

OSHTEMO CHARTER TOWNSHIP BOARD
7275 West Main Street
Kalamazoo, MI 49009
269.375.4260

April 28, 2020

BOARD WORK SESSION

(Refer www.oshtemo.org Notice Board for Virtual Meeting Information, or page 3 of packet)

6:00 p.m.

AGENDA

- A. Call to Order
- B. Consideration of Village Theme Plan Amendments – PUBLIC HEARING
- C. Discussion on Zoning Amendments Landscaping
- D. Consideration of Zoning Ordinance Amendments – FIRST READING
 - a. Lighting
 - b. Setbacks
 - c. Accessory Buildings
- E. Consideration of Public Sanitary Sewer Hardship Financing or Deferment Ordinance – SECOND READING
- F. Public Comment
- G. Other Updates and Business

**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), 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, 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 and it will be directed to the appropriate person.

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

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

Zoom Instructions for Participants

Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 9-digit Meeting ID.

To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to [join.zoom.us](#) on any browser and entering this **Meeting ID: 912 7023 1450**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet or smartphone then you can join via conference call by following instructions below.

To join the conference by phone:

1. On your phone, dial the toll-free teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **912 7023 1450#**

Participant controls in the lower-left corner of the Zoom screen:



Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.

Memo



To: Oshtemo Charter Township Board
From: Julie Johnston, AICP
Planning Consultant
Date: February 2, 2020
Mtg Date: April 28, 2020
Subject: Draft Village Theme Development Plan Public Hearing

OBJECTIVE

Public hearing and consideration of approval of the draft Village Theme Development Plan.

BACKGROUND

Prior to the construction of the interstate highways that border Oshtemo, 9th Street and Stadium Drive served as the major access roads for the Township. A historic village developed at the junction of these roads and was often referred to as the Oshtemo Village, although it never incorporated as such. In 2004, the Downtown Development Authority (DDA) was established in this area with boundaries that incorporated the historic village.

In 2006, the Township approved the Village Theme Development Plan, which provided a vision for the DDA district. The essential goal of the Plan was to recreate the aesthetics of an historic village, which was lost overtime as redevelopment occurred in this area.

The Village Form-Based Code Overlay, developed and approved in 2008, was a result of the Village Theme Development Plan. This ordinance regulates new development within the Village area, requiring traditional urban design standards like build-to lines close to the road right-of-way, opacity of building facades, no parking in the front yards, two story building heights, etc.

In 2016, the DDA began to become concerned with the lack of new construction within the Village. Development seemed to be occurring in earnest in other areas of the Township, but not within the 9th Street and Stadium Drive area. Discussions related to the Village Form-Based Code Overlay and its possible impact on new development was outlined as a primary concern.

Prior to requesting the Township consider any possible changes to the Form-Based Code, the DDA felt that a review of the 2006 Plan was needed. Public input was garnered as part of the creation of the 2006 Plan and the DDA wanted the public, property owners, business owners, etc. from within the Village, as well as throughout Oshtemo Township, the opportunity to weigh in on any possible changes to the Plan.

A request was presented to the Township Board in late 2016 to complete this project and Wade Trim, a planning consulting firm, was hired to assist with the review and possible updates of the 2006 Plan. In addition, a subcommittee of four members from the DDA and Planning Commission was formed in early 2017 to help guide the public input process, review the draft plans, and make recommendations on possible changes.

The Plan review process was designed to consider and accomplish the following:

1. Gather citizen and stakeholder opinions to confirm the preferred vision for the village and evaluate the effectiveness of the Plan.
2. Investigate the perception that development within the village has been limited, in comparison to development elsewhere in the Township and region, since the original adoption of the Plan.
3. Review changing conditions that may impact development within the village, such as economic trends, demographic/lifestyle preferences, traffic/recent road improvements, and pedestrian connectivity efforts.
4. Recognizing that the local road network is under the jurisdiction of the County, consider the impact that County street design policies have on the existing and planned character of development within the village.
5. Evaluate and outline necessary changes to currently adopted zoning regulations to ensure that such regulations facilitate development which contributes to the desired mixed-use character of the village.

Public input was garnered throughout the review and development of the draft Update. Stakeholder interviews were held in May of 2017. Some of these were one-on-one interview sessions and some were in small groups. The stakeholders represented varying interests, including citizens, township leaders, property owners, business owners, and real estate/development community representatives. The interviews were designed to gather input on the effectiveness of the 2006 Village Theme Development Plan and Village Form-Based Codes.

Two workshops were also held. The first occurred in June of 2017, which was focused on visioning exercises for the Village area. Participants were asked the following questions:

1. Whether the vision from the Village Theme Development Plan continues to reflect local values, desires and needs.

2. Whether the Form Based Code for Oshtemo Village, which was adopted after the Plan, has been successful and results in quality development.
3. Whether changes to the Village Theme Development Plan are needed.
4. Whether changes to the Form Based Code/zoning requirements are needed.

The second workshop was in October of 2017 and provided a series of development/redevelopment scenarios for the Village area, asking participants to evaluate the merits of each scenario. In addition, development principles were reviewed, to see if the Village design guidelines were still considered applicable to the area today. The intent was to get a sense of the design and development aesthetic desired in the Village area.

At the conclusion of the public process in October of 2017, the draft of the Village Theme Development Plan was completed. In order to ensure the Planning Commission and Township Board were up to date on the direction of the draft Plan, it was presented at a joint Board meeting in February of 2018.

At that meeting, there was some concern related to lessening the requirements to construct buildings immediately adjacent to the street right-of-way and allowing parking within the front yard. This change in the Plan, which would and ultimately inform changes to the Form-Based Code, could alter the desired appearance of the Village area by permitting some distance between the buildings and the street right-of-way. As is often seen in traditional downtowns, buildings are constructed immediately adjacent to the sidewalk, which is part of the road right-of-way.

At the conclusion of the joint meeting, it was decided that the Village Theme Development Plan should be included in the Planning Commission's work plan. It was determined that the subcommittee had taken the Plan as far as it could, and it was time for the Commission to complete their review. Due to work loads and other ongoing projects, the draft Plan had not been included on the Commissions agenda for some time. However, in July of this year, the DDA requested the Planning Commission review the Plan, make any possible changes/additions needed, and forward to the Township Board for consideration of approval.

The Planning Commission began their review at the September 12th regular meeting. Discussion was held about the impacts of allowing the Form-Based Code to ultimately be altered if the Village Theme Development Plan was adopted. At the conclusion of the meeting, additional information was requested on the effect of the possible zoning changes recommended by the draft Village Theme Development Plan. This information was provided at their September 26th meeting.

In addition, a request was made related to the two new projects that have developed within the Form-Based Code Overlay area – the residential memory care center on Stadium Drive and the veterinary hospital on Parkview Avenue. Specifically, they were interested in the number and type of deviations from the Form-Based Code that were provided as part of site plan approval. This information was provided for Planning Commission review.

Final changes to the draft Village Theme Development Plan based on Planning Commission input was presented at their October 10, 2019 meeting, as follows:

- The acknowledgements page was updated.
- Information from the *GO! Green Oshtemo Plan* was included on page 18.
- The DDA streetscape plan information was updated on page 19.
- The zoning amendment recommendations were added to page 49.

After a review of these amendments, the Planning Commission felt the goals and objectives of the draft Plan were needed to encourage new economic growth in the Village area. They voted to set the Plan public hearing, which was held on October 24, 2019. At the conclusion of the public hearing, the Planning Commission motioned to forward the draft Village Theme Development Plan to the Township Board for approval. The motion was approved unanimously.

The Township Board discussed the draft Plan at the December 10, 2019 meeting. No additional changes were requested that evening and the Board moved the project forward to consideration of final approval. If the Board chooses to adopt the Village Theme Development Plan at the February 11th meeting, it would become an official document of the Township allowing staff to move forward with the Plan goals.

INFORMATION PROVIDED

The draft Village Theme Development Plan can be found as part of the digital Township Board agenda packet at the following link:

<https://www.oshtemo.org/wp-content/uploads/2019/12/Village-Theme-Development.pdf>

The 2006 Village Theme Development Plan can be found on the Oshtemo Township Planning Department webpage or at the following link:

<https://www.oshtemo.org/wp-content/uploads/2017/10/Village-Theme-Development-Plan.pdf>

Memo



To: Oshtemo Charter Township Board
From: Julie Johnston, AICP
Planning Consultant
Date: February 2, 2020
Mtg Date: April 28, 2020
Subject: Draft Landscape Ordinance

OBJECTIVE

Discussion of the draft Landscape Ordinance, which would replace the current Landscaping Ordinance.

BACKGROUND

In 2016, the Planning Commission worked for several months developing a new Landscape Ordinance. Time was spent in the field reviewing the landscaping at existing developed sites and other community ordinances were examined for comparisons. A revised draft Landscape Ordinance was developed, which staff applied to existing sites around Oshtemo for the Commission to review.

At the conclusion of the draft ordinance review, the Planning Commission began working on revising and reorganizing the entirety of the Zoning Ordinance. It was decided to table the new Landscape Ordinance to become a part of that project instead of holding the public hearings for adoption. As time constraints persisted, the revised/reorganized Zoning Ordinance project was reduced to being primarily a "reorganization" project. Sweeping changes to the Ordinance, which were originally envisioned, were tabled until after the reorganization was complete.

The Planning Commission resumed its review of the Landscape Ordinance in July of 2019. Several meetings were held where additional amendments were completed. As this is a complete rewrite of the current ordinance the typical red and strikethrough language has not been employed.

The draft Ordinance that was presented at the Planning Commission public hearing differs from the Township's existing ordinance in the following ways:

1. The draft Ordinance requires an overall percentage of the site have interior landscaping as opposed to the linear buffers along each property line. The result of this is that landscaping increases proportional to the size of the site. Smaller properties are not burdened with the same 10 – 20-foot buffers along each property line as larger sites.

2. However, parking lot landscaping has increased for sites that having 1 – 50 parking spaces, helping to deter large areas of pavement by requiring more green space.
3. The current ordinance is very specific where landscaping must occur – at the property lines and in parking lots. The draft ordinance requires landscaping in the parking lots and along public and private rights-of-way but allows the design professional to determine where the rest of the required landscaping will be planned on the site.
4. The total number of required trees is slightly less than the current ordinance, which will hopefully allow tree species a better opportunity to survive on the site.
5. There are very specific requirements for opaque screening between incompatible land uses in the recommended ordinance, which can include a variety of berms, fences, walls, landscape materials, etc. But the screening must be six feet in height and opaque. The current ordinance requires larger buffer zones between incompatible uses, but the plant materials are generally trees, which do not provide much screening when the lower branches reach a height beyond five feet.
6. For certain landscape plans, the seal of on architect is required in the recommended ordinance. This is to ensure that if someone is requesting tree credits or wishes to submit an alternate approach to the landscaping requirements, a landscape design professional is creating the plans.

Further comparison of the two ordinances is detailed below:

	Existing Ordinance	Draft Ordinance
Interior Landscaping	No	10 percent
Screening	No	Between nonresidential and residential and between multi-family and single-family. 6-foot opaque visual barrier.
Buffer zones	At every property line. Size dependent on adjacent uses.	30 feet between nonresidential and residential and between multi-family and single-family.
Parking lots	Percentage based on number of spaces. Percentage requirement has tiers, the more spaces the higher the square footage per space. A 50-space lot must have 15 square feet of landscaping for every space or 750 square feet.	25 square feet per parking lot space (for lots over 10 spaces). A 50-space lot must have 1,250 square feet of landscaping.
Street Rights of Way	Part of buffer zone around site	Yes – 20 feet for public, 15 for private.

As stated, the Planning Commission reviewed the draft Ordinance against existing developed sites. The table below provides a comparison of the Wal Mart property on 9th Street:

Wal Mart Site	Existing Ordinance	Draft Ordinance
Total Landscaped Area	83,990 square feet	152,355 square feet
Total Landscape Materials	634	503
Canopy Trees	198	199
Understory Trees	98	70
Shrubs	338	234

After receiving public input at the December 12, 2019 meeting, the Planning Commission motioned to forward the draft Landscape Ordinance to the Township Board with a recommendation of approval.

INFORMATION PROVIDED

- Existing Landscape Ordinance
- Draft Landscape Ordinance
- Planning Commission minutes excerpt – 12/12/19

ARTICLE 53

53 – LANDSCAPING

Contents:

53.10 STATE OF PURPOSE

53.20 SCOPE

53.30 GENERAL PROVISIONS

53.40 DEFINITIONS

53.50 GREENSPACE AREAS

53.60 SUBDIVISIONS / SITE CONDOMINIUMS

53.70 PARKING AREA LANDSCAPING

53.80 OTHER SITE LANDSCAPING REQUIREMENTS

53.90 MATERIAL REQUIREMENTS AND MAINTENANCE

53.100 PRESERVATION CREDITS

53.110 INCENTIVES FOR RESTORING PRE-SETTLEMENT VEGETATION

53.120 TREE PROTECTION DURING CONSTRUCTION

53.130 PROVISIONS FOR EXISTING SITES

53.140 EXCEPTIONS

53.10 STATE OF PURPOSE

The purpose of this Article is to assist all land uses requiring Site Plan review in meeting desired landscaping objectives and to set forth minimum yet flexible standards for required landscape areas. The objectives and functions of the landscape requirements are to:

- Increase compatibility between abutting and adjacent uses including public and private roads and to provide buffering between dissimilar land uses.
- Protect residential quality of life.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare from buildings, cars, night lighting, and other sources.
- Screen unattractive features.
- Reduce noise.
- Define safe access and circulation.
- Enhance or focus attention toward a feature (building, entrance, sign, etc.)
- Provide visual relief from monotonous features such as building walls, large parking lots and streets.
- Add natural color and texture and provide habitat for wildlife.
- Enhance and maintain the area's natural character and provide greenspace.

53.20 SCOPE

All uses subject to Site Plan review shall be landscaped in accordance with a plan meeting the requirements of this Article.

