

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

**May 26, 2020**

The following action is being taken following Governor Whitmer's recent Executive Orders regarding COVID19.

**The 6 PM OSHTEMO TOWNSHIP BOARD WORK SESSION IS CANCELLED**

**REGULAR MEETING**

**7:15 p.m.**

*(Refer [www.oshtemo.org](http://www.oshtemo.org) home page for Virtual Meeting Information, or page 3 of packet)*

**AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Public Comment on Non-Agenda Items
4. Consent Agenda
  - a. Approve Minutes Regular Meeting May 12<sup>th</sup> & Special Meeting May 19<sup>th</sup>, 2020
  - b. Receipts & Disbursements Report
  - c. Landscaping Ordinance Amendments – SECOND READING
  - d. Rezoning Land South 11<sup>th</sup> – SECOND READING
  - e. Bees Zoning Ordinance Amendments – SECOND READING
5. Consideration of 'Oshtemo Charter Township Public Sanitary Sewer Hardship Financing or Deferment Ordinance' Establishment Items
  - a. Hardship Advisory Review Committee ("HARC") Member Appointments
  - b. Budget Amendment to Establish Hardship Revolving Fund
6. Consideration of First Quarter Budget Amendments
7. Consideration of COVID-19 Plan
8. Other Township Business
9. Public Comment
10. Board Member Comments
11. Adjournment

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

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

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

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

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

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

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

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

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

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

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

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

## 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 11-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: 859 4101 2629**

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: **859 4101 2629#**

### 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.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press \*9 on your touchtone keypad.**

**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:** May 18, 2020  
**Mtg Date:** May 26, 2020  
**Subject:** Landscape Ordinance - Second Reading

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## **OBJECTIVE**

Consideration of the Landscaping Ordinance for second reading and adoption. First reading of the proposed amendment occurred on May 12, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

## **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:

	<b>Existing Ordinance</b>	<b>Draft Ordinance</b>
<b>Interior Landscaping</b>	No	10 percent
<b>Screening</b>	No	Between nonresidential and residential and between multi-family and single-family. 6-foot opaque visual barrier.
<b>Buffer zones</b>	At every property line. Size dependent on adjacent uses.	30 feet between nonresidential and residential and between multi-family and single-family.
<b>Parking lots</b>	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.
<b>Street Rights of Way</b>	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 9<sup>th</sup> Street:

<b>Wal Mart Site</b>	<b>Existing Ordinance</b>	<b>Draft Ordinance</b>
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. The proposed changes were presented to the Township Board on April 28, 2020 for discussion. The Board unanimously agreed to forward the proposed code amendment to their May 12, 2020 meeting for first reading.

**INFORMATION PROVIDED**

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

## ARTICLE 53

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### 53 – LANDSCAPING

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#### 53.10 STATE OF PURPOSE

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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

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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

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- 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 <sup>1</sup>	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 <sup>3,4</sup>	Arterial, Collector or Local <sup>2</sup>	Highway	Private Street Easement
AG, RR, R-1, R-2, R-3 <sup>3</sup>	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 <sup>1</sup>	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 <sup>3,4</sup>	Arterial, Collector or Local <sup>2</sup>	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.

Table 53-C Interior Landscaping Area Requirements for Parking Lots		
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](http://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.

1. 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](http://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

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- 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

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- 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

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- 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.

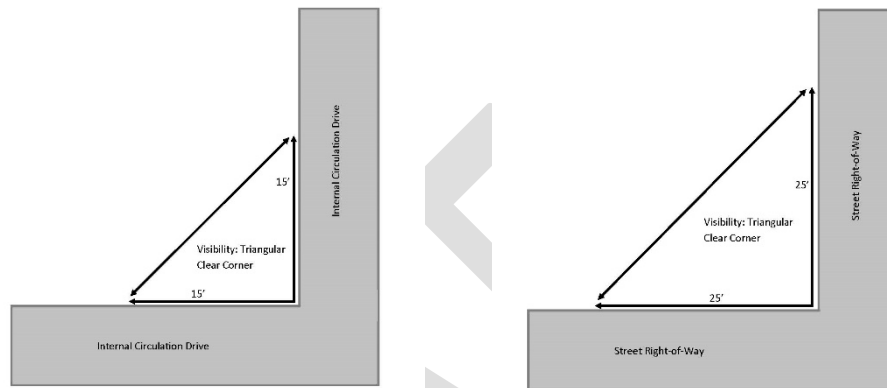
### 53.20 Application of Requirements

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](http://www.nativeplants.msu.edu)
2. [www.plant.native.org](http://www.plant.native.org)
3. [www.wildflower.org/collections/Michigan](http://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](http://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.

<b>Tree Preservation Credits</b>	
<b>Diameter of Preserved Tree*</b>	<b>Number of Trees credited</b>
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 10<sup>th</sup> 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.

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 deletion and replacement of Article 53 Landscaping and Screening of the Township Zoning Ordinance, to read, in summary, as follows:

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

## 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.

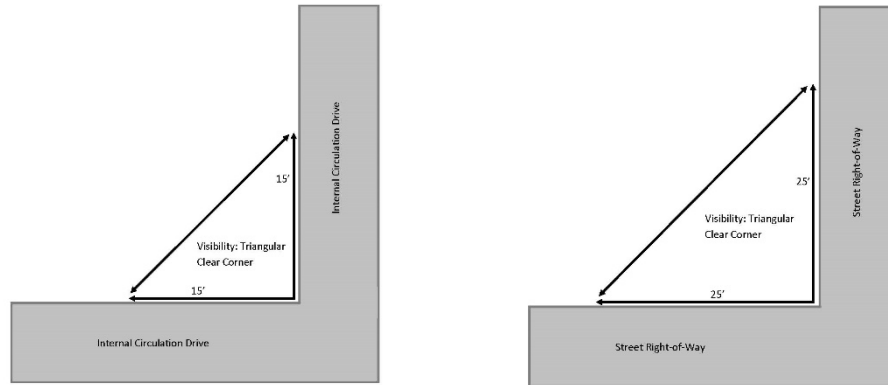
### 53.20 Application of Requirements

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 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](http://www.nativeplants.msu.edu)
2. [www.plant.native.org](http://www.plant.native.org)
3. [www.wildflower.org/collections/Michigan](http://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
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](http://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.

