, safety and general welfare by regulating lighting levels;
  - 2. Control light spillover and glare;
  - 3. Minimize the detrimental effect of urban sky glow;
  - 4. Encourage lighting systems which conserve energy and costs;
  - 5. Preserve community character and enhance the appearance of the Township;
  - 6. Provide for nighttime safety, and security.
- B. Objectives. Outdoor lighting shall satisfy the following objectives.
  - 1. Avoid excessive light spillover onto any adjacent premises;
  - 2. Be shielded, and downward directed so that the light intensity or brightness will not interfere with the enjoyment, health, safety, and welfare of surrounding properties;
  - 3. Control illumination of vertical architectural surfaces.
  - 4. Provide for uniform lighting within sites.
  - 5. Enable the fair and consistent enforcement of these regulations.

**54.20 APPLICABILITY**

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Except as is otherwise provided below, these lighting requirements shall apply to all lighting installed on any property within the Township. Any lighting legally in existence before the effective date of this Ordinance that does not comply with these requirements shall be considered legal nonconforming and may remain, except as detailed in Section 54.80 and subject to the following provisions:

- A. Alterations to existing lighting.
  - 1. When poles and support structures are destroyed or removed, they must be replaced with poles and supports that comply with all of the provisions of this Article.
  - 2. When luminaries are destroyed or removed, they must be replaced with luminaries that comply with all provisions of this Article.
- B. New parking lots or parking lot additions. When a new parking lot or addition to an existing parking lot is constructed, the new lot or lot addition must be provided with lighting in compliance with this Article.
- C. New structures, additions, or replacements. When a site is improved with new structures, or additions to, or replacements of existing structures, the lighting for the new structure, addition, or replacement on the site must meet the requirements of this Article.
- D. **When fifty percent or more of existing outdoor light fixtures are being replaced or modified, then all lighting must be made to conform to the provisions of this lighting ordinance.**

**54.30 DEFINITIONS**

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**Ambient lighting** - The general overall level of lighting in an area.

**Baffle or light shield** - An opaque ~~or translucent~~ element to screen a light source from direct view.

**Building canopy** - A portion of the building, whether structural or architectural in character, that projects outward.

**Bulb or lamp** - The source of electric light. The term "bulb or lamp" is to be distinguished from the whole assembly (see Luminaire).

**Canopy structure** - An overhead structure which is designed to allow vehicles or pedestrians to pass under it.

**Color rendering index (CRI)** - a scale from 0 to 100 percent measuring a light source's ability to show object colors "realistically" or "naturally" compared to a familiar reference source, either incandescent light or daylight.

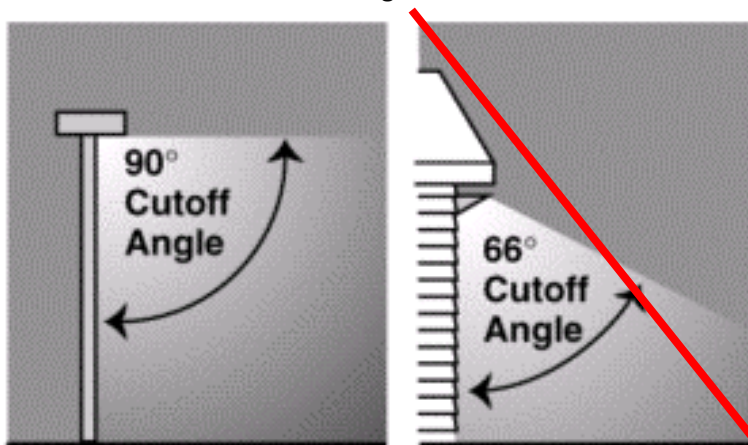
**Encased** – a lamp obscured by translucent sheathing.

**Existing lighting** - Any and all lighting installed prior to the effective date of this Ordinance.

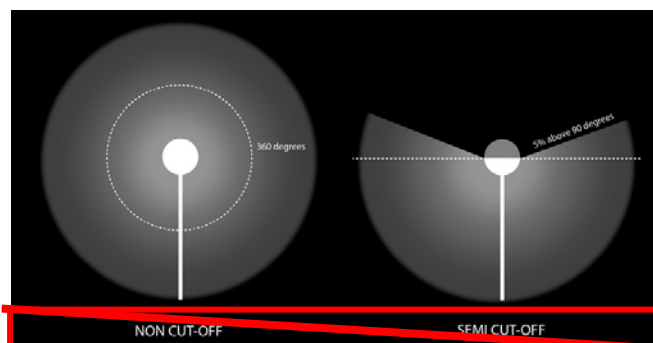
**Exterior lighting** - Temporary or permanent lighting that is installed, located, or used in such a manner to emit light outside. Fixtures that are installed indoors that are intended to draw attention to the exterior of the building from the outside are considered exterior lighting for the purposes of this Article.