53.30 GENERAL PROVISIONS

- A. Portions of the site not devoted to floor area, parking, access ways or pedestrian use shall be appropriately landscaped with live plant material consisting of deciduous canopy and coniferous trees, understory trees, shrubs, ground cover, and grasses and maintained in a neat and orderly manner.
- B. A landscaping plan drawn to scale shall be submitted detailing the location, type and size of all plant material, berms, walls and fences, and their relationship to existing and proposed facilities, structures, pavement, and access points. It must be of sufficient detail for the reviewing body to determine if it conforms with this Article. Plans shall be reviewed pursuant to this Article and Article 64.
- C. Landscaping material and structures shall be placed in such a manner so as to not interfere with cross-visibility, public safety, or the safe movement of vehicles and pedestrians.
- D. Completion of landscaping shall coincide with the completion of the building or structure unless a later date is permitted in writing by the Township and a performance guarantee is provided, pursuant to Section 64.110.
- E. Any areas that become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the Township.
- F. Corner Lots - For the purpose for this Article a corner lot is considered as having two front yards and appropriate landscaping shall be provided for each.

53.40 DEFINITIONS

Greenspace - Landscaped area around the perimeter of a parcel, lot, or site.

Ground Cover - Plant material that normally reaches a maximum height of not more than 18 inches.

Tree - Canopy - Tall woody plant of a species that normally grows to an overall height of at least 50 feet, usually with one main trunk and many branches.

Tree - Understory - woody plant of a species that normally grows to an overall height of at least 25 feet, usually with one main trunk and many branches. May be of an ornamental nature.

Tree - Evergreen - woody plant of a species with foliage that remains green year-round, usually with one main trunk and many branches. Normally grows to a height of at least 25 feet.

Shrub - Deciduous - A woody plant with several stems, smaller than a tree, that sheds its foliage at the end of the growing season. Mature height ranges from three to 13 feet.

Shrub - Evergreen - A woody plant with several stems, smaller than a tree, with foliage that remains green year-round. Mature height ranges from three to 13 feet.

Shrub - Low growing - A woody plant with several stems, sometimes referred to as dwarf, usually evergreen. Mature height ranges from 1½ to three feet.

Viewshed. The natural environment that is visible from one or more viewing points.

53.50 GREENSPACE AREAS

- A. Table 53-A indicates the Greenspace Type required on properties based upon zoning or road classification. The letter designations indicated in Table 53-A refer to the requirements and standards stated in Table 53-B.

Table 53-A Greenspace Type															
Adjacent Zoning or Road															
Zoning of Subject Site ¹	AG RR R-1 R-2	R-3	R-4	R-5	R-C	VC C	C-R	BRP	I-R	I-1	I-2 I-3	HOZ ^{3,4}	Arterial, Collector or Local ²	Highway	Private Street Easement
AG, RR, R-1, R-2, R-3 ³	C	C	A	A	C	A	B	B	B	B	B	E	C/C+	B	H
R-4	F	F	D	D	F	A	A	B	B	B	B	F	C/C+	B	H
R-5	F	F	D	D	F	A	A	B	B	B	B	F	C/C+	B	H
R-C	F	F	D	D	F	A	A	B	B	B	B	F	C/C+	B	H

Table 53-A Greenspace Type															
Adjacent Zoning or Road															
Zoning of Subject Site ¹	AG RR R-1 R-2	R-3	R-4	R-5	R-C	VC C	C-R	BRP	I-R	I-1	I-2 I-3	HOZ ^{3,4}	Arterial, Collector or Local ²	Highway	Private Street Easement
C	F	F	F	F	F	A	A	C	C	C	C	F	C/C+	C	H
C-R	F	F	F	F	F	A	A	C	C	C	C	F	C/C+	C	H
BRP	F	F	F	F	F	E	E	A	A	C	C	F	C/C+	C	H
I-R	F	F	F	F	F	E	E	A	A	C	C	F	C/C+	C	H
I-1	F	F	F	F	F	E	E	C	C	A	C	F	C/C+	C	H
I-2, I-3	G	G	G	G	G	E	E	C	C	C	A	G	C/C+	C	H

Note: Refer to [Article 19](#) for properties in the VC, Village Commercial District.

- Greenspace type for Special Uses may be increased by the Planning Commission based upon review of the criteria of [Article 65](#).
- C+ applies when the required non-motorized facility and/or utilities are accommodated partially or entirely in the greenspace area due to inadequate space within the public street right-of-way.
- Criteria apply to permitted uses other than single- or two-family dwellings or uses accessory thereto.
- Greenspace width shall be applied from the nearest boundary of an HOZ. In the event that the boundary of the HOZ is "x" feet short of a property line, "x" feet shall be subtracted from the prescribed greenspace width of the developing property. Where a lesser greenspace width is permitted, the number of required plantings shall be reduced based on the ratio of permitted width over prescribed width. For example, if an HOZ ends ten feet short of a property line, a prescribed 40-foot width would become 30 feet, and 75% of the prescribed plantings would be required. Where other provisions of the Zoning Ordinance require a more intense greenspace, those provisions shall apply.

B. The following table (Table 53-B) indicates greenspace requirements stated in terms of width of the greenspace as measured from the property line or right-of-way line, whichever is applicable, and the number and type of plant units required per 100 linear feet of greenspace. The clustering of plant material within a greenspace is encouraged.

Table 53-B									
Width of Greenspace and Quantity of Plant Material per 100 Linear Feet									
Greenspace Type	A	B	C	C+	D	E	F	G	H
Minimum width of greenspace (ft.)	10	10	20	30	25	30	35	40	15
Canopy tree	1	2	2	2	3	4	4	6	1
Understory tree	2	4	3	3	6	6	2	4	2
Shrubs	-	-	4	4	9	12	18	24	-
Evergreen/ Conifer tree	-	2	-	-	-	2	6	10	-

C. Berms - Landscaped undulating earthen berms not exceeding six feet in height, as measured from the grade of the abutting paved area, either existing or proposed, of the subject site, and 3:1 slope may be permitted within a required greenspace. Credit of up to 25 percent may be received against the required plantings in a greenspace by the use of berms three feet in height or greater in said greenspace.

D. No off-street parking, storage, outdoor commercial ground activities, or structures shall be permitted in greenspace areas.

53.60 SUBDIVISIONS / SITE CONDOMINIUMS

A. Street trees along internal roadways. Each lot or building site within a subdivision or site condominium shall be required to have at least one canopy tree for every 50 feet of road frontage or portion thereof. The planting of additional canopy trees along streets is encouraged. Trees shall be planted near the street but outside of the right-of-way of all internal roadways. Required street trees shall be planted when the lot or building site is developed, prior to issuance of a Certificate of Occupancy.

- B. Greenspace along external roadways. In order to preserve viewsheds on Township roads, Type "C" greenspace and plant materials shall be required along all external roadways. See Section 53.50 for width and planting requirements in Type "C" greenspace.
- C. Existing trees and vegetation. To the extent feasible, existing trees and vegetation shall be left undisturbed through the course of development. Existing canopy trees may be credited toward satisfying tree planting requirements. See Section 53.100 for guidelines on credits for existing trees. Existing trees may be used to satisfy the street tree requirement if located near the right-of-way. Existing vegetation may be used to satisfy the tree and shrub requirement if located within a required greenspace area.
- D. Replacement. Required trees and plantings shall be maintained to ensure their survival. At the discretion of the Planning Commission, a performance guarantee may be required to ensure that proposed landscaping is maintained for a period of at least 18 months per Section 53.90.H. Such guarantee may take the form of an irrevocable letter of credit, cash escrow, or performance bond.

53.70 PARKING AREA LANDSCAPING

Landscaping shall be designed and situated to define safe access and circulation ways, provide shade and visual relief, and diminish the scale of large lots.

- A. Perimeter. The visual impact of parking lots shall be minimized through the use of landscaping, berms, walls, and/or decorative fences in such a manner as to interrupt or screen the areas from view.
- B. Interior. Landscape features including end islands, peninsulas, and strips shall be installed in the interior of parking lots to delineate on-site circulation, ensure adequate sight distance at the intersection of aisles and interior roadways, and to prevent diagonal vehicular movement through parking lots. Features shall be designed with sufficient radii to ensure drivers are able to make 90 degree right turns without encroaching upon landscaping or adjacent traffic lanes.
1. Area Requirements based on the number of parking spaces are indicated in Table 53-C.

a.	Parking lots containing up to 50 parking spaces	15 square feet of land area per space
b.	Parking lots containing between 51 and 99 parking spaces	25 square feet of land area per space
c.	Parking lots containing 100 or more parking spaces	30 square feet of land area per space

2. Minimum size. The minimum size of any internal landscaped area shall be 200 square feet, with a minimum width of ten feet.
3. Protection of Landscaping. Interior landscape areas shall be protected by the installation of a raised concrete or asphalt curb, anchored landscape timbers around the border, bumper blocks, other suitable means. A minimum distance of three feet shall be established between proposed tree and shrub plantings and the backside of the curb or timbers to facilitate snow storage while protecting the plantings.
4. Required Plantings. The number and type of plantings shall be determined at a rate of one deciduous canopy tree and two low growing shrubs per 200 square feet of interior landscape area.

53.80 OTHER SITE LANDSCAPING REQUIREMENTS

A. Loading Areas

Loading areas shall be landscaped in such a manner as to screen the area from view of adjacent property, public right-of-way or private access easement. Plants, berms, walls, and/or solid decorative fencing may be used. When loading areas are adjacent to residentially zoned land, the screening must be a minimum of six feet high at installation.

B. Shopping Cart Storage

Any area used for shopping cart containment as may be provided adjacent to the building shall be screened by a minimum four-foot-high masonry wall compatible with the building exterior facade and architecture.

C. Rubbish Disposal and Recyclable Facilities

Rubbish disposal facilities including dumpsters and other commercial containers for waste and recyclable material shall be situated on a hard surface and enclosed by a solid wall or solid fence no less than six (6) feet in height on three sides. In addition, if the front of the disposal facility is visible from an adjacent property, public right-of-way or private access easement, six (6) foot high metal view obstructing doors shall be installed. Enclosure structures and gates shall be maintained in good repair at all times. The use of chain-link fencing with or without interwoven slats is not permitted. Recyclable materials, such as pallets and bales, shall be situated and enclosed as described above.

D. Storm Water Retention Areas

Any fenced areas that are visible from an adjacent property, public right-of-way or private access easement shall be landscaped to screen them from view.

Storm water management utilizing the design criteria stated in Section 56.20.C, is encouraged. Credit of up to 10 percent may be received against the required plant material in a greenspace when the design criteria stated in Section 56.20.C is used for storm water management within said greenspace.

53.90 MATERIAL REQUIREMENTS AND MAINTENANCE

A. Native Plants. Native plants are well adapted to local conditions, therefore requiring little maintenance once established. They eliminate or significantly reduce the need for fertilizers and water. They also often attract beneficial insects, which prey on pests, decreasing the need for pesticides. Native plants are less expensive to maintain, they promote biodiversity, and maintain our natural heritage and our community's character. At least 75 percent of required canopy trees shall be native to lower Michigan. At least 30 percent of all other required landscape material within each Plant Material Type shall be native to lower Michigan. For a listing of species native to lower Michigan, see MICHIGAN FLORA ONLINE at www.michiganflora.net.

B. Hardy Plant Materials. All landscaping material shall be hardy to the area and appropriate to the situation in which it is proposed, free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.

C. Minimum Plant Size. Plant materials shall meet the minimum plant size requirements contained in Table 53-D. Height of a plant is measured from the top of the root ball or top of the container soil to the top of the leader, the primary stem of the plant.

Table 53-D Minimum Size	
Plant Material Type	Size
Canopy Tree - Single Stem	2" caliper*
Canopy Tree - Multi-stem - Clump	10 feet (height)
Understory Tree	8' to 10' (height)
Evergreen Tree	5 feet (height)
Shrub - Deciduous	24 inches (height)
Shrub - Evergreen	18 inches (height)
Shrub - Low growing	2-gallon pot
*2" caliper as measured in conformance with the American Standard for Nursery Stock	

D. Monoculture. The use of a single species is prohibited to increase the rate of plant survival. Except for plantings used for evergreen screening, no one species of tree or shrub may make up more than 50% of the total amount within each Plant Material Type.

E. Not Permitted.

- Species not permitted as required street tree plantings and that should be used with caution when placed in proximity to any existing or proposed building, structure, walkway, or parking area are listed below. These species may be appropriate in buffer areas or for landscape restoration.

Species Appropriate for Buffer Areas or Landscape Restoration	
Botanical Name	Common Name
<i>Acer negundo</i>	Box Elder

Species Appropriate for Buffer Areas or Landscape Restoration	
Botanical Name	Common Name
<i>Acer saccharinum</i>	Silver Maple
<i>Aesculus hippocastanum</i>	Horse Chestnut
<i>Ailanthus altissima</i>	Tree of Heaven
<i>Catalpa speciosa</i>	Catalpa
<i>Ginkgo biloba (Female)</i>	Female Ginkgo
<i>Populus spp.</i>	Poplars, Cottonwood, Aspen
<i>Liquidambar styraciflua</i>	Sweet Gum
<i>Salix spp.</i>	Willows
<i>Ulmus spp.</i>	Elms

2. Any species known to have structural weakness or excessive bearing of fruit or nuts should not be used in areas of vehicular or pedestrian traffic.

F. Invasive species. To protect species indigenous to the Township, the use of invasive species which naturalize is not permitted. Those invasive species not permitted are listed on the Midwest Invasive Species Information Network at <http://www.misin.msu.edu/>.

G. Maintenance. Landscape areas shall be maintained in a neat and orderly manner including mowing, fertilizing, pruning, and irrigation to promote optimum condition.

H. Replacement. Withered and/or dead plant materials shall be replaced within a reasonable period of time but no longer than one growing season later.

I. Groupings. Shrubs shall be grouped within the required greenspace and parking lot landscape areas when appropriate for aesthetic value and ease of maintenance.

J. Greenspace within the public right-of-way/private access easements. The land area lying between the required greenspace in the front yard of properties and the edge of pavement of a public or private access easement shall be neatly maintained with grass or groundcover.

53.100 PRESERVATION CREDITS

A. Preservation of Existing Trees. Credit shall be awarded for preserving canopy trees. By preserving canopy trees, tree planting requirements can be significantly reduced. The number of credits awarded for tree preservation shall be in accordance with the table presented below. Trees intended to be preserved shall be indicated on the landscape plan and type and size shall be noted. Tree protection fencing shall be required according to Section [53.120](#).

Tree preservation credits	
Diameter of Preserved Tree*	Number of Trees credited
Over 24 inches	4
12 inches to 24 inches	3
8 inches to 11.9 inches	2
2 inches to 7.9 inches	1
*Diameter measured at 4' above ground level	

B. Preservation of existing native vegetation. Credit shall be awarded for preserving existing vegetation native to lower Michigan, including shrubs and grassland species. By preserving existing native vegetation, tree and shrub planting requirements can be significantly reduced. The number of credits awarded shall be determined by Township planning staff based on existing species and the intended function of the required tree and shrub plantings.