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 deletion and replacement of Article 53 Landscaping and Screening. 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 53 LANDSCAPING AND SCREENING. Article 53 Landscaping and Screening is hereby deleted and replaced to read as follows:

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:

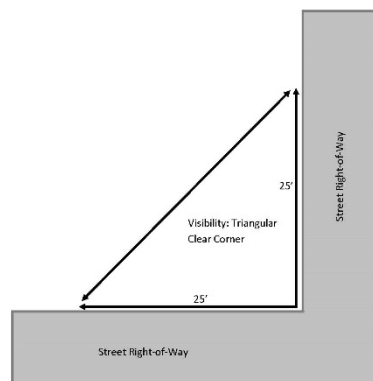
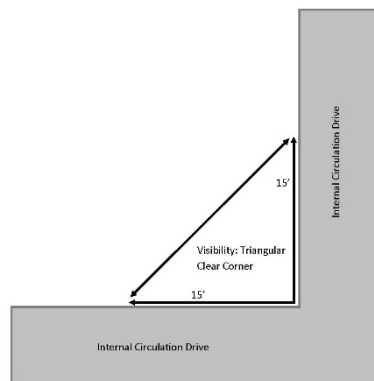
- Increase compatibility between uses and provide buffering between dissimilar land uses.
- Improve the overall aesthetics and appearance of public rights-of way.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare 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.

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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.
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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
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- 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.

<b>Tree Preservation Credits</b>	
<b>Diameter of Preserved Tree*</b>	<b>Number of Trees credited</b>
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.

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

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 deletion and replacement of Article 53 Landscaping and Screening of the Township Zoning Ordinance, to read, in summary, as follows:

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

## 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

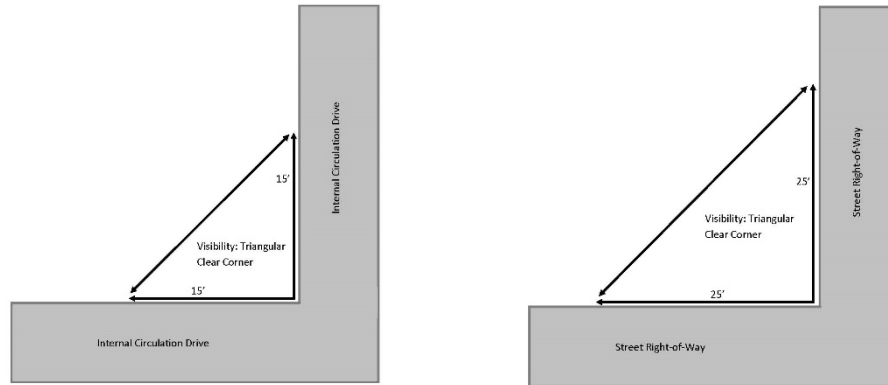
These requirements shall apply to all uses subject to site plan review as defined in Article 64 of this Ordinance. No site plan shall be approved unless a landscape plan is provided which meets the requirements set forth herein.

### 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 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](http://www.nativeplants.msu.edu)
2. [www.plant.native.org](http://www.plant.native.org)
3. [www.wildflower.org/collections/Michigan](http://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
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](http://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

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- 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.

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- 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
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\*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.

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- 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.



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 deletion and replacement of Article 53 Landscaping and Screening. 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 53 LANDSCAPING AND SCREENING. Article 53 Landscaping and Screening is hereby deleted and replaced to read as follows:

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:

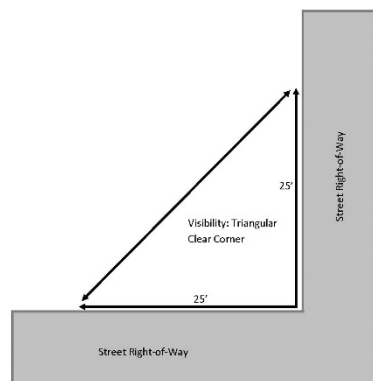
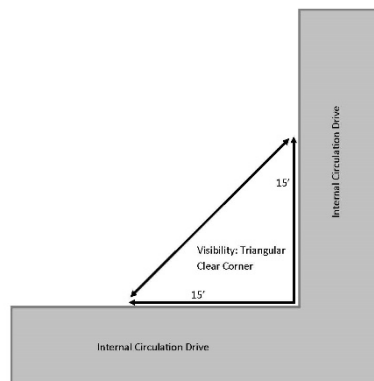
- Increase compatibility between uses and provide buffering between dissimilar land uses.
- Improve the overall aesthetics and appearance of public rights-of way.
- Improve air quality and provide shade.
- Decrease wind velocity, reduce soil erosion and increase surface water retention.
- Reduce glare 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.)
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  - 1. 70 or more parking spaces
  - 2. Screening between land uses
  - 3. Request tree preservation credits
  - 4. Request credits for preserving native vegetation
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- 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 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](http://www.nativeplants.msu.edu)
2. [www.plant.native.org](http://www.plant.native.org)
3. [www.wildflower.org/collections/Michigan](http://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
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](http://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.

<b>Tree Preservation Credits</b>	
<b>Diameter of Preserved Tree*</b>	<b>Number of Trees credited</b>
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.

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

May 18, 2020



**Mtg Date:** May 26, 2020

**To:** Oshtemo Charter Township Board

**From:** Ben Clark, Zoning Administrator

**Applicant:** Michael Way, Waybridge LLC

**Owner:** Waybridge LLC

**Property:** 2963 S 11<sup>th</sup> Street, Unaddressed S 11<sup>th</sup> Street, and 3065 S 11<sup>th</sup> Street; parcels 05-25-455-021, 05-25-455-024, and 05-25-455-030

**Zoning:** R-2, Residence District

**Req Zoning:** R-3, Residence District

**Subject:** S 11th Street Rezoning – Second Reading

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**OBJECTIVE:**

Consideration to rezone parcels 05-25-455-021, 05-25-455-024, and 05-25-455-030 from R-2, Residence District to R-3, Residence District for second reading and adoption. First reading of the proposed rezoning occurred on May 12, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

**OVERVIEW:**

The applicant is requesting that the three properties listed above on the east side of S 11<sup>th</sup> Street be rezoned from R-2: Residence District to R-3: Residence District. For a number of decades this portion of 11<sup>th</sup> Street has been transitioning from single-family homes to non-residential uses, and to the north of the subject parcels are a number of R-3-zoned properties accommodating a mix of residential and non-residential uses. Further north, before reaching Stadium Drive, are parcels zoned C: Local Business District. The current zoning of the three parcels—R-2—is primarily intended to facilitate lower density residential development, and dwellings such as single-family homes and duplexes are permitted by right. The R-3 district allows the same, but also has provisions for offices, banks, and three- or four-unit dwellings, all controlled via the Township’s Special Use regulations.