**Fixture** - The assembly that holds a lamp and may include an assembly housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector or mirror, and a refractor or lens.

**Fixture, cutoff** – A fixture that allows no emissions above the horizontal plane passing through the lowest point on the fixture from where light is emitted.



**Fixture, non-cutoff** – A fixture that allows light to emit beyond the horizontal plan of the lowest point of the fixture and/or allows light emissions in all directions.



**Foot-candle** - A unit of measurement for quantifying the brightness of illumination produced on a surface. One foot-candle is equal to one lumen per square foot.

**Glare** - Harsh, uncomfortably brilliant light caused by the ability to see an unshielded light source.

**Kelvin rating** – A unit to measure the color temperature of a light source, the higher the Kelvin rating (expressed in K), the whiter the light source.

**Lamp** - The component of a luminaire that produces the light.

**Light pole** - The structure to support and elevate a luminaire.

**Light trespass** - Light that is unnecessarily emitted beyond the boundaries of the property on which the luminaire is located.

**Lighting ratio** - The ratio of foot-candles from the minimum to the maximum point calculations or readings for a given area. This ratio is an indicator of lighting uniformity. The lower the ratio the better the uniformity.

**Luminaire** – The complete lighting system, including the lamp and light fixture.

**Lumen** - A unit of measurement for quantifying the amount of light energy emitted by a light source (power of the light radiated by the light source).

**Photometric plan** - A diagram prepared by a lighting professional that is certified by the National Council on Qualifications for the Lighting Professions (NCQLP), or a state licensed professional engineer, architect, or landscape architect showing predicted maintained lighting levels produced by the proposed lighting fixtures, including any freestanding and building mounted lighting.

**Recessed** - When a light is built into a structure or portion of a structure such that the light is fully cut off by the structure to which it is attached.

**Shielded** - A bulb or lamp concealed by a baffle or light shield.

**Spotlight** - A luminaire designed to light only a small, well defined area or object.

**Urban sky glow** - The brightening of the night sky due to manmade lighting.

**Visibility** - Being perceived by the human eye.

## 54.40 EXEMPTIONS

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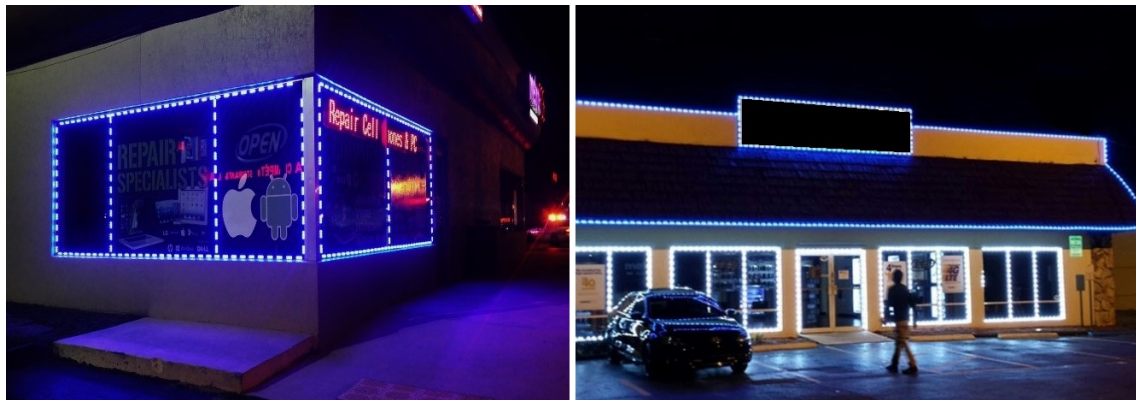
- A. Emergency lighting necessary to conduct rescue operations, support public safety, provide emergency medical treatment, to illuminate emergency means of egress, or address any other emergency situation.
- B. Lighting operated by a public utility or agency during the course of constructing, repairing, or replacing public utilities and infrastructure.
- C. Temporary construction lighting, provided it is discontinued daily immediately upon completion of the work.
- D. Temporary holiday decorative lighting, from November 15th through January 5th.
- E. Lights on communication towers and other hazards to aerial navigation as may be required by the Federal Aviation Administration.
- F. Lighting used to illuminate a flag of the United States, subject to Section 54.60.D.