53.110 INCENTIVES FOR RESTORING PRE-SETTLEMENT VEGETATION

A. Oshtemo Township's pre-settlement vegetation types were primarily Oak Savanna, Oak Forest, and Beech-Sugar Maple Forest, with smaller areas of Prairie, Marsh, Bur Oak Opening, and Southern Swamp Forest. A map of pre-settlement

vegetation showing the geographic location of these vegetation types is on file in the Township office. It includes a description of the predominant plant species for each vegetation type. This information is also available online at wmich.edu/planning/WebSites/GeogMap/KalCountyVegetationMapEntire.htm.

- B. To encourage restoration of pre-settlement vegetation, all uses subject to Site Plan review may opt to submit a landscape restoration plan in lieu of a landscape plan. A landscape restoration plan shall use native vegetation types to meet the intent of screening and buffering requirements while at the same time strive to restore the pre-settlement vegetation of the immediate area. Even though the exact number of each landscape element may not be provided, approval of such a plan shall be granted so long as the overall intent is satisfied. Prior approval of the landscape restoration plan by Township Planning staff is required.

53.120 TREE PROTECTION DURING CONSTRUCTION

- A. Before development, the developer or builder shall erect tree protection fencing that will shield and protect all trees designated to be preserved. Fencing should be placed no closer than ten feet from the trunk of a tree or five feet beyond the drip line of a tree or group of trees, whichever is greater.
- B. Fencing shall be a minimum of 48 inches high.
- C. Tree protection fencing shall be maintained during construction and all construction materials, supplies, and equipment shall be kept out of the protected areas.
- D. Location of tree protection fencing must be shown on the approved landscape plan.

53.130 PROVISIONS FOR EXISTING SITES

- A. Perimeter and parking area landscape requirements shall apply to all expansions, renovations, or alterations that increase the gross floor area. Each increase in gross floor area of one percent shall require the installation of a minimum of five percent of the landscaping for the total site.
- B. Landscape requirements for Parking Areas, Section 53.70 shall apply when expansions increase the number of parking spaces by 20 percent or at least ten parking spaces.
- C. When parking lots not in conformance with Article 53 are milled and resurfaced landscaping in accordance with Section 53.70 is encouraged.

53.140 EXCEPTIONS

- A. **Additional Planting Requirements** - For reason of conflicting uses, unfavorable topography, or other unique or extenuating physical circumstances, the reviewing body may increase required landscape plantings in any required greenspace if in its determination an increase is found necessary to reasonably achieve the spirit, purpose and intent of this Article.
- B. **Reductions and Substitutions of Plantings** - If a physical hardship exists or existing topography and vegetation are determined by the reviewing body to provide equal or better landscape and buffering effect, the reviewing body may approve modifications only to the planting requirements of Section 53.50. The reviewing body may require such alternate plantings and visual screens as hedges, fences, walls, and/or combination thereof which it deems necessary to ensure compliance with the spirit, purpose and intent of this Article.

ARTICLE 53: LANDSCAPING AND SCREENING

53.10 Intent

The intent of this Article is to promote the public health, safety, and welfare and improve the visual appearance of the Township by requiring landscaping for each development for which site plan review is required. It is further the intent of this Article to achieve the following:

- Increase compatibility between uses and provide buffering between dissimilar land uses.
- Improve the overall aesthetics and appearance of public rights-of way.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare from buildings, cars, night lighting, and other sources.
- Screen unattractive features.
- Reduce noise.
- Define safe access and circulation.
- Enhance or focus attention toward a feature (building, entrance, sign, etc.)
- Provide visual relief from monotonous features such as building walls, large parking lots and streets.
- Add natural color and texture and provide habitat for wildlife.
- Enhance and maintain the natural character and appearance of the community.

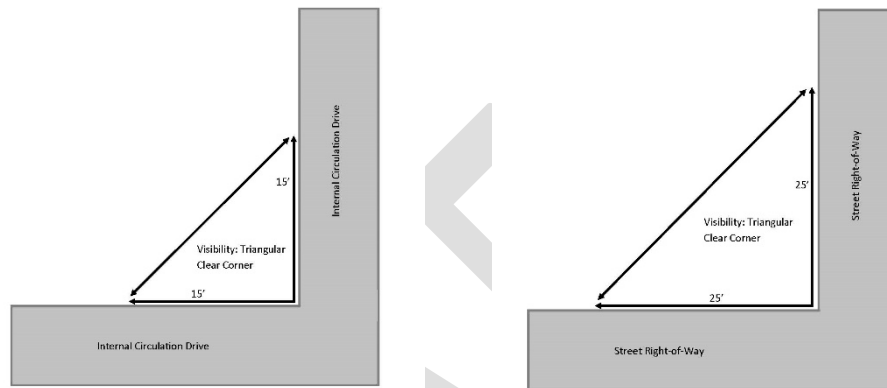
53.20 Application of Requirements

These requirements shall apply to all uses subject to site plan review as defined in Article 64 of this ordinance. No site plan shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

53.30 General Provisions

- A. Minimum Requirements - The requirements in this Article are minimum requirements and shall not preclude the developer and the Township from mutually agreeing to additional landscaping.
- B. Landscape plan preparation – Landscape plans are required for all developments requiring site plan approval. However, site plans that meet one or more of the following must submit a Landscape Plan that is sealed by a landscape architect:
 1. 70 or more parking spaces
 2. Screening between land uses
 3. Request tree preservation credits
 4. Request credits for preserving native vegetation
 5. Request to submit an alternative landscape plan to restore pre-settlement vegetation
- C. Site coverage – Developed portions of the site not devoted to building floor area, parking, access ways or pedestrian use shall be appropriately landscaped with live plant material and maintained in a neat and orderly manner. Developed portions of the site shall mean the physical extension and/or construction of any man-made change or alteration to an improved or unimproved property.

- D. Visibility - Landscaping material and structures shall be placed in such a manner to not interfere with cross-visibility, public safety, or the safe movement of vehicles and pedestrians. A triangular clear view zone area shall be established at the intersections of street rights-of-way and internal circulation drives intended for continued movement within a site and between properties. The clear zone shall be 25 linear feet for street rights-of-way and 15 linear feet for internal circulation drives drawn along each right-of-way from their point of intersection, creating a triangular clear corner. No plant materials above a height of two feet, at maturity, from the established street grades shall be permitted within the clear view zone area.



- E. Land clearing - Land clearing shall be limited to that needed for the construction of buildings, structures, parking lots, street right(s)-of-way, drainage and utility areas, other site improvements, and any grading necessary to accommodate such construction. No grading or removal of the following trees shall be permitted in the area of the parcel, lot or building site not developed:
1. Trees that are native to Michigan with a diameter of 2-inches or greater at 4-feet in height.
 2. Trees that are not native to Michigan with a diameter of 8-inches or greater at 4-feet in height.
- F. Public right-of-way/private easement greenspace – the land area lying between the paved portion of a public right-of-way/private easement and the property line shall be neatly maintained with grass or groundcover.
- G. Maintenance – installation, maintenance, and completion
1. All landscaping required by this Article shall be planted before obtaining a certificate of occupancy or the appropriate financial guarantee such as cash placed in an escrow account, letter of credit, and/or performance bond in the amount of the cost of landscaping to be released only after landscaping is completed.

2. All landscaping and landscape elements shall be planted, and earth moving or grading performed, in a sound workmanlike manner, according to accepted planting and grading procedures.
3. Landscaping required by this Article shall be maintained in a reasonably healthy condition, free from refuse and debris. All unhealthy and dead material shall be replaced within one (1) year of damage or death or the next appropriate planting period, whichever comes first. All landscaped areas shall be provided with a readily available and acceptable water supply.
4. Any areas that become disturbed for any reason shall be restored in accordance with the original landscape plan unless approved otherwise in writing by the Township.

53.40 Screening Between Land Uses

- A. A landscape buffer shall be constructed to create a visual screen between the following land use types:
 1. Nonresidential land use or zoned property along all adjoining boundaries of a residential land use or zoned property.
 2. Multi-family or manufactured home community along all adjoining boundaries of a residential land use or zoned property.
- B. The landscape buffer shall be a minimum of 30 feet in width.
- C. The landscape buffer must create a visual barrier at least six (6) feet in height that provides opacity to the adjacent property owner.
- D. The landscape buffer must contain two (2) canopy trees, two (2) evergreen trees and (2) understory trees for every 100 linear feet of required buffer length. Evergreens may be substituted for canopy and understory trees at a 1:1 ratio.
- E. The landscape buffer must also include a combination of one or more of the following to provide the required 6-foot opaque visual barrier:
 1. Berms – landscaped undulating earthen berms with varying heights as measured from the grade of the abutting property.
 2. Walls or fences – Walls or fences must be a minimum of six (6) feet in height as measured on the side of the proposed wall or fence having the higher grade. A required wall or fence shall be located on the lot line except where underground utilities interfere and except in instances where conformity with front yard setback is required. Upon review of the landscape plan, the reviewing body may approve an alternate location of a wall or fence. The Planning Department shall review and the Zoning Board or Appeals or Planning Commission shall approve the construction materials of the wall or fence which may include face brick, poured-in-place simulated face brick, precast brick face panels, stone, or wood. Chain link fences with opaque slats are not permitted.

3. Plant materials – Landscape planting materials may consist of a variety of materials but must provide opacity to the adjacent property. For plant materials, the height requirement is based upon reasonably anticipated growth over a period of three (3) years.
- F. Where there is a need to provide a greater noise or dust barrier or to screen more intense development as determined by the reviewing body, a solid wall or fence with additional landscape materials shall be required.

53.50 Parking Lot Landscaping

- A. Parking lot landscaping shall include islands or peninsulas to delineate on-site circulation, ensure adequate sight distance at the intersection of aisles and interior roadways, and to prevent diagonal vehicular movement through parking lots. Features shall be designed with sufficient radii to ensure drivers are able to make turns without encroaching upon landscaping or adjacent traffic lanes.
- B. Total parking lot landscaping shall be based on the following:
1. Parking lots with 10 parking spaces or fewer shall be exempt from parking lot landscaping requirements.
 2. Parking lots with 11 spaces or more shall provide landscaping at 25 square feet per parking lot space. Total square footage shall be dispersed into separate landscape features, such as islands or peninsulas, within parking lots so as to break up the broad expanse of pavement, guide the circulation of vehicular and pedestrian traffic, and to provide shade and visual relief from pavement.
- C. There shall be a minimum of one (1) **canopy** tree and two (2) low growing shrubs for every 200 square feet of required parking lot landscaping.
- D. The minimum size of any parking lot landscape feature shall be no less than six (6) feet in any single dimension and no less than 200 square feet in area.
- E. To reduce the impacts of extensive concrete or asphalt, a parking lot landscape feature must be provided at least every 200 linear feet of parking spaces.
- F. All parking lot landscaping shall be neatly maintained with plant material or mulch.
- G. Parking lot landscape features shall be protected by the installation of a raised concrete or asphalt curb, anchored landscape timbers around of the border, or other suitable means. A minimum distance of three (3) feet shall be established between proposed trees and the backside of the protection device.

53.60 Street Rights-of-Way Greenbelts

- A. Greenbelts shall be 20 feet wide along public rights-of-way and 15 feet wide along private rights-of-way, measured from the right-of-way line.

- B. The greenbelt shall be landscaped with a minimum equivalent of one (1) canopy tree and two (2) understory trees for every 100 linear feet, or fraction thereof, of frontage abutting a street right-of-way.
- C. Parking lots adjacent to street rights-of-way shall provide shrubs at a ratio of 1.5 shrubs for every one (1) parking space. Shrubs that reach a mature height of at least three (3) feet shall be utilized and they shall be in groupings spaced at least three (3) feet on center to screen the parking lot from the right-of-way.
- D. In addition to the required plantings within the greenbelt, the remainder of the greenbelt shall be landscaped with grass, ground cover, shrubs, and other organic landscape materials.
- E. Access drives from public rights-of-way through required greenbelts shall be permitted, but such drives shall not be subtracted from the linear dimension used to determine the minimum number of trees required.
- F. The clear view zone outlined in Section 53.30.D must be met for all access drives.
- G. Trees may be placed in groupings within the greenbelt.

53.70 Interior Site Landscaping

- A. In addition to the parking lot and greenbelt landscaping, a minimum of 10 percent of the developed area of the parcel, lot or building site must be landscaped. The developed area of the parcel, lot or building site shall mean the physical extension and/or construction of any man-made change or alteration to an improved or unimproved property.
- B. Interior site landscaping shall be located adjacent to buildings and in at least one side or rear yard distributed throughout the developed area of the parcel, lot or building site.
- C. In addition to the other tree requirements outlined herein, one (1) canopy tree will be required for every 1,500 square feet and one (1) understory tree will be required for every 2,500 square feet of the interior site landscaping.
- D. Interior site landscaping shall be provided to enhance the appearance of the site and screen potentially objectionable site features such as, but not limited to, retention/detention ponds, transformer pads, air conditioning units, and loading areas.

53.80 Loading/Unloading Areas

Loading areas shall be landscaped in such a manner as to screen the area from view of public rights-of-way or private access easements.

53.90 Screening of Trash and Recycling Containers

- A. Outside trash and recycling disposal containers shall be screened on all sides with an opaque fence or wall and gate at least as high as the container, but no less than six (6) feet in height, and shall be constructed of material that is compatible with the architectural materials used

in the site development. The Planning Commission or Zoning Board or Appeals, at its discretion, may approve alternative methods of screening that meet the intent of this Article.

- B. Containers and enclosures shall be located away from public view insofar as possible, and enclosures shall be situated so that they do not cause excessive nuisance or offense to occupants of nearby buildings.
- C. Screening and gates shall be of a durable construction. Chain link fences with opaque slats are not permitted.