**CONSIDERATIONS:**

The Zoning Enabling Act, which allows Townships to zone property, does not provide any required standards that a Planning Commission must consider when reviewing a rezoning request. However, there are some generally recognized factors that should be deliberated before a rezoning decision is made. These considerations are as follows:

**1. Master Plan Designation**

The Township's Future Land Use Plan categorizes this area—south to Parkview Avenue, East to US 131, west across S 11<sup>th</sup> Street to Stadium Drive, and north to Holiday Ter/the existing commercial zoning—as *Transitional Office*, a category intended to buffer low density residential areas from commercial zoning by allowing *limited* non-residential uses along relatively busy roadways that tend to be less desirable for residential development. Under the current Zoning Ordinance, the R-3 zoning category works well to fulfill the conceptual goals of the Transitional Office future land use designation, as it bridges the gap between residential and low-intensity non-residential uses. Furthermore, non-residential uses in the R-3 district such as medical and administrative office buildings are regulated as Special Uses, and at the time of site plan review the Township is authorized to impose restrictions on such in order to mitigate their impact on nearby homes.

**2. Consistency of the Zoning Classification in the General Area**

Although zoning allowing non-residential land use has yet to migrate this far south on the east side of S 11<sup>th</sup> Street, nearby properties have long since transitioned to such, and immediately to the north of the three subject parcels is a considerable amount of land zoned R-3, with commercial zoning north of that. Rezoning these parcels would be consistent with nearby zoning and follows the desired land use pattern of buffering commercial land uses from residential.

**3. Consistency and Compatibility with General Land Use Patterns in the Area**

Given the current R-2 zoning of the subject parcels and the properties to the south, this portion of the S 11<sup>th</sup> Street corridor does still accommodate residential uses, and the area subject to the rezoning request abuts two properties with single-family homes. Immediately to the north and east however a different land use pattern is well established. To the east is a church, to the north is another church, a medical office building, a hair salon, and a handful of office buildings. Further north can be found a hotel and convention center and a sizeable office complex. A similar pattern is manifesting on the west side of S 11<sup>th</sup> Street, where numerous office and medical uses are found, increasing in consistency and intensity approaching Stadium Drive.

**4. Utilities and Infrastructure**

Public water and sewer are available for the subject properties, and any future development there will have to tap into these systems. Regarding the transportation network, the intersection to the north at Stadium Drive and S 11<sup>th</sup> Street is well controlled by a traffic signal. The intersection to the south where S 11<sup>th</sup> Street crosses Parkview Avenue is still

regulated via a four way stop, but left turn pockets are present in all four directions. A considerable amount of traffic moves through this intersection at times, and it is reasonable to foresee installation of a signal one day, but at this time the Road Commission of Kalamazoo County has not determined that such a treatment is warranted.

**5. Reasonable Use under Current Zoning Classification**

All three subject parcels can hypothetically accommodate dwellings, so there is reasonable use under the current R-2 zoning.

**6. Effects on Surrounding Property**

While this request would not be introducing a new zoning element to the S 11<sup>th</sup> Street corridor, it could facilitate southward expansion of non-residential uses. Such are closely regulated by the restrictions found in the R-3 district as well as the Township's Special Use mechanism, and staff do not foresee unreasonable impacts for the residences to the south. Uses to the north and east are already predominately non-residential, increasing in intensity moving north towards Stadium Drive.

**RECOMMENDATION:**

The Planning Commission held their public hearing for this request on April 30, 2020. No interested residents spoke for or against this proposal at the public hearing. The Planning Commission made a motion to recommend approval of this rezoning request to the Township Board, which received unanimous support. The recommendation was based on the following factors:

1. The proposed rezoning is in accordance with the Township's Future Land Use Plan.
2. The requested rezoning is compatible with the surrounding land uses and adjacent zoning classifications.

Respectfully submitted,



Ben Clark,  
Zoning Administrator

Attachments: Application  
Zoning Map  
Current Land Use Map  
Future Land Use Map  
Future Land Use Plan Excerpt  
Excerpt from the draft 4/30/2020 Planning Commission Minutes



7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
Phone: 269-216-5223 Fax: 269-375-7180

**PLEASE PRINT**

PROJECT NAME & ADDRESS 2963 South 11<sup>th</sup> Street

**PLANNING & ZONING APPLICATION**

Applicant Name: Waybridge LLC

Company \_\_\_\_\_

M.S. WAY

Address 7049 Tunky (Old Farm)

Kalamazoo, MI. 49009

E-mail stallbottm@icloud.com

Telephone 269-577-4502 Fax \_\_\_\_\_

Interest in Property OWNER

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

**OWNER\*:**

Name Above

Address \_\_\_\_\_

Email \_\_\_\_\_

Phone & Fax \_\_\_\_\_

Fee Amount \_\_\_\_\_

Escrow Amount \_\_\_\_\_

**NATURE OF THE REQUEST:** (Please check the appropriate item(s))

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: \_\_\_\_\_

**BRIEFLY DESCRIBE YOUR REQUEST** (Use Attachments if Necessary): \_\_\_\_\_

Rezone 2963 South 11<sup>th</sup> St, parcel 05-25-455-021  
from R2 to R3 to allow for the construction of  
an Ophthalmology Clinic.

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

See Attachment

**PARCEL NUMBER:** 3905- 25-455-021

**ADDRESS OF PROPERTY:** 2963 South 11<sup>th</sup> St.

**PRESENT USE OF THE PROPERTY:** Residential House

**PRESENT ZONING** R-2 **SIZE OF PROPERTY** See Attachment

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS  
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

**Name(s)**

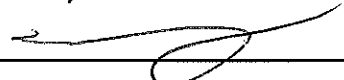
**Address(es)**

\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURES**

*I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.*

Way Bridge LLC

 MEMBER

**Owner's Signature**(\* If different from Applicant)

4/23/20

**Date**

SA

**Applicant's Signature**

**Date**

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney -1
- Assessor -1
- Planning Secretary - Original

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**





7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
 Phone: 269-216-5223 Fax: 269-375-7180

**PLEASE PRINT**

PROJECT NAME & ADDRESS 3065 S. 11<sup>TH</sup> ST.

**PLANNING & ZONING APPLICATION**

Applicant Name : Waybridge LLC  
 Company Waybridge LLC  
 Address M.S. WAY  
7049 Tenky Glen Trail  
Kalamazoo, MI 49009  
 E-mail stallbaker@icloud.com  
 Telephone 599-4503 Fax \_\_\_\_\_  
 Interest in Property OWNER

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

Fee Amount \_\_\_\_\_

Escrow Amount \_\_\_\_\_

**OWNER\*:**

Name Above  
 Address \_\_\_\_\_  
 Email \_\_\_\_\_  
 Phone & Fax \_\_\_\_\_

**NATURE OF THE REQUEST: (Please check the appropriate item(s))**

- |   |   |
|---|---|
| <input type="checkbox"/> Planning Escrow-1042                 | <input type="checkbox"/> Land Division-1090           |
| <input type="checkbox"/> Site Plan Review-1088                | <input type="checkbox"/> Subdivision Plat Review-1089 |
| <input type="checkbox"/> Administrative Site Plan Review-1086 | <input checked="" type="checkbox"/> Rezoning-1091     |
| <input type="checkbox"/> Special Exception Use-1085           | <input type="checkbox"/> Interpretation-1082          |
| <input type="checkbox"/> Zoning Variance-1092                 | <input type="checkbox"/> Text Amendment-1081          |
| <input type="checkbox"/> Site Condominium-1084                | <input type="checkbox"/> Sign Deviation-1080          |
| <input type="checkbox"/> Accessory Building Review-1083       | <input type="checkbox"/> Other: _____                 |