- G. Lighting associated with Department of Agriculture recognized agricultural activities.
- H. Typical residential light fixtures on residential buildings and associated accessory buildings, which do not violate Section 54.50, are exempt from the cut-off requirement when mounted at a height of eight feet or less.
- I. All outdoor light fixtures existing and legally installed prior to the effective date of this Ordinance.

### 54.50 PROHIBITED LIGHTING

---

- A. Lighting of a blinking, flashing, rotating, or fluttering nature, including changes in light intensity, brightness or color except for public safety purposes.54.50
- B. Beacon and/or search lights except for public safety purposes.
- C. Fixtures that direct light upward, unless **expressly** permitted by this Article.
- D. Roof mounted lighting.
- E. Lighting of an intensity or brightness that interferes with enjoyment, health, safety, and welfare of surrounding properties.
- F. Unshielded **fixtures, including** luminous tubes, LEDs, incandescent or fluorescent lighting, as an architectural detail on the exterior of any structure or the interior of any windows; including but not limited to rooflines, cornices, eaves, windows, and door openings.



### 54.60 OUTDOOR LIGHTING STANDARDS

---

- A. General Provisions
  - 1. Cut-Off Fixtures. All luminaires are required to be cut-off fixtures, unless otherwise permitted in this Article.
  - 2. Security Lighting. Security or flood lighting shall be attached to buildings and controlled by motion sensors, which extinguish within 10 minutes of activation.
  - 3. Direction of Lighting. Lighting plans shall be designed to direct light into the development and away from adjacent property. **Unless expressly permitted by this Article, all outdoor lighting shall be fully shielded and directed downward, parallel to the ground, to prevent off-site glare and illumination.**
  - 4. Light Levels at Property Line. Site and area lighting of nonresidential properties shall be designed such that light levels do not exceed 0.1 foot-candles at any point along the perimeter of the

property adjacent to residential zoning or uses and 0.5 foot-candles adjacent to all other zoning and uses.

5. Shared Parking Lots. Lighting designed to illuminate shared parking lots that span two or more parcels shall be exempt from the 0.5 foot-candle requirement at the shared property line only.
  6. Parking Lot and Drive Aisle Lighting Ratio. To provide for uniformity of lighting, the ratio of maximum to minimum levels of light within the parking lot and drive aisle areas of a nonresidential property shall not exceed 20:1. Exception shall be made for those areas along the perimeter of the property where a significant reduction in lighting is expected in order to comply with the provisions of the subsection above.
  7. Reduced Lighting. Lighting shall be significantly reduced during non-operational building hours, allowing only lighting necessary for security purposes. Lighting installations should include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting that affects urban sky glow. The lighting plan shall note when and how this reduction in lighting will occur.
  8. Color Temperature and Rendering. Lighting for all nonresidential developments shall have the following:
    - a. A minimum color rendering index (CRI) of 65.
    - b. A Kelvin rating between 3,000-5,000k.
- B. Pole-Mounted Lighting
1. All pole-mounted luminaires shall be affixed horizontally and angled parallel to the ground.
  2. No more than two luminaires shall be allowed per pole.
  3. Luminaire height of 15 feet or less shall not exceed 12,000 lumens per luminaire and shall be spaced a minimum of 30 feet apart.
  4. Luminaire height greater than 15 feet and not exceeding 25 feet shall not exceed 20,000 lumens per luminaire and shall be spaced a minimum of 40 feet apart.
  5. Luminaire height exceeding 25 feet shall be subject to approval by the reviewing body. The applicant must prove, to the reviewing body's satisfaction, that pole heights exceeding 25 feet are needed to ensure public health, safety, and welfare. If permitted, such lighting shall not exceed 40,000 lumens per luminaire and shall be spaced a minimum of 50 feet apart.
- C. Building-Mounted Lighting
1. Pedestrian walkways and doorways
    - a. Mounted height shall not exceed 14-feet in height.
    - b. Each luminaire shall not exceed 8,000 lumens and shall be spaced so the lighting for pedestrian walkways does not exceed 2.0 foot-candles and entryways do not exceed 6.0 foot-candles.
  2. Luminaires used for the sole purpose of illuminating a building façade:
    - a. May be up to 1.5 foot-candles averaged over each respective the building façade face.
    - b. May be located on the building or be ground-mounted.

c. Light generated from said fixtures shall be appropriately shielded so that no light is emitted beyond the building facade. The use of architectural features on the building, such as a canopy, which prevent the projection of light beyond the architectural feature may satisfy the intent of this Section.

d. The lighting is done to accentuate an architectural or aesthetic element of the building, not the entire building.

e. Uplighting for the purpose of illuminating a building facade shall be permitted. Any uplighting shall not exceed 1,800 lumens and shall be fully shielded.

f. All lighting exceeding 1,800 lumens shall be aimed downward and be fully shielded.

g. Shall strictly adhere to the reduced lighting clause outlined in 54.60(A)(7).