53.100 Landscape Elements

A. Native plant materials – At least 75 percent of required trees shall be native to Lower Michigan. At least ~~30~~ 50 percent of all other required landscape material within each Plant Material Type shall be native to Lower Michigan. For information on native plants and lists of trees and shrubs, see the following websites:

1. www.nativeplants.msu.edu
2. www.plant.native.org
3. www.wildflower.org/collections/Michigan

B. Composition -

1. The use of a single species is prohibited. Except for plantings used for evergreen screening, no one species of tree or shrub may make up more than 50 percent of the total amount of required landscaping material.
2. Any species known to have structural weakness or excessive bearing of fruit or nuts shall not be used in areas of vehicular or pedestrian traffic.
3. Species not permitted within street rights-of-way greenbelts and should be used with caution when placed in proximity to any existing or proposed building, structure, walkway, or parking area are listed in the below table:

Botanical Name	Common Name
Acer negundo	Box Elder
Acer saccharinum	Silver Maple
Aesculus hippocastanum	Horse Chestnut
Ailanthus altissima	Tree of Heaven
Catalpa speciosa	Catalpa
Ginkgo biloba (Female)	Female Ginkgo
Populus spp.	Poplars, Cottonwood, Aspen
Liquidambar styraciflua	Sweet Gum

Botanical Name	Common Name
Salix spp.	Willows
Ulmus spp.	Elms
Fraxinus	Ash

4. Invasive species - To protect species indigenous to the Township, the use of invasive species which naturalize are prohibited. Those invasive species not permitted are listed on the Midwest Invasive Species Information Network at www.misin.msu.edu.
 5. Hardy plant materials - All landscaping material shall be hardy to the area and appropriate to the situation in which it is proposed, free of disease and insects, and conform to the American Standard for Nursery Stock of the American Association of Nurserymen.
- C. Minimum size requirements - Where landscaping is required, the following minimum size requirements for representative landscape materials shall be applicable. Height of a plant is measured from the top of the root ball or top of the container soil to the top of the leader, the primary stem of the plant.

Plant Material Type	Size
Canopy Tree - Single Stem	2" caliper*
Canopy Tree - Multi-Stem Clump	10 feet (height)
Understory Tree	8' to 10' (height)
Evergreen Tree	5 feet (height)
Shrub - Deciduous	24 inches (height)
Shrub - Evergreen	18 inches (height)
Shrub - Low Growing	2-gallon pot

*2" caliper as measured in conformance with the American Standard for Nursery Stock.

- D. Berms – Any proposed berms shall be constructed with slopes not to exceed a one to three (1:3) gradient. Berm slopes shall be protected with sod, seed, or other form of natural ground cover.
- E. Coordination with utilities - Provision shall be made to coordinate landscaping with existing and proposed underground and overhead utility lines so as to avoid interference with plant growth.
- F. Storm water retention and detention ponds - The integration of storm water retention and detention ponds in the overall landscape concept is recommended. Ponds with a natural or free form shape, rather than square or rectangular design and appearance, shall be required. If site constraints dictate a more engineered shape, the design and appearance must be approved by the reviewing body. Any fenced areas that are visible from an adjacent property, public right-of-way or private access easement shall be landscaped to screen them from view.

Landscape materials may consist of a variety of plantings that provide generally consistent screening of the fence. For plant materials, the height requirement is based upon reasonably anticipated growth over a period of three (3) years.

53.110 Tree Preservation Credits

- A. Tree preservation credits shall be given for trees preserved within the developed portion of a parcel, lot or building site. The location of preserved trees shall determine which specific landscape requirement shall be reduced.
- B. Credit shall be awarded for preserving canopy trees. The number of credits awarded for tree preservation shall be in accordance with the table presented below. Trees intended to be preserved shall be indicated on the landscape plan and type and size shall be noted.

Tree Preservation Credits	
Diameter of Preserved Tree*	Number of Trees credited
Over 24 inches	4
12 inches to 24 inches	3
8 inches to 11.9 inches	2
2 inches to 7.9 inches	1

*Diameter measured at 4' above ground level.

- C. In the event that healthy trees which are used to meet the minimum requirements of this section or those labeled to remain are cut down, destroyed, damaged, or excavated at the dripline, as determined by the Township, the contractor shall replace them with trees which meet Ordinance requirements.

53.120 Tree Protection prior to and during Construction.

- A. Before any site work begins, the developer or builder shall erect tree protection fencing that will shield and protect all trees designated to be preserved. Fencing should be placed no closer than ten feet from the trunk of a tree or five feet beyond the drip line of a tree or group of trees, whichever is greater.
- B. Fencing shall be a minimum of 48 inches high.
- C. Tree protection fencing shall be maintained during construction and all construction materials, supplies, and equipment shall be kept out of the protected areas.
- D. Paving, or other site improvements, shall not encroach upon the dripline of the existing trees to be preserved.
- E. Location of tree protection fencing must be shown on the approved landscape plan.

53.130 Preservation of Existing Native Vegetation.

Credit shall be awarded for preserving existing vegetation native to Lower Michigan, including shrubs and grassland species. By preserving existing native vegetation, tree and shrub planting requirements can be reduced. The number of credits awarded shall be recommended by Township planning staff and approved by the reviewing body based on a natural features inventory prepared by an environmental professional or landscape architect that describes existing species and the intended function of the required tree and shrub plantings.

53.140 Incentives for Restoring Pre-Settlement Vegetation

- A. Oshtemo Township's pre-settlement vegetation types were primarily Oak Savanna, Oak Forest, and Beech-Sugar Maple Forest, with smaller areas of Prairie, Marsh, Bur Oak Opening, and Southern Swamp Forest. A map of pre-settlement vegetation showing the geographic location of these vegetation types is on file in the Township office. It includes a description of the predominant plant species for each vegetation type.
- B. To encourage restoration of pre-settlement vegetation, all uses subject to site plan review may opt to submit a landscape restoration plan in lieu of a landscape plan. A landscape restoration plan shall use native vegetation types to meet the intent of screening and buffering requirements while at the same time strive to restore the pre-settlement vegetation of the immediate area. Even though the exact number of each landscape element may not be provided, approval of such a plan shall be granted so long as the overall intent is satisfied. Township planning staff shall recommend and the reviewing body shall approve a landscape restoration plan.

53.150 Provisions for Existing Sites

- A. Street rights-of-way greenbelts and screening between land uses shall be required for any existing site where the renovation, expansion or alteration increases the structure by more than 25 percent of the existing floor area or is greater than 2,000 square feet.
- B. Landscape requirements for parking lots shall apply when expansions increase the number of parking spaces by 25 percent or at least eleven (11) parking spaces. Parking lot landscaping requirements shall be based on, and only apply to, the new spaces developed.
- C. If site constraints prevent the application of these requirements, the reviewing body may grant an alternate approach or reduction in the landscape requirements through the site plan review process.

53.160 Modifications or Reductions

If an unusual physical circumstance exists on or affects a property, the reviewing body may approve modifications to the planting material requirements of this Article. These modifications may include the approval of plantings and visual screening such as hedges, fences, walls, and/or combinations thereof, which provides an alternate approach the reviewing body deems appropriate to ensure compliance with the spirit, purpose and intent of this Article.

If existing topography and vegetation are determined by the reviewing body to provide equal or better landscape and buffering effect, reductions in plantings may also be approved if the spirit, purpose and intent of this Article is met.

DRAFT

approach to implementing Section 41.50 of the PUD regulations substantial justice will be observed and that the public health, safety, and general welfare will not be compromised. Ms. Maxwell supported the motion. The motion was approved unanimously.

PUBLIC HEARING: LANDSCAPE ORDINANCE
CONSIDERATION OF THE DRAFT LANDSCAPE ORDINANCE FOR
RECOMMENDATION TO THE TOWNSHIP BOARD

Ms. Johnston reported in 2016, the Planning Commission worked for several months developing a new Landscape Ordinance. Time was spent in the field reviewing constructed sites to see how landscaping was being developed and other community ordinances were examined for comparisons. A revised draft Landscape Ordinance was developed, which staff applied to existing sites around Oshtemo and reviewed with the Commission.

At the conclusion of the draft ordinance review, staff knew the Planning Commission would be working on revising and reorganizing the entirety of the Zoning Ordinance and therefore, decided to table the new Landscape Ordinance to become a part of that project instead of holding the public hearings for adoption. As time constraints persisted, the revised/reorganized Zoning Ordinance project was reduced to being primarily a “reorganization” project. Sweeping changes to the Ordinance, which were originally envisioned, were tabled until after the reorganization was complete.

She noted the Planning Commission resumed its review of the Landscape Ordinance in July of this year. Several meetings were held where additional amendments were completed. The proposed document will repeal and replace the current landscaping ordinance.

The draft Ordinance presented for public hearing differs from the Township’s existing ordinance in the following ways:

1. The draft Ordinance requires an overall percentage of the site be landscaped, which is generally slightly less in square footage than the current ordinance landscaping requirements.
2. The current ordinance is very specific where landscaping must occur – at the property lines. The draft ordinance requires landscaping in the parking lots and along public and private rights-of-way but allows the design professional to determine where the rest of the required landscaping will be planned on the site.
3. The total number of required trees is slightly less than the current ordinance, which will hopefully allow tree species a better opportunity to survive on the site.
4. There are very specific requirements for opaque screening between incompatible land uses in the recommended ordinance, which can include a variety of berms,

fences, walls, landscape materials, etc. But the screening must be six feet in height and opaque. The current ordinance requires larger buffer zones between incompatible uses, but the plant materials are generally trees, which do not provide much screening when the lower branches reach a height beyond five feet.

5. For certain landscape plans, the seal of an architect is required in the recommended ordinance. This is to ensure that if someone is requesting tree credits or wishes to submit an alternate approach to the landscaping requirements, a landscape design professional is creating the plans.

Ms. Johnston indicated two changes were made to the draft Ordinance since the Planning Commission's review at their October 10th meeting. The first was a modification within the parking lot landscaping section, returning to the use of canopy trees instead of understory trees within the required landscaped areas. The concern with understory trees was that very small trees could be planted (maximum growth at 8 to 10 feet), which would not provide the desired visual aesthetic we are trying to reach or provide shade within the parking lot areas.

The second change was to the native planting requirements. The amendment increased native plantings for all other landscape material to 50 percent where 30 percent was previously required. The 75 percent native planting requirement for trees remained the same.

She said the three main objectives of the new ordinance were 1) to allow a smaller buffer zone between buildings, 2) allow for more flexibility, and 3) provide for more/improved screening between residential and non-residential properties.

Ms. Johnston noted staff applied the new requirements to actual existing large and small locations within the Township and found the new requirements could be easily accommodated.

She indicated after receiving public input, staff was recommending approval of the draft Landscaping Ordinance to be forwarded to the Township Board for approval.

The Chair opened a Public Hearing, but closed it and moved to Board Deliberations after determining no members of the public wished to comment.

Ms. Farmer indicated she was in support of the proposed ordinance. After determining there were no further Board comments, the Chair requested a motion.

Ms. Dickason made a motion to approve the proposed ordinance as presented and to forward it to the Township Board for their consideration and approval. Mr. Commissaris supported the motion. The motion was approved unanimously.



April 20, 2020

Mtg Date: April 28, 2020
To: Oshtemo Charter Township Board
From: Iris Lubbert, AICP, Planning Director
Subject: Lighting Ordinance – First Reading

Objective:
Consideration of the Lighting Ordinance for first reading.

Background:

There has recently been some concern about how the newly implemented Outdoor 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 12th meeting the Planning 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 that intent. It was determined that further discussion was necessary. The Planning Commission directed staff to revisit this section and explore the possibility of up lighting in more detail.

As the Dark Sky Initiative was a consideration in the development of the original ordinance, staff explored options allowing up lighting that would be in line with this directive. After conducting

research and analyzing how other communities regulate up lighting, staff presented two code amendment directions to the Planning Commission to consider at their regular January 30th meeting. Option One completely removed up lighting as a possibility for illuminating building facades. Option Two allowed for the up lighting of building facades with restrictions. Both options also included a number of smaller additional text amendments throughout Article 54 that would help with the clarity and intent of the code. After discussion, the Planning Commission agreed to move forward and set a Public Hearing for Option One, with some minor changes, which would completely remove up lighting as a means to illuminate building facades. The Planning Commission generally agreed that Option One was more consistent with the Dark Sky Initiative and the original intent of the code.

The Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer have reviewed the proposed language and support the proposed amendments to Article 54. A notice for the Public Hearing was published on Tuesday, February 11th, 2020.

After holding a public hearing on February 27th, the Planning Commission made a motion to forward the draft Lighting Ordinance to the Township Board with a recommendation of approval.

Summary of Proposed Amendments:

Section 54.20 Applicability

- Adding a requirement that all properties need to fully conform with the lighting ordinance when fifty percent or more of their existing outdoor lighting fixtures have been or will be replaced or modified. – The proposed language would help ensure that all properties within the Township would eventually be brought into compliance with the lighting ordinance and contribute to the Dark Sky Initiative.

Section 54.30 Definitions

- Removing “or translucent” from the definition of a Baffle or light shield. – Removing this language from this definition helps ensure that glare and lateral light spill from outdoor lights within the Township can be mitigated. This amendment also removes any opportunity for a subjective interpretation of what could be considered translucent.
- Removing and modifying images from the Fixture, cutoff and Fixture, non-cutoff definitions. – The current two images generate confusion as they refer to terms not used anywhere else in the code. Removing and adjusting the images as shown helps to prevent confusion.

Section 54.50 Prohibited Lighting

- Clarify that fixtures that direct light upward are only allowed when expressly permitted in this Article. – Adding “expressly” to this provision helps staff avoid any future interpretation that up lighting may be permitted in sections of the code where it was not the intent.
- Expanding the type of unshielded fixtures that are not permitted. The intent of the code is that no outdoor fixtures are unshielded. This modification ensures that this intent is clear.

Section 54.60 Outdoor Lighting Standards

- Reiterating that all outdoor lighting shall be directed downward unless expressly permitted. – The current language that addresses the direction of lighting in this section only notes that lights should be directed away from adjacent properties.
- Clarifying that all building mounted lighting needs to be downward directed. – This amendment clarifies that all outdoor lighting used for the purpose of illuminating the exterior of a building is directed downward.
- Adding a note to refer to the signage section of the code for sign lighting requirements. – This amendment seeks to help users navigate the code to find additional lighting requirements that could be applicable.

Thank you.

Attachments:

Proposed Amendments (**denoted in red**) to the Lighting Ordinance - Article 54
Planning Commission Minutes excerpt – 02/27/20

54.10 INTENT

- 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

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 have been or will be replaced or modified since this ordinance became effective, then all lighting must be made to conform to the provisions of this lighting ordinance.**

54.30 DEFINITIONS

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.