**BRIEFLY DESCRIBE YOUR REQUEST (Use Attachments if Necessary):** \_\_\_\_\_

Rezone from R2 to R3 to allow for  
Professional / Business office use

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

*See Attachment A*

**PARCEL NUMBER:** 3905- 05-25-455-030

**ADDRESS OF PROPERTY:** 3065 S. 11<sup>th</sup> St.

**PRESENT USE OF THE PROPERTY:** House

**PRESENT ZONING** R-2 **SIZE OF PROPERTY** 210 x 330.3

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS  
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

**Name(s)**

**Address(es)**

\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURES**

*I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.*

*[Signature]*  
**Owner's Signature** (\* If different from Applicant)

4/23/20  
**Date**

*[Signature]*  
**Applicant's Signature**

\_\_\_\_\_  
**Date**

- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

\*\*\*\*

**PLEASE ATTACH ALL REQUIRED DOCUMENTS**



7275 W. Main Street, Kalamazoo, Michigan 49009-9334  
Phone: 269-216-5223 Fax: 269-375-7180

**PLEASE PRINT**

PROJECT NAME & ADDRESS 2999 S. 11<sup>th</sup> Street

**PLANNING & ZONING APPLICATION**

Applicant Name: WAYBRIDGE, LLC

Company \_\_\_\_\_

Address 15 WAY  
7047 Tanky (Don Trail)  
Kalamazoo, MI, 49009

E-mail stallbohm@picad.com

Telephone 599-4503 Fax \_\_\_\_\_

Interest in Property OWNER

THIS  
SPACE  
FOR  
TOWNSHIP  
USE  
ONLY

**OWNER\*:**

Name ABOVI

Address \_\_\_\_\_

Email \_\_\_\_\_

Phone & Fax \_\_\_\_\_

Fee Amount \_\_\_\_\_

Escrow Amount \_\_\_\_\_

**NATURE OF THE REQUEST:** (Please check the appropriate item(s))

- Planning Escrow-1042
- Site Plan Review-1088
- Administrative Site Plan Review-1086
- Special Exception Use-1085
- Zoning Variance-1092
- Site Condominium-1084
- Accessory Building Review-1083
- Land Division-1090
- Subdivision Plat Review-1089
- Rezoning-1091
- Interpretation-1082
- Text Amendment-1081
- Sign Deviation-1080
- Other: \_\_\_\_\_

**BRIEFLY DESCRIBE YOUR REQUEST** (Use Attachments if Necessary): \_\_\_\_\_

Rezone from R2 to R3 to allow for  
Professional/Business office use

**LEGAL DESCRIPTION OF PROPERTY (Use Attachments if Necessary):**

See Attached

**PARCEL NUMBER:** 3905- 05-25-455-024

**ADDRESS OF PROPERTY:** \_\_\_\_\_

**PRESENT USE OF THE PROPERTY:** VACANT LAND

**PRESENT ZONING** R-2 **SIZE OF PROPERTY** 119x455

**NAME(S) & ADDRESS(ES) OF ALL OTHER PERSONS, CORPORATIONS, OR FIRMS  
HAVING A LEGAL OR EQUITABLE INTEREST IN THE PROPERTY:**

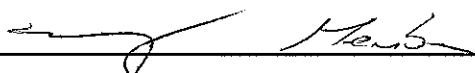
**Name(s)**

**Address(es)**

\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURES**

*I (we) the undersigned certify that the information contained on this application form and the required documents attached hereto are to the best of my (our) knowledge true and accurate. I (we) acknowledge that we have received the Township's Disclaimer Regarding Sewer and Water Infrastructure. By submitting this Planning & Zoning Application, I (we) grant permission for Oshtemo Township officials and agents to enter the subject property of the application as part of completing the reviews necessary to process the application.*