~~1. Architectural features. The use of architectural features on the building, such as a canopy, which prevent the projection of light beyond the architectural feature may satisfy the intent of this Section and allow the use of noncut-off fixtures, subject to the approval of the reviewing body.~~

#### B. Landscape Features and Green Belt Lighting

1. Landscape luminaires may include uplighting, which is specifically directed at the landscape or plant feature.
2. Shall be equipped with shields to help direct light to the landscape or plant feature and to help eliminate light spillover and glare.
3. Shall not exceed 300 lumens per luminaire.
4. Shall not exceed a height of 18-inches above grade.

#### C. Special Uses

##### 1. Service station/fuel sales canopy structure

- a. Luminaires shall be recessed so that the lens cover is flush with the lower surface of the canopy and shielded by a fixture or the edge of the canopy so that light is directed downward.
- b. As an alternative, indirect lighting may be used where uplighting is reflected from the underside of the canopy. When this method is used, luminaires must be shielded so that direct light is focused exclusively on the underside of the canopy.
- c. Luminaires shall not be mounted on the top or sides (fascia) of a canopy.
- d. Internally illuminated signs in compliance with the Sign Ordinance may be placed on the fascia of the canopy.
- e. The total light output directly below the canopy shall not exceed 30 foot-candles.

##### 2. Outdoor dining areas

- a. Decorative unshielded lighting may be used in outdoor dining areas as long as the lighting does not exceed 1.5 foot-candles and is designed to control light spillover and reduce glare to adjacent properties.
- b. Lighting in outdoor dining areas adjacent to residentially zoned or used land must be extinguished by 11:00 pm or when the business closes, whichever is first.

**D. Signage**

1. Lighting may be used to illuminate signs, subject to Section 55.150.

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**54.70 INTERIOR LIGHTING**

Where interior lighting and/or lighting displays are located within 10 feet of a bay of windows, glass doors, or other transparent areas of a building facade, walls, or roof (e.g., skylights), the lighting shall be shielded or screened to reduce visibility and prevent glare to patrons, individuals on adjacent and nearby properties, and/or motorists on adjacent streets.

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**54.80 EXISTING LIGHTING**

All lighting established prior to this Ordinance shall be so arranged as to avoid glare or direct illumination onto any portion of any adjacent rights-of-way or onto any adjacent premises.

---

**54.90 ADMINISTRATION**

A site lighting plan for uses requiring Site Plan review shall be submitted, in compliance with this Article, and shall provide the following information:

- A. Proposed location on premises of all outdoor light fixture(s), including all building-mounted lighting, architectural lighting, and landscape lighting.
- B. Manufacturer specification sheets, cut-sheets, or other manufacturer provided information for all proposed luminaires that provides a description of the illumination devices, fixtures, lamps, supports, reflectors, and other devices, including lumens produced.
- C. The height of all luminaires and poles.
- D. A photometric plan showing foot-candle readings every ten feet within the subject site and ten feet beyond the property lines, including lighting ratios.
- E. If building elevations are proposed for illumination, drawings shall be provided for all relevant building elevations showing the fixtures, the portions of the elevations to be illuminated, the illuminance levels of the elevations, and the aiming point for any remote light fixture.

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January 22, 2020

**Mtg Date:** January 30, 2020  
**To:** Planning Commission  
**From:** Iris Lubbert, AICP  
Planning Director  
**Subject:** DISCUSSION CONT. Accessory Buildings

Introduction:

Recently, there have been concerns about how the Township was regulating accessory buildings on residential properties, specifically where they were permitted to be located on a parcel, lot, or building site. After review of the Accessory Buildings and Setback Ordinances, it was determined that amendments were needed to clarify where accessory buildings would be permitted and ensure that the two regulations worked in concert. The Planning Commission has already reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board. A copy of the Setback Ordinance amendments is attached for reference.