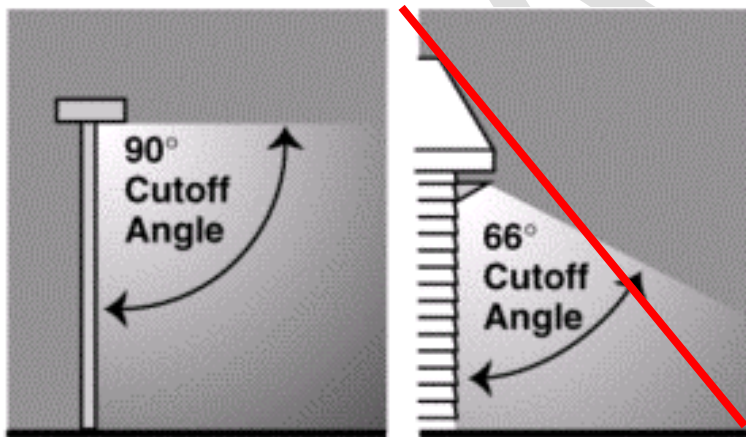
Encased – a lamp obscured by translucent sheathing.

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

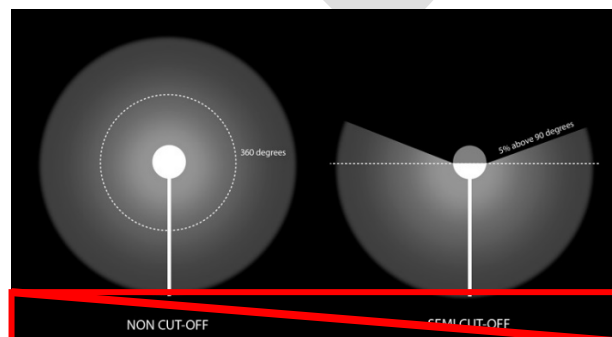
Exterior lighting - Temporary or permanent lighting that is installed, located, or used in such a manner to emit light outside. Fixtures that are installed indoors that are intended to draw attention to the exterior of the building from the outside are considered exterior lighting for the purposes of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

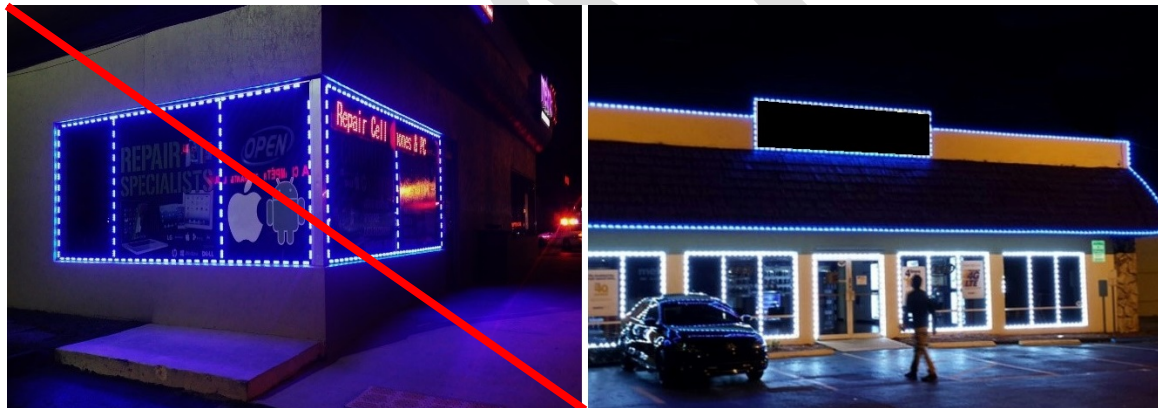
54.40 EXEMPTIONS

- 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 fixtures 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. **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

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.

1. Prior to installation of the trail, construction details and engineering documents will be submitted for the review and approval by Oshtemo's Engineering and Building Department.
2. Trail hours will be sunrise to 30 minutes after sunset.
3. If additional restrooms and/or parking are deemed necessary, a restroom and/or parking lot will be provided where the trail intersects with 6th Street. The installation of this parking lot or a trail head will be required to go through the special use review processes and a public hearing.
4. Stop signs will be installed along the trail both east and west of 6th Street.
5. Applicant to coordinate with property owners at 4310 S 7th Street regarding a landscaping buffer or a privacy fence to screen the existing residence from the trail.
6. A sign will be installed alerting potential trail users that there is no public access or parking at the end of 7th Street.
7. Access easements will be provided to properties that have land on both sides of the trail.
8. If gates are installed across the trail in the future, they will be accessible to the Fire Department.
9. When the trail is being designed an open house will be held with neighboring property owners.

With the intent to keep in mind the concerns of citizens. Mr. Commissaris seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda and asked Ms. Lubbert for her presentation.

PUBLIC HEARING: LIGHTING ORDINANCE
CONSIDERATION OF AMENDMENTS TO ARTICLE 54 - LIGHTING ORDINANCE,
FOR RECOMMENDATION TO THE TOWNSHIP BOARD.

Ms. Lubbert said there has recently been some concern about how the newly implemented Outdoor 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. 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. 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. Prior to the adoption of our current Lighting Ordinance on September 10th, 2019 upward lighting of this nature was strictly prohibited.

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

Ms. Lubbert elaborated that as the Dark Sky Initiative was a consideration in the development of the original ordinance, staff explored options allowing up lighting that would be in line with this directive. After conducting research and analyzing how other communities regulate up lighting, staff presented two code amendment directions to the Commission to consider at their regular January 30th meeting. Option One completely removed up lighting as a possibility for illuminating building facades. Option Two allowed for the up lighting of building facades with restrictions. Both options also included a number of smaller additional text amendments throughout Article 54 that would help with the clarity and intent of the code. After discussion the Commission agreed to move forward and set a Public Hearing for Option One, with some minor changes, which would completely remove up lighting to illuminate building facades. The Commission generally agreed that Option One was more consistent with the Dark Sky Initiative and the original intent of the code.

The Township Attorney, Zoning Administrator, and Ordinance Enforcement Officer reviewed the proposed language and support the proposed amendments to Article 54. A Public Hearing notice was published on Tuesday, February 11th, 2020. She provided a summary of the proposed amendments:

Section 54.20 Applicability

- Adding a requirement that all properties need to fully conform with the lighting ordinance when fifty percent or more of their existing outdoor lighting fixtures have been or will be replaced or modified. – The proposed language would help ensure that all properties within the Township would eventually be brought into compliance with the lighting ordinance and contribute to the Dark Sky Initiative.

Section 54.30 Definitions

- Removing “or translucent” from the definition of a *Baffle or light shield*. – Removing this language from this definition helps ensure that glare and lateral light spill from outdoor lights within the Township can be mitigated. This amendment also removes any opportunity for a subjective interpretation of what could be considered translucent.
- Removing and modifying images from the *Fixture, cutoff* and *Fixture, non-cutoff* definitions. – The current two images generate confusion as they refer to terms not used anywhere else in the code. Removing and adjusting the images as shown helps to prevent confusion.

Section 54.50 Prohibited Lighting

- Clarify that fixtures that direct light upward are only allowed when *expressly permitted in this Article*. – Adding “expressly” to this provision helps staff avoid any future interpretation that up lighting may be permitted in sections of the code

where it was not the intent.

- Expanding the type of unshielded fixtures that are not permitted. The intent of the code is that no outdoor fixtures are unshielded. This modification ensures that this intent is clear.

Section 54.60 Outdoor Lighting Standards

- Reiterating that all outdoor lighting shall be directed downward unless expressly permitted. – The current language that addresses the direction of lighting in this section only notes that lights should be directed away from adjacent properties.
- Clarifying that all building mounted lighting needs to be downward directed. – This amendment clarifies that all outdoor lighting used for the purpose of illuminating the exterior of a building is directed downward.
- Adding a note to refer to the signage section of the code for sign lighting requirements. – This amendment seeks to help users navigate the code to find additional lighting requirements that could be applicable.

She recommended the Commission approve and forward these amendments to the Township Board for adoption.

Chairperson VanderWeele moved to a public hearing and asked if there were comments from audience members.

An anonymous woman said she was glad to see this amendment to help keep stars visible at night.

Mr. Jim VandenBerg, Maple Hill Auto Group, said moonlight is rated at one foot-candle and cautioned Commissioners not to narrow brightness too much for commercial properties.

Hearing no further comments, the Chair moved to Board Deliberations.

Ms. Maxwell said the group has discussed foot-candle levels many times and did not feel comfortable changing the level at this time.

Chairperson VanderWeele indicated they relied on photometrics. Hearing no further discussion he asked for a motion.

Ms. Versalle made a motion to approve the eight proposed amendments as presented to Article 54 – Lighting Ordinance and recommend them to the Township Board for adoption.

Ms. Farmer seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbert for her presentation.

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. _____

Adopted: _____, 2020

Effective: _____, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend the Oshtemo Charter Township Zoning Ordinance by the amendment Article 54 Lighting, Sections 54.20 Applicability, 54.30 Definitions, 54.50 Prohibited Lighting, and 54.60 Outdoor Lighting Standards. This Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,
SECTION 54.20 APPLICABILITY. Article 54 Lighting, Section 54.20 Applicability is
hereby amended by the addition of Paragraph D to read as follows:

54.20 Applicability

- D. When fifty percent or more of existing outdoor light fixtures have been or will be replaced or modified since this ordinance became effective, then all lighting must be made to conform to the provisions of this lighting ordinance.

SECTION II.

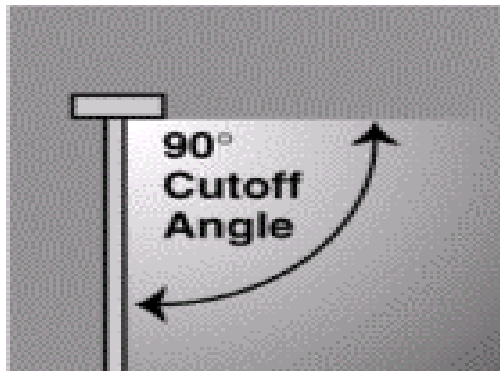
AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

SECTION 54.30 DEFINITIONS. Article 54 Lighting, Section 54.30 Definitions is hereby revised by the amendment of the definition of “Baffle or light shield” and the amendment of the graphics under the definitions of “Fixture, Cutoff” and “Fixture, non-cutoff” to read as follows:

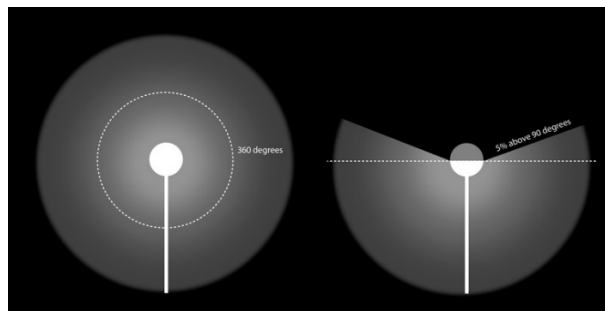
54.30 Definitions

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

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.



SECTION III.

AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

SECTION 54.50 PROHIBITED LIGHTING. Article 54 Lighting, Section 54.50

Prohibited Lighting is hereby revised by the amendment of Paragraphs C and F, as well as the graphic under Paragraph F, to read as follows:

54.50 Prohibited Lighting

- C. Fixtures that direct light upward, unless expressly permitted by this Article.
- 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.



SECTION IV.

AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 54 LIGHTING,

SECTION 54.60 OUTDOOR LIGHTING STANDARDS. Article 54 Lighting, Section

54.60 Outdoor Lighting Standards is hereby revised by the amendment of Paragraph A General Provisions, Subparagraph 3, Paragraph C. Building-Mounted Lighting, and the addition of Paragraph D Signage, to read as follows:

54.60 Outdoor Lighting Standards

- A. General Provisions
 - 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 fixtures shall be fully shielded and directed downward, parallel to the ground, to prevent off-site glare and illumination.
- 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 building façade face.
 - b. Shall be located on the building.
 - c. Light generated from said fixtures shall be downward directed and appropriately shielded so that no light is emitted beyond the building facade.
 - d. Shall strictly adhere to the reduced lighting clause outlined in 54.60(A)(7).
- D. Signage
- 1. Lighting may be used to illuminate signs, subject to Section 55.150.

SECTION V. EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed. This Ordinance shall take effect upon publication after adoption in accordance with State law.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP

April 20, 2020



Mtg Date: April 28, 2020

To: Oshtemo Charter Township Board

From: Julie Johnston, AICP, Consultant
Iris Lubbert, AICP, Planning Director

Subject: Setback Provisions Ordinance – First Reading

Objective:

Consideration of the Setback Provisions Ordinance for first reading.

Background:

Recently, there was some concern 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 a careful review of the Accessory Buildings and Setback Ordinances, it was determined that some amendments were needed to ensure the two regulations worked in concert.

The proposed amendments to the Setback Provisions Ordinance were reviewed by the Township Attorney and Zoning Administrator to ensure the changes resolved the regulatory concerns for accessory buildings. The Planning Commission has reviewed the amendments and after holding a public hearing on December 12th made a motion to forward the draft Setback Provisions Ordinance to the Township Board with a recommendation of approval.

Summary of Proposed Amendments:

Attached are the proposed changes to *Section 50.60: Setback Provisions, B. Agricultural and Residence Districts*. The majority of the modifications are organizational, allowing the ordinance to be more readable. The main changes are as follows:

- The term “primary structure” was added to the setback requirements. Without this clarification, it was ambiguous as to whether accessory structures would be allowed in the front yard.
- The term “structure” as added to the setback regulations for accessory uses. A structure is clearly defined in the Zoning Ordinance, assisting with clarity.
- A reference to Section 57.100 was added to assist readers with understanding there are additional requirements for accessory buildings.

Thank you.

Attachments: Proposed Amendments (**denoted in red**) to the Setback Ordinance, Planning Commission Minutes excerpt– 12/12/19

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 for all buildings, pools, and associated decks whether attached or detached 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.

Chairperson VanderWeele asked Ms. Johnston for her presentation on the next agenda item.

PUBLIC HEARING: RESIDENTIAL SETBACK ORDINANCE
CONSIDERATION OF THE DRAFT RESIDENTIAL SETBACK ORDINANCE FOR
RECOMMENDATION TO THE TOWNSHIP BOARD

Ms. Johnston reported there was concern recently 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 a careful review of the Accessory Buildings and Setback Ordinances, it was determined some amendments were needed to ensure the two regulations worked in concert.