  
**Owner's Signature**(\* If different from Applicant)

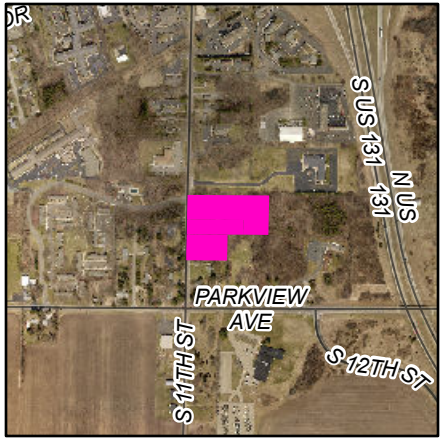
4/23/20  
**Date**

\_\_\_\_\_  
**Applicant's Signature**

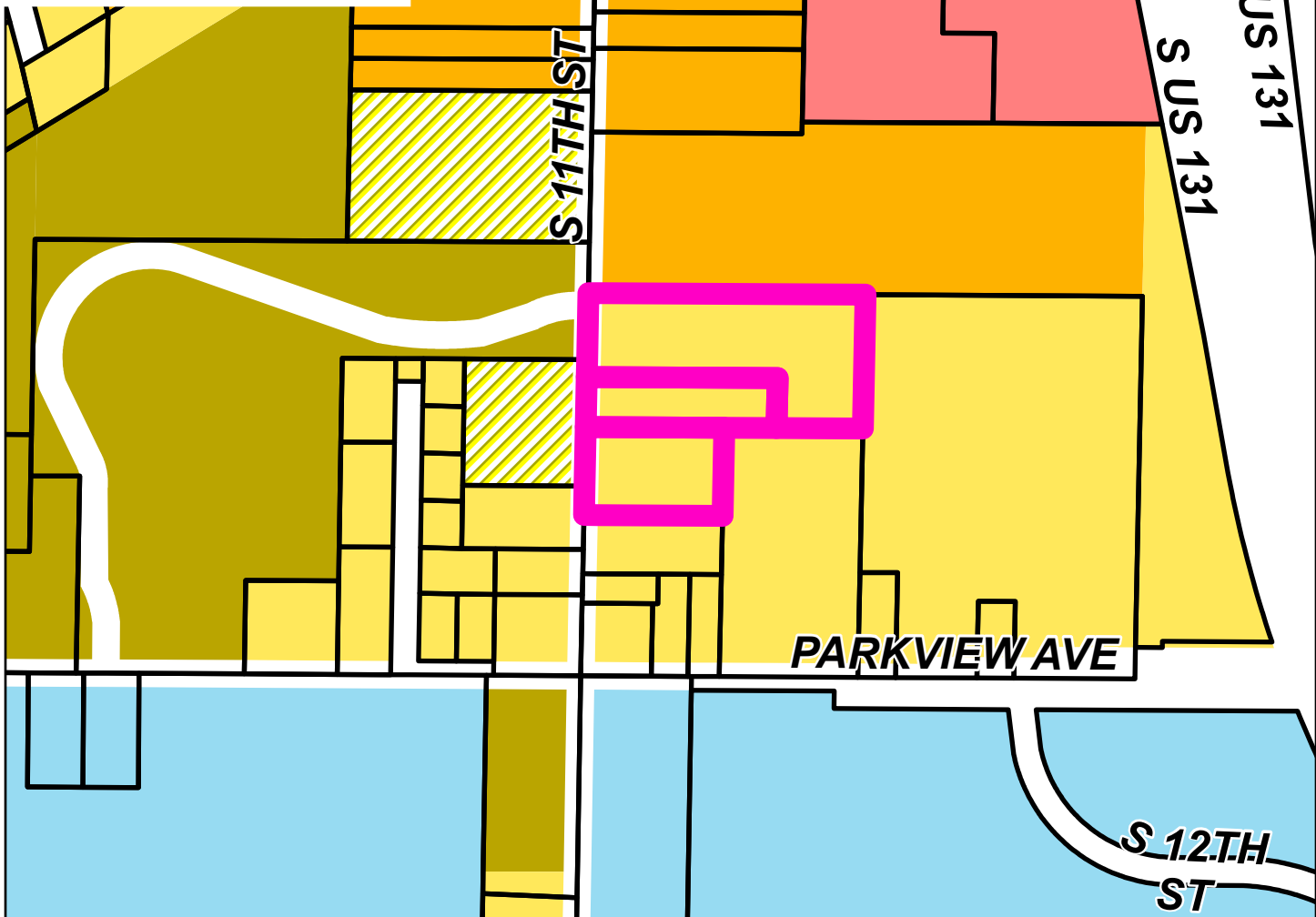
\_\_\_\_\_  
**Date**









- Copies to:
- Planning -1
- Applicant -1
- Clerk -1
- Deputy Clerk -1
- Attorney-1
- Assessor -1
- Planning Secretary - Original

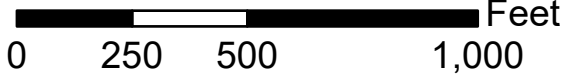
\*\*\*\*  
**PLEASE ATTACH ALL REQUIRED DOCUMENTS**

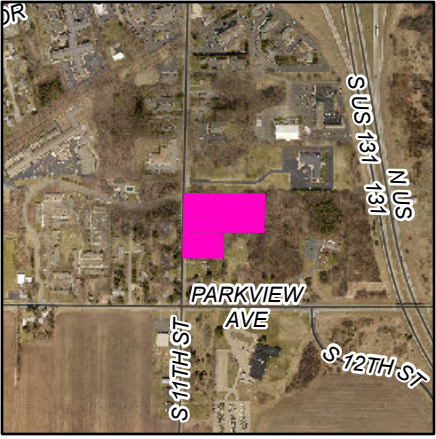


**CURRENT ZONING**



-  Subject Property
-  Other Property Line
-  RR - RURAL RESIDENTIAL DISTRICT
-  R2 - RESIDENCE DISTRICT
-  R3 - RESIDENCE DISTRICT
-  R4 - RESIDENCE DISTRICT
-  C - LOCAL BUSINESS DISTRICT
-  CONDITIONAL REZONING