At the regular December 12<sup>th</sup>, 2019 Planning Commission meeting, staff presented amendments to the Accessory Building Ordinance for consideration. At this meeting the Commission directed staff to delve deeper into the accessory building code and provide them another version with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings in subdivisions vs. rural areas, and the overall permitted square footage of detached buildings based on lot size.

Requested Discussion:

Based on the direction provided from the Commission, staff took this opportunity to restructure the Accessory Building Ordinance, further amend sections of the code for clarity, and add language to address the noted areas of interest. The amended ordinance was reviewed and has the support of the Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer. In addition, several of the proposed regulations were vetted for viability with the Fire Department and Southwest Michigan Building Authority. At this time, Staff is requesting the Planning Commission to review the proposed changes and provide feedback to staff on the direction taken.

Thank you.

Attachments: Section 57.100: Accessory Buildings – original ordinance  
Proposed re-write of Section 57.100: Accessory Buildings  
Planning Commission approved Setback Ordinance revisions

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## ZONING ORDINANCE

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### ARTICLE 57

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### 57 – MISCELLANEOUS PROTECTION REQUIREMENTS

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#### 57.100 ACCESSORY BUILDINGS

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All references to accessory building in this Section shall apply only to residential accessory buildings exceeding 200 square feet in area, including private garages, pole buildings, carports and barns/stables. This section does not apply to agricultural uses meeting the requirements of Section 4.10.

A. No accessory building shall:

1. Be used for human habitation unless the provisions of Section 50.20.A and the Building Code are satisfied.
2. Be used for purposes other than those accessory and customarily incidental to permitted residential use of the property by the owner or occupant of same.
3. Be used for any business use or home occupation unless approval is granted pursuant to Section 48.60 or 49.110.
4. Violate the setback requirements of Section 50.60.
5. Exceed a height of 20 feet on lots, parcels or building sites of 30,000 square feet or less, or a height of 25 feet on lots, parcels or building sites larger than 30,000 square feet unless approval for same is granted by the Zoning Board of Appeals pursuant to Section 57.100.B. Height shall be measured from the abutting grade to the highest point of the building.
6. Precede the dwelling upon the subject property unless approval for same is granted by the Zoning Board of Appeals pursuant to Section 57.100.B.
7. Have a width greater than one-third of the lot, building site or parcel width or 24 feet, whichever is greater.

B. Accessory Buildings Subject to Site Plan Review and Approval of the Planning Director or Designee:

1. Property is vacant.
2. Aggregate floor area of accessory buildings exceeds ground floor area of dwelling, excluding attached garages, covered porches, and breeze ways.
3. Total floor area of all buildings exceeds 20 percent of lot, building site or parcel area.
4. Accessory building is placed between the dwelling and the front property line. For purposes of this Section, corner properties shall be considered to have two front property lines.
5. Height exceeds the provisions of Section 57.100.A.5.

To ensure harmonious relationships and to minimize conflicts between adjacent uses, the Planning Director or designee shall consider the proposed characteristics and uses of the building in relation to the following: size of property, size of dwelling, proposed placement on property, existing land uses in area and future land uses as reflected in the Master Land Use Plan.

The Planning Director or designee may attach requirements to such accessory building and use when it deems necessary to avoid or mitigate adverse impacts on surrounding properties which may include a reduction in the size of the building.

The Planning Director or designee shall have the right to refer any proposed accessory building to the Zoning Board of Appeals for Site Plan review and approval.

All applications requiring Site Plan review and approval shall be accompanied by a drawing of the subject property, drawn to scale, containing the following information:

- a. A North arrow and graphic scale.
- b. All property lines and their dimensions.
- c. Location and dimensions of all existing and proposed structures (including height of all proposed accessory buildings) on the subject property and any existing buildings on adjacent properties within 50 feet of the subject property.
- d. Building elevations including building and roofing materials and color.

An application hereunder shall also include a signed statement setting forth the purpose(s) for which the proposed accessory building(s) will be used and a completed Acknowledgment of Zoning Restriction, signed by the property owner(s), on a form provided by the Township, indicating that the building may not be used for commercial purposes. The Township shall record said Restriction following construction of the building. No accessory building allowed pursuant to this subsection shall be used for a purpose other than that approved by the Planning Director, Planning Commission or Zoning Board of Appeals as appropriate.