She explained a goal was to make the ordinance more readable and that the main changes proposed were:

- The term “primary structure” was added to the setback requirements. Without this clarification, it was ambiguous as to whether accessory structures would be allowed in the front yard.
- The term “structure” was added to the setback regulations for accessory uses. A structure is clearly defined in the Zoning Ordinance, assisting with clarity.
- A reference to Section 57.100 was added to assist readers with understanding there are additional requirements for accessory buildings.

The amended ordinance was reviewed by the Township Attorney and Zoning Administrator to ensure the changes resolved the regulatory concerns for accessory buildings. The Planning Commission reviewed the amendments at their October 10th meeting. No additional changes were requested at that time.

Ms. Johnston said at the conclusion of the public hearing the Planning Commission might consider a motion to forward the amended Ordinance to the Township Board.

Chairperson VanderWeele asked if there were questions for Ms. Johnston.

Ms. Smith asked for clarification of 1. B.

Ms. Johnston explained the goal was to maintain uniformity in setbacks for structures in existence on the effective date of this ordinance even if they don't meet the required 30 foot setback.

She indicated “primary structure” in the R zoning code means “principal building” which could be a barn if no home is on the property. She also clarified setback in agricultural and residential circumstances is measured from the road right-of-way.

Hearing no further comments from board members, Chairperson VanderWeele opened a public hearing. After determining there were no members of the public who wished to address this issue, and that there were no further comments from board members, he asked for a motion.

Ms. Maxwell made a motion to approve the draft of the Setback Provisions Ordinance 50.60 as presented and to forward it to the Township Board. Ms. Farmer supported the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda and asked Ms. Johnston for her presentation.

OLD BUSINESS

a. Draft Livestock and Honey Bees Ordinance review

Ms. Johnston said at the Township Board first reading of the amended Keeping of Livestock and Honey Bees Ordinance, two questions were posed:

1. How large can the bee hives be?
2. Why can't hives be placed in the front yard?

After some discussion among Board members, it was decided the draft Ordinance should be returned to the Planning Commission to allow them to consider these questions and any potential amendments.

She explained staff made the following changes for the Planning Commission to deliberate:

1. The term “colonies” was inserted to replace “hives” in the acreage requirement for bees. One colony will likely live in three hive boxes, making the use of the term “hive” difficult when determining how many are allowed per property.
2. The acreage requirement for bee colonies was removed from the acreage requirements for animals and given its own subheading. The acreage allowances for animals has minimum requirements for each animal. As an example, a 5-acre parcel would allow 2 acres for 2 horses, 1.5 acres for six sheep, and 1.5 acres for seven chickens. We did not expect bee colonies to fall into these acreage exclusion requirements. On 5 acres, a property owner could have the animals noted above, plus the allotted number of hives.
3. All buildings and structures would now be required to follow the Accessory

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING
COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON
DECEMBER 12, 2019

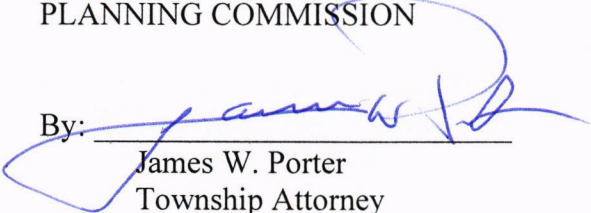
The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the following amendment to Article 50, Schedule of Regulations, by the revision of Section 50.60 Setback Provisions, Paragraph B of the Oshtemo Charter Township Zoning Ordinance:

SEE ATTACHMENT

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

Date: December 12, 2019

By: _____


James W. Porter
Township Attorney

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION

ATTACHMENT

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~~
- 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~~.
- 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.

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.
 - 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.
- 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.
 - 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 structures.**
 - a. Accessory ~~buildings~~ **structures** 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 structures** 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.

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. ____

Adopted: _____, 2020

Effective: _____, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend Oshtemo Charter Township Zoning Ordinance Article 50, Schedule of Regulations, Section 50.60 Setback Provisions, Paragraph B. This Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 50 SCHEDULE OF REGULATIONS, SECTION 50.60 SETBACK PROVISIONS. Article 50 Schedule of Regulations, Section 50.60 Setback Provisions, Paragraph B is hereby amended to read as follows:

ARTICLE 50 SCHEDULE OF REGULATIONS

Section 50.60 SETBACK PROVISIONS

- B. Agricultural and Residence Districts, which shall include the "AG" Agricultural Districts, "RR" 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 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 from all street rights-of-way and outlots and/or planned future public street extensions unless a larger setback is otherwise required.
 - b. If a new primary structure is constructed within 300 feet of a building existing on the effective date of this Ordinance (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.
 - c. If a new primary structure is constructed within 100 feet of a building existing on the effective date of this Ordinance 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 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, pools, and associated decks whether attached or detached and any interior side property unless a larger setback is otherwise required in the Township Zoning Ordinance.
 - ii. The minimum setback distance between any primary structure, pools, and associated decks whether attached or detached and any rear property shall be 15 feet unless a larger setback is otherwise required in the Township Zoning Ordinance.
 - b. "R- 5" Residence Districts, and 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 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 structures.
 - a. Accessory structures 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. Accessory structures not exceeding 200 square feet shall be set back from interior side and rear property lines 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.

SECTION II. EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed. This Ordinance shall take effect upon publication after adoption in accordance with State law.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP



April 20, 2020

Mtg Date: April 28, 2020
To: Oshtemo Charter Township Board
From: Iris Lubbert, AICP, Planning Director
Subject: Accessory Buildings Ordinance- First Reading

Objective:

Consideration of the Accessory Buildings Ordinance for first reading.

Background:

Recently, there have been concerns about how the Township has been 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 reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board at their regular December 12, 2019 meeting and, after discussion, directed staff to develop a new version of the Accessory Building code with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings on lots/building sites vs. parcels, and the overall permitted square footage of detached buildings based on lot size.

Based on direction provided from the Planning Commission, staff restructured the Accessory Building Ordinance, further amended sections of the code for clarity, and added language to address the noted areas of interest. Drafts of the proposed code language were reviewed by the Planning Commission at their regular January 30th and February 13th meetings. After discussion and some amendments, the Commission agreed to move forward with the proposed changes to Section 57.100 and set a Public Hearing for their March 12th meeting. A notice for the Public Hearing was published on Tuesday, February 25, 2020.

The amended ordinance 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.

After holding a public hearing on March 12th, the Planning Commission made a motion to forward the draft Accessory Buildings Ordinance to the Township Board with a recommendation of

approval.

Summary of Proposed Amendments:

The proposed amendment reorganizes Section 57.100 into six sections: applicability, restrictions, setbacks, size restrictions, height, and application requirements. The goal of this reorganization is to help staff and the public easily navigate through the requirements for installing accessory buildings in Oshtemo Township. A summary of the requirements outlined in each section is provided below.

Applicability: This section outlines what properties this code applies to; in summary all properties within a residential zone with a residence as their primary use. It should be noted that properties located within the AG, Agricultural District where the structure will be used to support a farming operation are exempt. Continuing with previous practice, all accessory buildings over 200 square feet will require site plan review and approval. This section also identifies unique types of accessory buildings and directs users to other applicable sections of the code.

Restrictions: This section outlines all restrictions related to the use and construction of residential accessory buildings. All the requirements outlined in this section are in the previous accessory building code or noted in other areas of the code. The goal of this section is to provide one location where all restrictions for this type of structure can be found.

Setbacks: This section specifies where accessory buildings can be placed on a lot. Specifically, front yard setbacks as side and rear setbacks are addressed in a different section of the code. The proposed setback requirement differentiates between properties within a subdivision or site condominium and those that are not. There is an understanding that properties that are not within a subdivision or site condominium typically are larger and, more often than not, have a rural character that needs to be considered. The proposed language would place accessory buildings behind a house on a property within a subdivision or site condominiums. In the other cases, the accessory building could be placed in front of a home as long as it met that district's principle building setback. A 10-foot separation between structures is also proposed for fire safety (to limit exterior fire spread).

Size Restrictions: Currently the zoning code does not have clear size limitations and any proposed large accessory building may trigger review by the Zoning Board of Appeals, subject to staff discretion. The existing regulations are somewhat subjective. The goal of this section is to provide clear standards that can then be applied administratively. The requirements outlined in this section pull from other existing areas of the code (ex. allowed percentage lot coverage) and previous interpretations or practices. Within site condominiums and subdivisions, the proposed code now specifies that the footprint of any residential accessory building cannot be larger than the primary structure. In addition, based on the area of a property, maximum cumulative square-footages for accessory buildings on a property are proposed. These numbers are based on other communities' standards but have been increased to keep in mind the Townships rural character.

Height: This section specifies how tall any given accessory building can be on a property. Based on previous reviews and experiences, the proposed maximum permitted height for an accessory building was increased from 25 feet to 30 feet. However, similar to the size restrictions intended to protect property values and neighborhood aesthetics, language was added that the height of an accessory building could not exceed the height of the principle building within subdivisions or site condominiums.

Application Requirements: This last section of 57.100 outlines the details needed for staff to complete a site plan review of a building exceeding 200 square feet and ensure that all requirements are met.

Thank you.

Attachments:

- Existing Section 57.100: Accessory Buildings
- Proposed Section 57.100: Accessory Buildings Serving a Primary Residence
- Planning Commission Minutes excerpt - 03/12/2020

ZONING ORDINANCE

ARTICLE 57

57 – MISCELLANEOUS PROTECTION REQUIREMENTS

57.100 ACCESSORY BUILDINGS

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 principle building, 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 principle buildings in their corresponding zoning district, outlined in Section 50.60, and shall not be located closer to the street right of way than the front line of the property’s principle building.
 - ii. Accessory buildings on properties not located within a subdivisions or site condominiums shall meet the minimum front yard setback requirements for principle buildings 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 restrictions for all accessory buildings:
- 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 principle building.
 - b. For all lots, parcels, or building sites one acre or less in size, a maximum of 30% of the property may be covered by structures. This calculation shall include the first floor area of all structures on the lot, parcel, or building site including the principle building.
 - c. The maximum allowable square footage of accessory buildings on lots, parcels, or building sites 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 cumulative square footage of all detached accessory structures on a property
More than 1 acre but not more than 2 acres	2,000 square feet
More than 2 acres but not more than 3 acres	3,000 square feet
More than 3 acres but not more than 5 acres	4,000 square feet
More than 5 acres but not more than 8 acres	5,000 square feet
More than 8 acres but not more than 11 acres	6,000 square feet
More than 11 acres	7,000 square feet

5. Height:
- a. Accessory buildings shall not exceed the height of the principle building on properties located within subdivisions or site condominiums.
 - b. Accessory buildings shall not exceed a height of 30 feet on properties not located within a subdivision or site condominium.
 - 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. Height of the principle building on the property
 - vii. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory building shall be used

DRAFT

Mr. Vyas made a motion to approve the Minutes of the Meeting of February 27, 2020 as presented with the requested correction. Ms. Maxwell seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next agenda item.

PUBLIC HEARING: ACCESSORY BUILDINGS
CONSIDERATION OF AMENDMENTS TO SECTION 57.100 – ACCESSORY
BUILDINGS, FOR RECOMMENDATION TO THE TOWNSHIP BOARD.

Ms. Lubbert said recently, there have been concerns about how the Township has been 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 reviewed and made a motion to recommend approval of the Setback Ordinance amendments to the Township Board at their regular December 12, 2019 meeting and, after discussion, directed staff to develop a new version of the Accessory Building code with more structure and detail. Areas of interest, in addition to placement, included: height, the treatment of accessory buildings on lots/building sites vs. parcels, and the overall permitted square footage of detached buildings based on lot size.

She said based on direction from the Commission, staff restructured the Accessory Building Ordinance, further amended sections of the code for clarity, and added language to address the noted areas of interest. Drafts of the proposed code language were reviewed by the Commission at their January 30th and February 13th meetings. After discussion and some amendments, the Commission agreed to move forward with the proposed changes to Section 57.100 and set a Public Hearing for their meeting on March 12th. A notice for the Public Hearing was published on Tuesday, February 25, 2020.

She noted the amended ordinance 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.

Ms. Lubbert explained the proposed amendment reorganizes Section 57.100 into six sections: applicability, restrictions, setbacks, size restrictions, height, and application requirements. The goal of this reorganization is to help staff and the public easily navigate through the requirements for installing accessory buildings in Oshtemo Township. She provided a summary of the requirements outlined in each section:

Applicability: This section outlines what properties this code applies to; in summary all properties within a residential zone with a residence as their primary use. It should be noted that properties located within the AG, Agricultural District where the structure

will be used to support a farming operation are exempt. Continuing with previous practice, all accessory buildings over 200 square feet will require site plan review and approval. This section also identifies unique types of accessory buildings and directs users to other applicable sections of the code.

Restrictions: This section outlines all restrictions related to the use and construction of residential accessory buildings. All the requirements outlined in this section are in the previous accessory building code or noted in other areas of the code. The goal of this section is to provide one location where all restrictions for this type of structure can be found.

Setbacks: This section specifies where accessory buildings can be placed on a lot. Specifically, front yard setbacks as side and rear setbacks are addressed in a different section of the code. The proposed setback requirement differentiates between properties within a subdivision or site condominium and those that are not. There is an understanding that properties that are not within a subdivision or site condominium typically are larger and, more often than not, have a rural character that needs to be considered. The proposed language would place accessory buildings behind a house on a property within a subdivision or site condominiums. The front yard setback would be treated the same along the sides of both roads. In the other cases, the accessory building could be placed in front of a home as long as it met that district's principle building setback. A 10-foot separation between structures is also proposed for fire safety (to limit exterior fire spread).

Size Restrictions: Currently the zoning code does not have clear size limitations and any proposed large accessory building may trigger review by the Zoning Board of Appeals, subject to staff discretion. The existing regulations are somewhat subjective. The goal of this section is to provide clear standards that can then be applied administratively. The requirements outlined in this section pull from other existing areas of the code (ex. allowed percentage lot coverage) and previous interpretations or practices. Within site condominiums and subdivisions, the proposed code now specifies that the footprint of any residential accessory building cannot be larger than the primary structure. In addition, based on the area of a property, maximum cumulative square-footages for accessory buildings on a property are proposed. These numbers are based on other communities' standards but have been increased to keep in mind the Townships rural character.

Height: This section specifies how tall any given accessory building can be on a property. Based on previous reviews and experiences, the proposed maximum permitted height for an accessory building was increased from 25 feet to 30 feet. However, similar to the size restrictions intended to protect property values and neighborhood aesthetics, language was added that the height of an accessory building could not exceed the height of the principle building within subdivisions or site condominiums.