**CURRENT  
LAND USE**

Medical, Office, and  
Retail Service

House of Worship



S 11TH ST

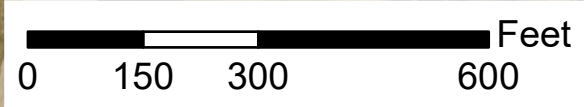
Single-Family  
Residential

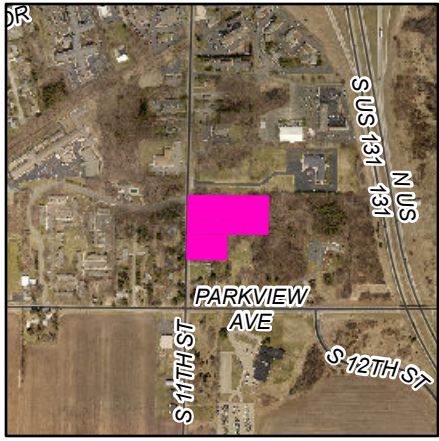
PARKVIEW AVE

S 12TH ST

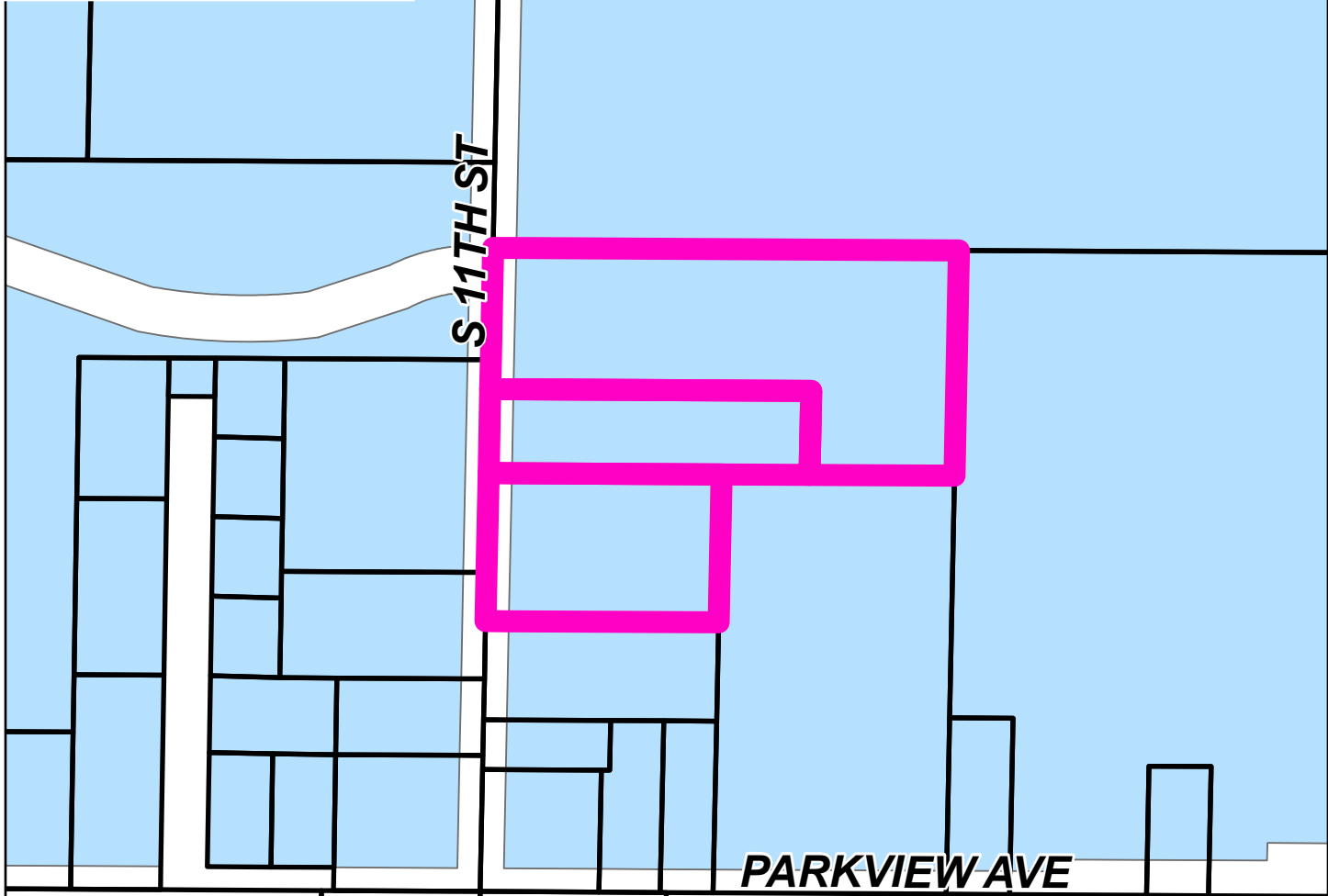
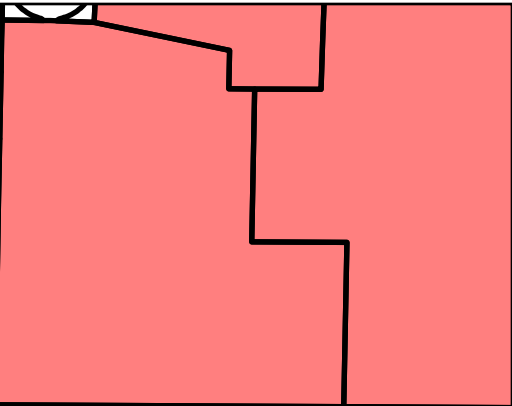


 Subject Property  
 Other Property Line










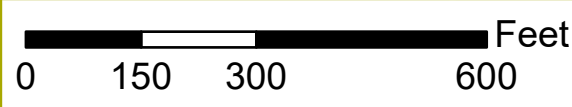
FUTURE  
LAND USE



S 11TH ST

PARKVIEW AVE

-  Subject Property
-  Other Property Line
-  General Commercial
-  Sub Area
-  Transitional Office



### **Transitional Office (417 acres)**

*Development Intensity: Medium*

There are several areas in the Township that could benefit from a district that serves as a buffer between existing commercial uses and/or transportation networks and adjacent residential uses. The use of a Transitional Office District is intended to mitigate the compatibility issues that often arise between higher intensity development and residential uses.

Development envisioned for the Transitional Office District include primarily office and institutional uses. Office uses include financial institutions, professional service firms, medical facilities, and personal service establishments. This category may include buildings occupied by single professional business or a larger multi-tenant office building. Institutional uses include churches, schools, daycare centers, libraries, post offices and other public buildings, and public recreation. The District would also include medium density residential uses, such as duplexes and senior-oriented complexes.

For all areas carrying this designation, access management will be a high priority, especially along the primary roadways of the Township. In addition, regulations will need to be considered relating to size of construction and site development to ensure compatibility with adjacent residential uses and in keeping with the intent of the District as a buffer from higher intensity uses. Ensuring that development is coordinated and consistent, such as through the Planned Unit Development (PUD) process, will assist with quality, design, and function that is desired for these areas.

### **Transitional Office Desired Future Development Pattern**

- Office, institutional, and/or medium density residential located in well-planned developments
- Protection of the existing character of the area in which it is located through design, layout, and operation
- Incorporation of access management standards
- Successful buffers and/or transitions between adjacent land uses

### **Village Core (119 acres)**

*Development Intensity: High*

The Village Core designation is located within the boundary of the Downtown Development Authority (DDA) for Oshtemo Township and where the historic “village” of Oshtemo used to reside. This area was the site of the original settlement in the Township and served for many years as the heart of the community.

The Village Core has been the subject of a considerable amount of evaluation and analysis over the past 15 years. In that time, the DDA was created and a Development Plan prepared; a Character Plan crafted to establish a vision for the future built environment, and a Form Based Code prepared to implement that vision; and a Streetscape Plan prepared for aesthetic and pedestrian right-of-way improvements within the district.

The work of the DDA has just begun. It is their hope, as well as the Township’s, that properties in this area will redevelop, and the Village will become a unique place, identifiable within Oshtemo. By creating a walkable, mixed use, compact village center, it is desired for this area to once again serve this role.

The Master Plan supports the findings and conclusions of the plans prepared for the Village Core and incorporates them by reference. It is envisioned that as sites redevelop within this area, it will be done consistent with these documents.



Chairperson VanderWeele moved to the next agenda item and asked Ms. Lubbart for her report.

**PUBLIC HEARING: REZONING FROM R-2, RESIDENCE DISTRICT TO R-3 RESIDENCE DISTRICT**  
**WAYBRIDGE LLC REQUESTED REZONING OF THREE PARCELS LOCATED ON THE EAST SIDE OF S. 11<sup>TH</sup> STREET NEAR PARKIEW AVENUE, BEING 2963, 2999 and 3065 s. 11<sup>th</sup> STREET, FROM THE “R-2” RESIDENCE DISTRICT TO THE “R-3” RESIDENCE DISTRICT OF THE OSHTEMO CHARTER TOWNSHIP ZONING ORDINANCE.**

Ms. Lubbart said the applicant was requesting the three properties listed above on the east side of S. 11<sup>th</sup> St. be rezoned from R-2: Residence District to R-3: Residence District. For a number of decades this portion of 11<sup>th</sup> St has been transitioning from single-family homes to non-residential uses, and to the north of the subject parcels are a number of R-3-zoned properties accommodating a mix of residential and non-residential uses. Further north, before reaching Stadium Drive, are parcels zoned C: Local Business District. The current zoning of the three parcels—R-2—is primarily intended to facilitate lower density residential development, and dwellings such as single-family homes and duplexes are permitted by right. The R-3 district allows the same, but also has provisions for offices, banks, and three- or four-unit dwellings, all controlled via the Township’s Special Use regulations.