## 57.100 Accessory Buildings Serving A Primary Residence

1. Applicability:
  - a. Accessory buildings shall be permitted in all Agricultural and Residential zoning districts; which include “AG” Agricultural Districts, “RR” Rural Residential Districts, “R-1” Residence District, “R-2” Residence District, “R-3” Residence District, “R-4” Residence District, “R-5” Residence District, and “R-C” Residential Conversion District.
  - b. All accessory buildings, unless otherwise expressly outlined by this Section, shall meet all the requirements specified herein.
  - c. Non-commercial accessory buildings used for the keeping of livestock or honeybees shall follow the requirements specified in Section 57.80.
  - d. All accessory buildings exceeding 200 square feet shall require plan review and approval by the Planning Director or their designee.
  - e. Any nonconforming accessory building shall be subject to the requirements specified in Section 63.40.
  
2. Restrictions. No accessory building shall:
  - a. Be constructed on any property prior to the construction of the primary dwelling, unless building permits are obtained for both structures concurrently. All detached accessory buildings must be located on the same property where the principal permitted use is located. Exception of this clause can be granted by the Planning Director or their designee for vacant parcels serving an agricultural purpose that meet the requirements of Section 4.10.
  - b. Be constructed to encroach into a public utility easement.
  - c. Be used for human habitation.
  - d. Be used for purposes other than those customarily incidental to the permitted principle use of the property.
  - e. Be used for any business use or home occupation, unless approval is granted by the Planning Commission pursuant to Sections 48.60 or 49.110.
  
3. Setbacks for all accessory buildings:
  - a. Front setbacks
    - i. Accessory buildings on properties located within subdivisions or site condominiums shall meet the minimum front yard setback requirements for primary structures in their corresponding zoning district, outlined in Section 50.60, or shall not be located closer to the street right of way than the front line of the principal structure, whichever is greater.
    - ii. Accessory buildings on properties not located within a subdivisions or site condominiums shall meet the minimum front yard setback requirements for primary structures in their corresponding zoning district, outlined in Section 50.60.
    - iii. For the purposes of this Section, corner properties shall be considered to have two front property lines.
  - b. Interior Side and Rear setbacks are outlined in Section 50.60.B.3.

- c. There shall be established a minimum separation of ten feet, as measured wall to wall, between any accessory building and any other structure located on the property.

4. Size:

- a. The square footage of any accessory building located on a property within a subdivision or site condominium shall not exceed the footprint of the livable portion of the property's primary structure.
- b. For properties one acre or less in size, a maximum of 30% of the lot may be covered by structures. This calculation shall include the gross floor area of all structures on the lot, including the primary dwelling.
- c. The maximum allowable sizes of accessory buildings for lots larger than one acre, as measured by the combined gross floor area of all detached accessory structures which are located on the property, shall be limited as follows:

Property area	Maximum size of all detached accessory structures on property
More than 1 acre but not more than 2 acres	1,200 square feet
More than 2 acres but not more than 3 acres	1,400 square feet
More than 3 acres but not more than 5 acres	1,600 square feet
More than 5 acres but not more than 8 acres	3,000 square feet
More than 8 acres but not more than 11 acres	4,000 square feet
More than 11 acres	5,000 square feet

5. Height:

- a. Accessory buildings shall not exceed a height of 20 feet on properties located within subdivisions or site condominiums.
- b. Accessory buildings shall not exceed a height of 25 feet on properties not located within a subdivisions or site condominiums.
- c. For the purposes of this Section, height shall be measured from the finished floor to the top of the roof ridge.

6. Application requirements:

- a. Applications for accessory buildings exceeding 200 square feet shall be accompanied by a drawing of the subject property containing the following information:
  - i. A north arrow

- ii. All property lines
- iii. Location and dimensions of all existing and proposed structures on the property
- iv. Distances of all proposed structures from the property lines and any existing structures
- v. Height of all proposed structures on the property
- vi. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory structures shall be used.

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## 50.60 SETBACK PROVISIONS

- B. Agricultural and Residence Districts, ~~which shall include the in~~ "AG" Agricultural Districts, "RR" ~~Residence~~ Rural Residential Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, "R-5" Residence Districts, "R-C" Residential, Conservation Districts and ~~with respect to~~ buildings having two stories or less in "R-4" Residence Districts.