Application requirements: This last section of 57.100 outlines the details needed for

staff to complete a site plan review of a building exceeding 200 square feet and ensure that all requirements are met.

The proposed amendments for 57.100 Accessory Buildings Serving a Primary Residence were provided.

Ms. Lubbart recommended the amendments be approved and forwarded to the Township Board for approval.

Chairperson VanderWeele asked whether Commissioners had questions for Ms. Lubbart.

Ms. Maxwell asked whether the visuals provided would be included in the amendments section for clarification.

Ms. Lubbart said that had not been her intent but noted that it could be done.

Chairperson VanderWeele questioned whether 3. C., which mentions a 10 foot separation between buildings includes garages that are detached from the house.

Attorney Porter said the definitions make it clear detached garages are included.

Ms. Maxwell asked for clarification of the allowed square footage for accessory buildings.

The Chair said as it reads, the term "gross floor area" used to determine the allowed size restriction for accessory buildings includes the combined floor area for each floor of a multiple floor building. He felt the gross floor area should include only the footprint of the building - length by width.

Ms. Lubbart indicated the original intent was that only the footprint, length by width, would be considered as the gross floor area.

Chairperson VanderWeele requested the wording reflect that intent.

Attorney Porter said the "combined gross floor area" should be changed to say "first floor of primary structure" to reflect the intent and eliminate confusion.

Ms. Smith asked how two lots homesteaded together would be treated.

Attorney Porter said they would be combined for assessing and building purposes.

Ms. Smith wondered whether if the properties were across the street from each other that the entire acreage would be treated the same way.

Attorney Porter said, in theory, they could cross the road though this circumstance is rarer all the time. The right-of-way in some cases is measured from the center of the street.

Ms. Lubbert noted if this issue were to come up a variance could be sought on a case by case basis.

Hearing no further questions, Chairperson VanderWeele moved to public hearing and asked if anyone cared to address the Commission.

Mr. Ken Schneider asked to defer to the covenants of sub-divisions rather than to regulate by ordinance. He was pleased the amount of square footage allowed for accessory buildings was increased from the original proposal, but thought it should be extended further for larger properties. He noted agricultural district 1-A was mentioned.

Attorney Porter explained that these regulations would only apply to properties in the 1-A district if the principal structure on the property was residential.

Mr. Schneider said regarding the 10-foot clause, if the fire department was concerned about how large a fire can get, it seems they would have suggested buildings be limited to a certain size. Fire in one 30 x 60 building would be harder to fight than two 30 x 40 buildings. As far as setbacks are concerned, he felt it would be plausible to allow people to put trees up instead of requirements regarding size or height of buildings and wondered if buildings are not visible from the road whether the Township should really care. He said he was reading through the proposal in light of the future of his property. One of the reasons he chose Oshtemo Township was because of the way the ordinances were written. He thinks the way the older ordinance was stated allows for more interpretation. The new ordinance is definitely a lot more specific and he wondered whether we have to get as detailed as is proposed.

Chairperson VanderWeele thanked Mr. Schneider for his comments. Hearing nothing further, he closed the public hearing and moved to Commission Deliberations.

Ms. Maxwell asked whether they are looking at sub-divisions.

Attorney Porter said there are standards based on where the property is located.

Ms. Smith said most site condominiums have restrictions on access buildings. The Township ordinance would take precedence.

Attorney Porter said the Township would set minimum requirements. A builder could exceed the requirements by increasing the set back or further limiting the size of accessory buildings.

Attorney Porter noted sub-division and site condominium rules often fall by the wayside as developers don't follow proper procedures or associations don't maintain

enforcement. It can become a problem if there are not minimum standards in place by ordinance.

Ms. Lubbert added deeds in subdivisions are only valid for a specific number of years and if rules are not enforced by residents they fall by the wayside, so there would be no lasting regulations in place without ordinance.

Mr. Vyas asked if the fire department requirements are based on standards.

Ms. Lubbert replied that a lot of municipal codes have separation requirements, though the requirements vary, frequently from 5 - 12 feet. Our fire department felt 10 feet is appropriate and the proposed 10 foot separation is also consistent with when the building code triggers fire rated wall requirements.

Attorney Porter added that when a 10 foot distance is maintained, the fire rated wall requirements aren't activated, the cost to a homeowner is reduced.

Chairperson VanderWeele called for a motion.

Mr. Vyas made a motion to approve the Amendment to Section 57.100 Accessory Buildings as presented with the agreed upon change of wording in number 4,b from "combined gross floor area" to "first floor area". Ms. Maxwell seconded the motion. The motion was approved unanimously.

Chairperson VanderWeele moved to the next item on the agenda.

OTHER BUSINESS

Ms. Maxwell, in response to the earlier comment by Ms. Miller, explained she was involved with the ITC property issue, but that the Fruit Belt Trail is a different situation. The Township is actually purchasing property. ITC didn't want to sell their land, so it's a whole different story. When the Township owns the property, then they can set the rules, enforce them and provide maintenance.

OLD BUSINESS

There was no old business to consider.

PLANNING COMMISSIONER COMMENTS

Ms. Lubbert said the Township was working on how to address the Corona Virus. She will keep Commissioners up to date as that moves forward.

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

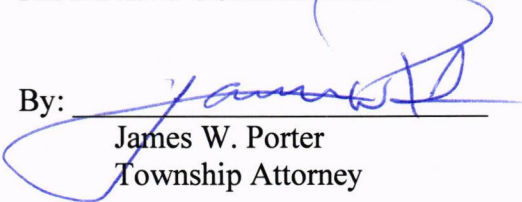
RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING
COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON
MARCH 12, 2020

The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the following amendment to Article 57 Miscellaneous Protection Requirements by the replacement of Section 57.100 Accessory Buildings of the Oshtemo Charter Township Zoning Ordinance:

SEE ATTACHMENT

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

Date: March 12, 2020

By: 
James W. Porter
Township Attorney

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION

ATTACHMENT

ARTICLE 57 MISCELLANEOUS PROTECTION REQUIREMENTS

Section 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 Conservation 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 principle building, 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 principle buildings in their corresponding zoning district, outlined in Section 50.60, and shall not be located closer to the street right-of-way than the front line of the property's principle building.
 - ii. Accessory buildings on properties not located within subdivisions or site condominiums shall meet the minimum front yard setback requirements for principle buildings 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 restrictions for all accessory buildings:
- 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 principle building.
 - b. For all lots, parcels, or building sites one acre or less in size, a maximum of 30% of the property may be covered by structures. This calculation shall include the first floor area of all structures on the lot, parcel, or building site including the principle building.
 - c. The maximum allowable square footage of accessory buildings on lots, parcels, or building sites 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 cumulative square footage of all detached accessory structures on a property
More than 1 acre but not more than 2 acres	2,000 square feet
More than 2 acres but not more than 3 acres	3,000 square feet
More than 3 acres but not more than 5 acres	4,000 square feet
More than 5 acres but not more than 8 acres	5,000 square feet
More than 8 acres but not more than 11 acres	6,000 square feet
More than 11 acres	7,000 square feet

5. Height:

- a. Accessory buildings shall not exceed the height of the principle building on properties located within subdivisions or site condominiums.
- b. Accessory buildings shall not exceed a height of 30 feet on properties not located within a subdivision or site condominium.
- 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. Height of the principle building on the property
 - vii. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory building shall be used

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. ____

Adopted: _____, 2020

Effective: _____, 2020

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend Oshtemo Charter Township Zoning Ordinance Article 57, Miscellaneous Protection Requirements, by the replacement of Section 57.100 Accessory Buildings. This Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED ARTICLE 57 MISCELLANEOUS PROTECTION REQUIREMENTS, SECTION 57.100 ACCESSORY BUILDINGS SERVING A PRIMARY RESIDENCE. Article 57 Miscellaneous Protection Requirements, Section 57.100 Accessory Buildings is hereby amended and replaced to read as follows:

ARTICLE 57 MISCELLANEOUS PROTECTION REQUIREMENTS

Section 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 Conservation 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 principle building, 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 principle buildings in their corresponding zoning district, outlined in Section 50.60, and shall not be located closer to the street right-of-way than the front line of the property's principle building.
- ii. Accessory buildings on properties not located within subdivisions or site condominiums shall meet the minimum front yard setback requirements for principle buildings 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 restrictions for all accessory buildings:

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 principle building.

b. For all lots, parcels, or building sites one acre or less in size, a maximum of 30% of the property may be covered by structures. This calculation shall include the first floor area of all structures on the lot, parcel, or building site including the principle building.

c. The maximum allowable square footage of accessory buildings on lots, parcels, or building sites 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 cumulative square footage of all detached accessory structures on a property
More than 1 acre but not more than 2 acres	2,000 square feet
More than 2 acres but not more than 3 acres	3,000 square feet
More than 3 acres but not more than 5 acres	4,000 square feet
More than 5 acres but not more than 8 acres	5,000 square feet
More than 8 acres but not more than 11 acres	6,000 square feet
More than 11 acres	7,000 square feet

5. Height:

- a. Accessory buildings shall not exceed the height of the principle building on properties located within subdivisions or site condominiums.
- b. Accessory buildings shall not exceed a height of 30 feet on properties not located within a subdivision or site condominium.
- 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. Height of the principle building on the property
- vii. Use Statement. A statement setting forth the purpose(s) for which the proposed accessory building shall be used

SECTION II. EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed. This Ordinance shall take effect upon publication after adoption in accordance with State law.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP

Memo



To: Oshtemo Charter Township Board
From: James W. Porter *JWP*
Date: April 28, 2020
Subject: Proposed Public Sanitary Sewer Hardship Financing or Deferment Ordinance

OBJECTIVE

To adopt the Sanitary Sewer Hardship Financing or Deferment Ordinance.

BACKGROUND

As the Board is aware, this ordinance was structured to accommodate those individuals who might not qualify for any state or federal program to assist with the sanitary sewer connection fees owed or pay for the private plumbing expenses.

INFORMATION PROVIDED

Attached you will find the proposed ordinance as revised subsequent to the meeting of April 14th. In addition, you will find the revised application, as well as the Excel spreadsheet showing the estimated amounts that are likely to be paid out if the ordinance is enacted. Keep in mind that the CIC recommended that the Township Board fund this through the infusion of \$300,000 per-year investment for three years in the Hardship Revolving Fund.

STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE

To adopt the Public Sanitary Sewer Hardship Financing or Deferment Ordinance.

JWP/y
att

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. _____

Adopted: _____

Effective: _____

An Ordinance to provide for the hardship financing or deferral of the financial obligation to connect to the wastewater collection system of the Oshtemo Charter Township in situations where Property Owner(s) establish by objective evidence that it will constitute an undue financial hardship to pay or fully pay for the sewer system connection fees or the private plumbing expense to connect to the wastewater collection system as required by Oshtemo Charter Township Wastewater Service Ordinance No. 208.

THE CHARTER TOWNSHIP OF OSHTEMO

KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

SECTION I. NAME. This Ordinance shall be known and cited as the Oshtemo Charter Township Public Sanitary Sewer Hardship Financing or Deferment Ordinance.

SECTION II. PURPOSE.

- A. To enact an Ordinance under Public Act 368 of 1978 Public Health Code (MCL 333.12756 et seq.) allowing for hardship financing or deferment of the sewer system connection fees and/or the private plumbing expense in cases where hardship prevents the Owners of the premises from paying for the public or private connections to the available sewer system.

- B. To establish a Hardship Advisory Review Committee (HARC) to review and recommend Property Owner(s) to be considered for hardship financing or deferment under this Ordinance.
- C. To establish procedures for the connection of premises to the sewer system by the Township for those who qualify for a hardship financing or deferment.

SECTION III. DEFINITIONS. For purposes of this Ordinance, the following words, terms and phrases when used in this Ordinance shall have the following meanings ascribed to them in this Section:

1. *Deferment:* the postponement of all or a part of the annual mortgage payment owed to the Township on an Installment Payment Mortgage Agreement for Sewer or a delay in connecting to the public sanitary sewer.
2. *Premise:* any lot, parcel, building site from which contains a building from which sanitary sewer originates for which sewer services are available and required by law to be served.
3. *Private Plumbing Expense:* the estimated cost of the installation of all necessary sewage disposal facilities on the property of the applicant or Property Owner(s) for hardship. It means and includes any person who has a legal, possessory interest in a lot, parcel or building site, which interest includes the legal obligation to assume the expenses of sewer connection expense charges.
4. *Property Owner(s) Hardship:* those Property Owner(s) falling below the income and asset limits set forth in Section IV of this Ordinance.
5. *Sewer System Connection Fees:* the connection fees charged by Oshtemo Charter Township.
6. *Sanitary Sewer System:* any municipally operated sewage collection system serving premises within Oshtemo Charter Township.

SECTION IV. QUALIFYING STANDARDS FOR HARDSHIP FINANCING OR HARDSHIP DEFERMENT. The standards for qualifying for hardship financing or hardship deferment shall be as follows:

- A. Application Limitations. Before submitting an application for hardship financing or deferment, each Property Owner(s) must demonstrate that they do not qualify for assistance from the State of Michigan under the Deferment of Special Assessments on Homesteads Act at 225 of 1976 or under the USDA 504 Home Repair Program or the USDA 502 Home Repair Program. Any assistance received under the above-listed Programs will not count toward the asset limitations of the Township Hardship Programs or prohibit a Property Owner who otherwise qualifies for the Township Programs from access to the hardship financing or hardship deferment as set forth below.
- B. Hardship Financing. Property Owner(s) in Oshtemo Charter Township may enter into an Installment Payment Mortgage Agreement to finance their connection fees as provided in the Wastewater Services Ordinance, No. 208. In addition to the Property Owner(s)' right to enter into an Installment Payment Mortgage Agreement under Ordinance No. 208, the following individuals may request that the Private Plumbing Expenses be paid for by the Township and added to the Installment Payment Mortgage Agreement and be financed upon the same terms and the same interest rate offered under Ordinance No. 208, provided the Property Owner(s) meet the following income and assets limitations:
1. Income Limitation. Property Owner(s) whose family income is at or below \$34,999.00, for the year at issue.
 2. Asset Limitation. In addition to the Income Limitations requirements, an asset test considering all assets owned by the applicant, other than the applicant's house, vehicle, and household goods, will be used in determining whether relief should be granted. Property Owner(s) with assets in excess of \$20,000 may not be eligible for hardship financing.
- C. Hardship Deferments. Property Owner(s) who enter into an Installment Payment Mortgage Agreement, pursuant to Ordinance No. 208, may qualify for a Deferment provided they meet the following Income and Asset limitations set forth below.
1. Income Limitation. Property Owner(s) whose family income is at or below \$49,999.00, for the year at issue.
 2. Asset Limitation. In addition, to the Income Limitations requirements, an asset test considering all assets owned by the

applicant, other than the applicant's house, vehicle, and household goods, will be used in determining whether relief should be granted. Property Owner(s) with assets in excess of \$20,000 may not be eligible for a hardship deferment.