She said the Zoning Enabling Act, which allows Townships to zone property, does not provide any required standards that a Planning Commission must consider when reviewing a rezoning request. However, there are some generally recognized factors that should be deliberated before a rezoning decision is made. She listed these considerations as follows:

**1. Master Plan Designation**

The Township’s Future Land Use Plan categorizes this general area as *Transitional Office*, a category intended to buffer low density residential areas from commercial zoning by allowing *limited* non-residential uses along relatively busy roadways that tend to be less desirable for residential development. Under the current Zoning Ordinance, the R-3 zoning category works well to fulfill the conceptual goals of the Transitional Office future land use designation, as it bridges the gap between residential and low-intensity non-residential uses. Furthermore, non-residential uses in the R-3 district such as medical and administrative office buildings are regulated as Special Uses, and at the time of site plan review the Township is authorized to impose restrictions on such in order to mitigate their impact on nearby homes.

**2. Consistency of the Zoning Classification in the General Area**

Although zoning allowing non-residential land use has yet to migrate this far south on the east side of S 11<sup>th</sup> St, nearby properties have long since transitioned to such, and immediately to the north of the three subject parcels is a

considerable amount of land zoned R-3, with commercial zoning north of that. Rezoning these parcels would be consistent with nearby zoning and follows the desired land use pattern of buffering commercial land uses from residential.

**3. Consistency and Compatibility with General Land Use Patterns in the Area**

Given the current R-2 zoning of the subject parcels and the properties to the south, this portion of the S. 11<sup>th</sup> St. corridor does still accommodate residential uses, and the area subject to the rezoning request abuts two properties with single-family homes. Immediately to the north and east however a different land use pattern is well established. To the east is a church, and to the north are another church, a medical office building, a hair salon, and a handful of office buildings. Further north can be found a hotel and convention center and a sizeable office complex. A similar pattern is manifesting on the west side of S. 11<sup>th</sup> St., where numerous office and medical uses are found, increasing in consistency and intensity approaching Stadium Drive.

**4. Utilities and Infrastructure**

Public water and sewer are available for the subject properties, and any future development there will have to tap into these systems. Regarding the transportation network, the intersection to the north at Stadium Drive and S. 11<sup>th</sup> St. is well controlled by a traffic signal. The intersection to the south where S. 11<sup>th</sup> St. crosses Parkview Ave is still regulated via a four way stop, but left turn pockets are present in all four directions. A considerable amount of traffic moves through this intersection at times, and it is reasonable to foresee installation of a signal one day, but at this time the Road Commission of Kalamazoo County has not determined that such a treatment is warranted.

**5. Reasonable Use under Current Zoning Classification**

All three subject parcels can hypothetically accommodate dwellings, so there is reasonable use under the current R-2 zoning.

**6. Effects on Surrounding Property**

While this request would not be introducing a new zoning element to the S. 11<sup>th</sup> St. corridor, it could facilitate southward expansion of non-residential uses. Such are closely regulated by the restrictions found in the R-3 district as well as the Township's Special Use mechanism, and staff does not foresee unreasonable impacts for the residences to the south. Uses to the north and east are already predominately non-residential, increasing in intensity moving north towards Stadium Drive.

Ms. Lubbart recommended the Planning Commission forward a recommendation of approval to the Township Board for the rezoning of the subject properties from the R-2: Residence District to the R-3: Residence District for the following reasons:

1. The proposed rezoning is in accordance with the Township's Future Land Use Plan.

2. The requested rezoning is compatible with the surrounding land uses and adjacent zoning classifications.

Chairperson VanderWeele determined there were no questions from Commissioners and asked if the applicant wished to speak.

Mr. Walter Hansen, Building Design Corp., representing the applicant Mr. Way, said he would be happy to answer any questions from Commissioners. He confirmed that the applicant's request was for a rezoning only.

The Chair opened a public hearing for comment. No member of the public present spoke. Ms. Farmer asked to read an email she received from a resident that lives near the area being considered for the rezoning. Ms. Farmer noted that although this email was not specifically submitted in response to the request at hand, it does illustrate the current condition of the corridor and the concern should be considered. The email stated that the resident had substantially invested in her property and was concerned about the amount of trash and garbage from motorists along S 11<sup>th</sup> Street, specifically around the 4-way stop. Ms. Farmer noted that the intersection of concern is directly south of the parcels being considered for the rezoning and felt that this issue would only increase with growth resulting from a zoning change. Ms. Farmer explained that although the Township does not have staff available to provide cleanup, a "no littering" sign will be posted at Parkview and 11<sup>th</sup> Street to help address this concern.

There were no further public comments; the Chair closed the hearing and moved to Board Deliberations.

Mr. Vyas wondered if the Planning Commission could request a traffic light at that location.

Chairperson VanderWeele said traffic lights are under the control of the Road Commission of Kalamazoo County, but we could ask.

Ms. Farmer said it is under the Commission's purview to take traffic into consideration when moving forward with new zoning. She added that the Commission would be able to further consider effects to traffic when the site plans for these parcels are submitted.

The Chair commented that with the gradual move from residential to retail in the area, the resale prices for residential properties will improve. Hearing no further comments, he asked for a motion.

Mr. Vyas made a motion to forward a recommendation of approval to the Township Board to rezone the subject properties from the R-2: Residence District to the R-3: Residence District for the following reasons:

1. The proposed rezoning is in accordance with the Township's Future Land Use Plan.
2. The requested rezoning is compatible with the surrounding land uses and adjacent zoning classifications.

Ms. Smith seconded the motion. The motion was approved unanimously by roll call vote.

The Chair moved to the next agenda item.

**PUBLIC HEARING: SPECIAL USE, ARBOR CREDIT UNION EXPANSION  
APPLICANT REQUESTED SPECIAL USE AMENDMENT APPROVAL TO  
CONSTRUCT A 24,000 SQUARE FOOT ADDITION TO THE EXISTING CREDIT  
UNION AT 1551 S 9TH STREET AND ALSO CONSTRUCT A NEW 5,125 SQUARE  
FOOT SERVICE BRANCH ON THE SAME PROPERTY.**

Ms. Lubbert explained the subject property, located at the southeast corner of S. 9<sup>th</sup> Street and Quail Run Drive, currently accommodates Arbor Financial Credit Union's headquarters and an integrated member service branch. The applicant plans to add onto the main building in order to expand the administrative operations there. In conjunction with the 24,000 square foot addition, a new 5,128 square foot standalone member service branch is proposed on the parcel, south of the existing facility. On an adjacent property to the north, also owned by Arbor FCU, is a disused office building. The applicant plans to demolish this facility and move parking spaces there that will be displaced by construction of the new member service branch.

Per section 8.40.F of the Zoning Ordinance, banks, credit unions, and savings and loan offices are categorized as Special Uses in the R-3 zoning district, requiring approval from the Planning Commission.