### 1. Front yard setbacks for primary structures.

- a. ~~A setback of 30-feet shall be required there shall be a setback from all street rights-of-way lines and outlots and/or planned future public street extensions of not less than 30 feet for all buildings unless a larger setback is otherwise required. In the Township Zoning Ordinance or the~~  
A setback of 30-feet shall be required from all street rights-of-way lines and outlots and/or planned future public street extensions of not less than 30 feet for all buildings unless a larger setback is otherwise required.
- b. ~~If a new building primary structure is constructed within 300 feet of a building existing on the effective date of this Ordinance provision (December 24, 1966) which is closer than the 30-foot setback requirement, in which case such the setback may be decreased according to the schedule set forth in Section 50.60.A hereof.~~  
If a new building primary structure is constructed within 300 feet of a building existing on the effective date of this Ordinance provision (December 24, 1966) which is closer than the 30-foot setback requirement, the setback may be decreased according to the schedule set forth in Section 50.60.A hereof.
- c. ~~If the a new building primary structure is constructed within 100 feet of a building existing on the effective date of this Ordinance provision which is further than the 30-foot setback requirement, the minimum setback requirement shall be equal to the average of the closest existing buildings on either side of the new building.~~  
If a new building primary structure is constructed within 100 feet of a building existing on the effective date of this Ordinance provision which is further than the 30-foot setback requirement, the minimum setback requirement shall be equal to the average of the closest existing buildings on either side of the new building.

### 2. Interior side and rear yard setbacks for primary structures.

- a. "AG" Agricultural Districts, "RR" Rural Residential Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, and "R-C" Residential, Conservation Districts:
  - i. ~~The minimum setback distance between any primary structure building, pools, and associated decks whether attached or detached and any interior side property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, and "R-C" Residential, Conservation Districts shall be ten feet for all buildings, pools, and associated decks whether attached or detached unless a larger setback is otherwise required in the Township Zoning Ordinance.~~  
The minimum setback distance between any primary structure building, pools, and associated decks whether attached or detached and any interior side property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, and "R-C" Residential, Conservation Districts shall be ten feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
  - ii. ~~The minimum setback distance between any primary structure building, pools, and associated decks whether attached or detached and any rear property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, and "R-C" Residential, Conservation Districts shall be not less than 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.~~  
The minimum setback distance between any primary structure building, pools, and associated decks whether attached or detached and any rear property line in the "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, and "R-C" Residential, Conservation Districts shall be not less than 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
- b. "R- 5" Residence Districts, and, ~~with respect to~~ buildings having two stories or less in "R-4" Residence Districts:
  - i. ~~The minimum setback distance between any building and any rear or interior side property line in the "R- 5" Residence Districts, and, with respect to buildings having two stories or less in "R-4" Residence Districts, shall be ten feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater.~~  
The minimum setback distance between any building and any rear or interior side property line in the "R- 5" Residence Districts, and, with respect to buildings having two stories or less in "R-4" Residence Districts, shall be ten feet or the height of the abutting side of the building at its highest point as measured from the grade of the property line, whichever is greater.

- c. The setbacks for buildings exceeding two stories in the "R-4" Residence Districts are set forth in Section 50.60.C.
- d. The rear and interior side property line setbacks for nonresidential buildings in the above zoning districts shall satisfy the requirements of Section 50.60.C.

### 3. Accessory buildings

- a. Accessory buildings exceeding 200 square feet shall be set back from interior side and rear property lines a minimum of ten feet or the height of the accessory building at its highest point as measured from the grade of the property line, whichever is greater, unless a larger setback is otherwise required in the Township Zoning Ordinance.
- b. ~~The minimum setback distance between any~~ Accessory building not exceeding 200 square feet ~~in area and~~ shall be set back from any interior side and rear ~~or interior side~~ property lines in the ~~"AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, "R-4" Residence Districts, "R-5" Residence Districts, and "R-C" Residential, Conservation Districts~~ shall be a minimum of three feet, unless a larger setback is otherwise required in the Township Zoning Ordinance.
- c. Reference Section 57.100 for additional accessory building requirements.

- 4. Essential services. In "AG" Agricultural Districts, "RR" Residence Districts, "R-1" Residence Districts, "R-2" Residence Districts, "R-3" Residence Districts, "R-4" Residence Districts, "R-5" Residence Districts, and "R-C" Residential, Conservation Districts there shall be a setback of not less than 25 feet from all street right-of-way lines and outlots and/or planned future public street extensions for all parcels, lots or building sites with buildings or regulator stations for essential services unless a larger setback is otherwise required in the Township Zoning Ordinance.
- 5. Separation between buildings. With respect to residential buildings of four dwelling units or less, there shall be a 20-foot separation between buildings located on the same parcel, lot, or building site (except buildings accessory thereto), unless otherwise required in the Township Zoning Ordinance. Separation shall be measured in the same manner as a building setback.
- 6. Lawful nonconforming residential buildings existing as of the date March 11, 1996. Any residential building constructed as of the date of March 11, 1996, which is set back less than the distance required by Section 50.60.A or Section 50.60.B (whichever is applicable) from the street right-of-way lines shall be considered a lawful nonconforming structure under Section 63.40 for purposes of the application and enforcement of the setback provisions of Sections 50.60.A and 50.60.B. Structures rendered lawfully nonconforming by this section shall not be utilized to decrease the setback required under the reduction schedule contained within Section 50.60.A.