- D. Extraordinary Circumstances Warranting Deferment or Delay in Connection. Those Property Owner(s) who do not qualify under the above provisions may request consideration, based upon extraordinary circumstances, for deferment or delay in the connection to the public sanitary sewer system. The extraordinary circumstances which would be considered by the Hardship Advisory Review Committee would be items such as or similar to the following: death of a spouse; extraordinary medical expenses; recent home purchase (less than two years); bankruptcy; extreme debt impacting household disposable income, extreme difficulty in connecting to the public sanitary sewer system; etc. Those Property Owner(s) who believe they might qualify under the standards set forth herein may file an application as set forth in Section V below.
- E. Funding Limitation. The granting of hardship financing or deferment under this Ordinance is subject to availability of funds in the hardship revolving fund as set forth in Sec. IX below.

SECTION V. APPLICATION

- A. Property Owner(s) must complete an application, except for the signature, and return it to the Township Officers.
- B. All applications must be signed and witnessed by a Township employee and filed after January 1, but at least two weeks before the Hardship Advisory Review Committee's March meeting to be held the third week in March.
- C. All Property Owner(s) must submit their previous year's Federal Income Tax and State Income Tax returns.
- D. Applicants may be required to be present at the Hardship Advisory Review Committee meeting and may be called upon to appear on short notice.
- E. All questions set forth in the Application must be completed prior to the Hardship Advisory Review Committee meeting including notice to any mortgagee.

- F. All applicants signing the Application are admitting that everything contained in the Application is true to their best knowledge, information and belief.
- G. Any Property Owner(s) requesting hardship financing or deferment is subject to investigation by the Township to verify information submitted or statements made in regard to the request for deferment are accurate.
- H. The meeting of the Hardship Advisory Review Committee may be recorded. Minutes will be kept of all proceedings. All meetings held will comply with the Open Meetings Act.
- I. The Hardship Advisory Review Committee shall follow the policies and guidelines established under this Ordinance in granting or denying hardship financing or deferment.
- J. Property Owner(s) will be evaluated based upon the data submitted to the Hardship Advisory Review Committee. Testimony taken from the Property Owner(s) and information gathered from any source by the Township.
- K. Property Owner(s) shall meet the income and asset limitation set forth herein may be granted hardship financing, deferment, or partial deferment of their sanitary sewer fees or private plumbing expenses.
- L. The Hardship Advisory Review Committee's recommendations regarding sanitary sewer connection fees or private plumbing expense fees for deferment will be done on an annual basis.

SECTION VI. DETERMINATION OF ELIGIBILITY

- A. The Hardship Advisory Review Committee shall, within thirty (30) days of the close of its investigation, file with the Township Board its report and recommendation clearly stating whether any hardship financing or deferment for the sewer system connection fees or private plumbing expenses will be recommended.
- B. The Hardship Advisory Review Committee will not recommend hardship financing or a deferral unless the Property Owner(s) agree to enter into an Installment Payment Mortgage Agreement to connect to the available public sanitary sewer system.

- C. Upon receipt of the Hardship Advisory Review Committee's recommendation regarding any premises, the Township Board shall promptly determine, without the necessity of a public hearing, whether to accept the recommendation. No recommendation of hardship for any premises shall be rejected without good cause shown and until the Property Owner(s) have had an opportunity to answer the objections before the Township Board. A recommendation of hardship not rejected by the Township Board within thirty (30) calendar days of receipt thereof shall be deemed accepted and shall entitle the Owner thereof to be qualified for connection under the provisions of this division. Following Board approval, any premises not connected to the available sewage system shall connect to the public sanitary sewer system, whether the connection is made under the provisions of this article or otherwise.

SECTION VII. CONNECTION; COSTS; LIEN

- A. In the event an Owner is accepted for hardship financing or deferment, the Township will effectuate connection to the public sanitary sewer system. The Public Works Director will ascertain the sewer connection fees and/or private plumbing expense to connect the premises to the system. The Public Works Director will determine whether the physical connection is to be accomplished by a licensed sewer contractor or by the agencies and employees of the City. The Township reserves to itself the sole and exclusive right to make or alter its designation as made herein previous to the commencement of the physical connection. Prior to the connection, the Owner shall execute an Installment Payment Mortgage Agreement for Sewer with the Township for financing or possible deferred payment payable on or before death, or in any event, on the sale or transfer of the property.
- B. The Installment Payment Mortgage Agreement shall also include annual interest on the balance of such indebtedness to the Township at the rate set by the Board in Ordinance No. 208, commencing the date of the execution of documents of indebtedness.
- C. The Property Owner(s) shall also be responsible for costs of recording the Installment Payment Mortgage Agreement. Such costs shall be added to the amount due and owing upon the Installment Payment Mortgage Agreement to be executed by the Owner of the premises.

SECTION VIII. PHYSICAL CONNECTION. Upon execution of the documents in accordance with the provisions of Section VII, the Public Works Director will complete the physical connection of the premises to the public sanitary sewer system in accordance with all laws, ordinances, rules and regulations of the State, City and Township.

SECTION IX. HARDSHIP REVOLVING FUND; BOARD CONTROL. The monies necessary to implement the provisions of this Ordinance shall be drawn from the “hardship revolving fund” to be created and maintained by the Township Board. This fund shall be the sole source of Township monies to be used for hardship funding under this Ordinance. The Township Board may transfer funds between the general fund and the hardship revolving fund as necessary to implement the provisions of this Ordinance.

SECTION X. EFFECTIVE DATE. This Ordinance shall take effect upon publication after adoption in accordance with State law. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

DUSTY FARMER, CLERK
OSHTEMO CHARTER TOWNSHIP

OSHTEMO CHARTER TOWNSHIP
HARDSHIP FINANCING OR DEFERMENT APPLICATION
FOR SANITARY SEWER PAYMENTS

This form should be completed if you, for reasons of hardship, are unable to finance the private plumbing expenses to connect to public sanitary sewer or are unable to pay the annual payment on your Installment Payment Mortgage Agreement for Sewer with Oshtemo Township. In applying for hardship financing or deferment, you will be required to provide annually:

1. Specific income and asset information (for yourself and all individuals residing in your home);
2. Proof of your ownership (deed, land contract, or other evidence of ownership) and occupancy of the residence for which you are seeking an exemption;
3. State and Federal income tax returns and/or property tax credit returns (for yourself and all individuals residing in your home);
4. A valid driver's license or other legally valid form of picture identification;
5. Proof that you meet the income and asset standards of the Public Sanitary Sewer Hardship Financing or Deferment Ordinance;
6. A completed application, delivered in person, to the Public Works Department after January 1 but no later than March 1 for consideration by the Hardship Advisory Review Committee (HARC) which meets the third week in March to consider applications.

Additionally, you may be required to appear before the HARC at a public meeting to answer questions regarding your application. You may also be subject to an investigation to verify the information submitted in your application and establish that your non-exempt assets do not exceed \$20,000.

These policies are set by the Oshtemo Charter Township Board in compliance with Michigan State Law. The Township will use criteria established in its Public Sanitary Sewer Abatement/Deferral Ordinance to review your application. If you have any questions, please contact the Public Works Department at (www.oshtemo.org/contact/ or (269) 375-4260).

IF YOU ARE UNSURE WHETHER YOU QUALIFY BUT ARE HAVING FINANCIAL DIFFICULTY, PLEASE SUBMIT THE APPLICATION TO SEE IF YOU WOULD QUALIFY FOR ASSISTANCE.

Instructions for filing a claim with the Township Public Works Department:

1. Complete the following application in full, but do not sign the form.
2. Do not leave any sections blank, if you have questions regarding this form, please contact the Public Works Department for guidance.
3. If you require additional space to respond to any of the questions on this form, please attach a typed response, which clearly indicates which question(s) you are providing additional information regarding.
4. Completed applications must be delivered in person to the Public Works Department by March 1st.
5. Bring copies of all requested documents:
 - a. Previous year State and Federal Tax Returns;
 - b. Proof of ownership/residency/homestead for the residence for which you are requesting a hardship exemption;
6. Bring the completed, unsigned, form in person to:

Oshtemo Township Hall
7275 West Main Street,
Kalamazoo, MI 49009
(296) 375-4260
7. Bring your driver's license, or other legally valid picture identification with you.
8. Sign the form when directed by the Township personnel, and provide your ID for photocopying, if requested.

SANITARY SEWER HARDSHIP OR DEFERRAL APPLICATION FORM

Street Address: _____

Parcel Number: 3905-_____ - _____ - _____

SECTION 1: APPLICANT INFORMATION

Name of Applicant: _____

Marital Status (circle one): Married Single Divorced Other _____

Social Security Number: _____ - _____ - _____

Driver's License/State ID Number: _____

Issuing State: _____

Phone Number: _____

Email address: _____

Are you the sole owner of this property? Yes / No

If no, please provide:

Name of Co-Applicant: _____

Social Security Number: _____ - _____ - _____

Driver's License/State ID Number: _____

Issuing State: _____

Phone Number: _____

Email address: _____

SECTION 2: HOUSEHOLD, INCOME, AND ASSET INFORMATION

1. Please provide the following information for all people (including yourself) who live at the above address.

Name	Relationship	Age	Monthly Income
			\$
			\$
			\$
			\$
			\$

2. Do you currently have a mortgage on this property? **Yes / No**

If yes, please provide:

Current unpaid balance of your mortgage: \$_____

Monthly payment amount: \$_____

Name of your mortgage company: _____

Has the mortgagee been notified regarding the Financing Agreement with the Township? **Yes / No**

3. Do you rent or lease any portion of this property? **Yes / No**

If yes, what portion? _____% Monthly rent collected: \$_____

4. Please list all household income, and specify which member of your household supplies the income from each applicable source:

Type of Income	Amount (monthly)	Source (self, co-applicant, etc.)
Salary/wages	\$	
Social Security	\$	
Pension(s)	\$	
Unemployment	\$	
Disability	\$	
Dividends/ Interest Income	\$	
Workmen's Compensation	\$	
Alimony	\$	

Child Support	\$	
Rental	\$	
Other:	\$	

Total Monthly \$ _____

APPLICATIONS WILL NOT BE ACCEPTED WITHOUT COPIES OF YOUR LATEST FEDERAL AND STATE INCOME TAX RETURNS (REGARDLESS OF YOUR INCOME) ATTACHED.

1. Please list the following **Bank Account** information for all residents at this address:

Name(s) on Account	Name of Bank/Credit Union	Current Balance
		\$
		\$
		\$
		\$

2. Please provide the following information about your **monthly expenses**:

Paid to (Company)	Expense Type (utilities, loans, medical bills, etc.)	Monthly payment	Outstanding debt/ account balance
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

3. Do you, or your co-applicant, own other land/houses? **Yes / No**

If yes, please provide the following:

Name(s) on Title	Location	Current Value	Outstanding Mortgage Balance	Mortgage Company Information
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

4. Do you have any other assets (excluding your homestead and normal household goods) which have not otherwise been disclosed in this form? **Yes / No.**

If yes, please list the assets and their approximate value:

Asset	Approximate Value
	\$
	\$
	\$
	\$
	\$

SECTION 3: CERTIFICATION

Please be aware, **any willfully false statements or misrepresentations in this form may constitute perjury**, an offense punishable under Michigan law. By signing this form, **I acknowledge that the information on this application, and the documents provided by me in support of this application, are, to the best of my knowledge true and correct statements of fact regarding my property, income, and assets.**

I, _____ being the owner and resident of the
Oshtemo Township property listed on this form, request relief under Public Act 368 of 1978
and Ordinance No. _____ adopted _____.

DO NOT SIGN THIS FORM UNTIL YOU ARE INSTRUCTED TO DO SO

Applicant's Signature

Date: _____

Co-Applicant's Signature

Date: _____

Applicant(s) presented picture ID, and signed this form in my presence:

Received by: _____

Date: _____

Subject	Owner-Occupied		New Houesholds to be Connected (900)	Cost of Private Sewer Expense (\$6,000)	Mandate USDA/State Plans	Cost of Deferment \$550/Yr	Mandate USDA/State Plan	Cost of Abatement \$550/Yr
	Estimate	Cummulative Percentage						
Occupied housing units	5,267							
HOUSEHOLD INCOME 2010								
Less than \$5,000	0.8	0.8	7.2	\$ 43,200	\$ -	\$ 3,960	\$ -	\$ 3,960
\$5,000 to \$9,999	2.1	2.9	26	\$ 156,000	\$ -	\$ 14,300	\$ -	\$ 14,300
\$10,000 to \$14,999	2.7	5.6	50	\$ 300,000	\$ -	\$ 27,500	\$ -	\$ 27,500
\$15,000 to \$19,999	3.1	8.7	78	\$ 468,000	\$ -	\$ 42,900	\$ -	\$ 42,900
\$20,000 to \$24,999	3.3	12.0	108	\$ 648,000	\$ 180,000	\$ 59,400	\$ 16,500	\$ 59,400
\$25,000 to \$34,999	7.8	19.8	178	\$ 1,068,000	\$ 600,000	\$ 97,900	\$ 55,000	\$ 97,900
\$35,000 to \$49,999	13.8	33.6	302	\$ 1,812,000	\$ 1,344,000	\$ 166,100	\$ 123,200	\$ 166,100
\$50,000 to \$74,999	20.7	54.3	488	\$ 2,928,000	\$ 2,460,000	\$ 268,400	\$ 225,500	\$ 268,400
\$75,000 to \$99,999	9.2	63.5	571	\$ 3,426,000	\$ 2,958,000	\$ 314,050	\$ 271,150	\$ 314,050
\$100,000 to \$149,999	20.1	83.6	752	\$ 4,512,000	\$ 4,044,000	\$ 413,600	\$ 370,700	\$ 413,600
\$150,000 or more	16.4	100.0	900	\$ 5,400,000	\$ 4,932,000	\$ 495,000	\$ 452,100	\$ 495,000
Median household income	\$ 69,024							