January 22, 2020



**Mtg Date:** January 30, 2020

**To:** Planning Commission

**From:** Iris Lubbert, AICP  
Planning Director

**Subject:** Discussion – Setting Zoning Code Amendment Priorities

Background:

The Planning Commission is responsible for maintaining the Master Land Use Plan, a living document that expresses the community's vision for the future of Oshtemo. The Zoning Ordinance, a written regulation and law that defines how property in specific geographic zones can be used, is the tool to implement the Master Land Use Plan. Like the Master Land Use Plan, the Zoning Ordinance is a living document. In order to ensure that these two documents accurately reflect the type of community Oshtemo residents enjoy now and desire for the future, the Planning Commission is tasked to work with Township Staff when necessary to recommend amendments to these documents to the Township Board for adoption.

The following is an overview of Zoning Ordinance amendments, with a brief overview of their goals, that are currently under the Planning Commission's review or have been requested:

- Outdoor lighting (currently under review): The intent is to clarify if the Township wishes to permit the use of outdoor up-lighting.
- Detached Accessory Structures (currently under review): This amendment will clarify the appropriate placement and use of accessory structures on residential properties.
- Signage: The existing signage code does not meet the federal neutrality regulations and requires review and amendment. There is also a need to have the signage lighting regulations updated to mirror the recently approved outdoor lighting standards.
- Marijuana: The current Zoning Code needs to be updated to allow for marijuana to be grown, processed, and sold within Township boundaries.
- Permitted Uses, Permitted Uses with Conditions, and Special Uses: To be more efficient organizationally, there is a strong interest in revisiting the three use types in the Zoning Ordinance with the ultimate goal of making approval of Permitted Uses and Permitted Uses with Conditions administrative.
- Go Green Oshtemo: An award-winning vision plan adopted by the Township. The Zoning Ordinance and Master Land Use Plan need to be reviewed and updated to be consistent with this plan.
- 5G: 5G refers to a new type of communication tower linked to driverless cars. Federal regulations have required that municipalities allow for these special towers. The Zoning Ordinance needs to be updated if the Township wants to have any control over where and how these towers are placed. An application for a 5G tower can be submitted at any time.
- Maple Hill South Mixed-Use Overlay District (currently under review): The development of this overlay would allow for the redevelopment of an existing golf course at the south east corner of

W Main Street and US Highway 131 into a compact, pedestrian-oriented, mixed-use district.

- Nonhazardous materials: The Zoning Ordinance needs to be updated to allow for the processing and treatment of non-hazardous materials within its boundaries.

Requested Discussion:

To ensure amendments capture the intent of the Community's vision and as they ultimately become written regulation and law, each amendment necessitates a considerable amount of research, time, and discussion from Oshtemo Staff, the Planning Commission, the Township Board, and the public. It is important that all parties have the opportunity to give each amendment their full attention and not spread oneself too thinly. With the number of requested amendments, Township staff is seeking guidance from the Planning Commission and then the Township Board on setting Zoning Ordinance amendment priorities. Staff requests that the above list of amendments is reviewed, and the amendments numbered in the order that the Township wishes to tackle them. Staff and the Planning Commission can realistically work on two to three ordinances at a time. The intent is that staff would work on the first two to three items on the list and as items are completed the other amendments on the list would move up accordingly. Staff recommends that this list, once set, be revisited as needed.

To help spur discussion, staff recommends the amendments be addressed in the order below. Items in **red** being items that staff will continue to work on/complete first:

1. **Outdoor lighting**
2. **Detached Accessory Structures**
3. 5G
4. Permitted Uses, Permitted Uses with Conditions, and Special Uses
5. Marijuana
6. Maple Hill South Mixed-Use Overlay District
7. Signage
8. Go Green Oshtemo
9. Nonhazardous materials

If both the Planning Commission and Township Board feel that more items need to be dealt with more quickly, staff recommends that the Township consider hiring outside consultant(s) to help.

Thank you.