At this time, all Zoning Ordinance requirements, including building setbacks, photometrics, and usage criteria, have been met, although the applicant does still need to combine the smaller property to the northeast with the main project parcel. This will need to be done prior to issuance of a building permit.

She said no new site access is proposed, but there will be considerable changes to the interior circulation and parking scheme:

1. An expanded parking area will be constructed where the disused office building to the northeast of the main facility currently stands.
2. The drive-through accommodations located on the east (back) side of the main facility will be relocated and appended to the new member service branch, making room for the 24,000 square foot expansion.
3. A handful of new parking spaces will be installed for the new branch building.

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON APRIL 30, 2020

The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the rezoning of three parcels of land located on the east side of S. 11<sup>th</sup> Street, near Parkview Avenue, being 2963, 2999 and 3065 S. 11<sup>th</sup> Street, Parcel Nos. 3905-25-455-021, 3905-25-455-024 and 3905-25-455-030, from the "R-2" Residence District to the "R-3" Residence District, more particularly described as follows:

SEE ATTACHMENT

OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION

Date: April 30, 2020

By: 

James W. Porter  
Township Attorney

Final Action by Oshtemo Charter Township Board

\_\_\_\_\_ APPROVED \_\_\_\_\_

\_\_\_\_\_ DENIED \_\_\_\_\_

\_\_\_\_\_ REFERRED BACK TO PLANNING COMMISSION

## ATTACHMENT

***Parcel 3905-25-455-012:***

SEC 25-2-12 BEG ON N & S 1/4 LI 912.89 FT N 00DEG-11'-56" E OF S 1/4 POST TH N 00DEG-11'-56" E ALG SD 1/4 LI 390.55 FT TH N 89DEG-31'-16" E 501.49 FT TH N 00DEG-09'-01" E 26.63 FT TH N 89DEG-20'-47" E 814.5 FT TO TO WLY ROW HWY US 131 TH SLY THEREON TO A PT 90 FT N OF S SEC LI AS MEAS PERP THERETO TH W PAR S LI 261.24 FT TH S 15 FT TH W TO A PT 1321.2 FT E OF N & S 1/4 LI TH N 837.89 FT TH S 89DEG-23'-59" W 1321.2 FT TO BEG.

***Parcel 3905-25-455-024:***

SEC 25-2-12 BEG ON N & S 1/4 LI 593.5 FT N OF S 1/4 POST TH CON'T N ALG SD 1/4 LI 119 FT TH E PAR WI S SEC LI 455 FT TH S PAR WI SD 1/4 LI 119FT TH W 455 FT TO BEG.

***Parcel 3905-25-455-030:***

SEC 25-2-12 THE N 210 FT OF FOL DESC COM AT S1/4 POST SEC 25 TH N ALG N&S1/4 LI SD SEC 593.5 FT TH E PAR TO S LI SD SEC 330.3 FT TH S PAR WITH N&S1/4 LI 593.5 FT TO S LI SD SEC TH W ALG SD SEC LI 330.3 FT TO PL OF BEG.

May 18, 2020



**Mtg Date:** May 26, 2020

**To:** Oshtemo Charter Township Board

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

**Subject:** Keeping of Livestock and Honey Bees Ordinance – Second Reading

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Objective:

Consideration of the Keeping of Livestock and Honey Bees Ordinance for second reading and adoption. First reading of the proposed ordinance occurred on May 12, 2020 at which the Township Board approved the first reading and moved for second reading unanimously.

Background:

In February of last year, a resident came to a Planning Commission meeting requesting that the Township consider allowing the keeping of bees as a permitted use for noncommercial purposes. In reviewing the Zoning Ordinance, it was found that the keeping of bees was not addressed anywhere and therefore was not permitted unless the bees were part of a farm operation as defined in the Michigan Right to Farm Act. Acknowledging the issue, staff worked to update the Keeping of Animals Ordinance to allow property owners to keep bees for private enjoyment. Staff reviewed the generally accepted agricultural management practices for both animals and honey bees, as well as looked at other community ordinances, particularly within Southwest Michigan, to formulate a proposed amendment. The first draft was shared with the Planning Commission for discussion at their July 25<sup>th</sup> regular meeting. After additional reviews and consideration, the Planning Commission held a public hearing for the amended Keeping of Livestock and Honey Bees Ordinance on September 12<sup>th</sup>. No public comments were received at the public hearing. The Planning Commission unanimously approved to forward the drafted language to the Township Board for Consideration with a recommendation of approval.

The proposed amendment to the Keeping of Animals Ordinance, the changes shown in red in the attached proposed code language, was presented to the Township Board for first reading on October 22<sup>nd</sup>. After discussion, the Township Board expressed concerns with the language and requested that the amendment be sent back to the Planning Commission for further deliberation. The specific questions that the Commission were asked to further consider were: “how large can the beehives be?” and “why can’t hives be placed in the front yard?”. A new version of the code was presented to the Planning Commission at their regular December 12<sup>th</sup> meeting for consideration. This amendment included changes, shown in blue in the attached proposed code language, proposed by staff that addressed the Township Board’s questions. After discussion, the Commission motioned to approve the additional changes and forward the new language to the

Township Board with a recommendation of approval. However, since that time staff was made aware through public inquiries and additional research that the proposed language needed to be further clarified to avoid confusion and unintentionally allowing for only one type of beehive configuration within the Township. To address these issues, staff requested that the Township Board send the Keeping of Livestock and Honey Bees Ordinance back to the Planning Commission to discuss a number of additional amendments. The Township Board agreed to do so.

The Planning Commission reviewed the newly amended language, shown in green in the attached proposed code language, at their April 30, 2020 regular meeting. After discussion the Commission agreed with staff's changes and motioned to forward the newly revised Keeping of Livestock and Honey Bees Ordinance back to the Township Board with a recommendation of approval.

#### Summary of Proposed Amendments:

Overall the proposed changes will update the ordinance to more modern practices, allowing for the keeping of bees for noncommercial purposes, as well as providing better clarification between animal types and placement of structures/enclosures. Additional amendments include language related to animal trespass on neighboring properties and a subsection on undomesticated and dangerous animals. Outlined below are amendments to the Keeping of Livestock and Honey Bees Ordinance that the Township Board has not yet seen.

#### Section 57.80 (B) – Acreage Requirements

- The acreage requirement for bee colonies was removed from the acreage requirements for animals and given its own subheading. Following the standards outlined in the Generally Accepted Agricultural and Management Practices (GAAMPs) for farms and farm operations in Michigan, a chart was inserted to outline the number of bee colonies permitted based on the size of a lot, parcel, or building site.

#### Section 57.80 (D) – Structure Requirements and Location

- Language was added to specify that all buildings and structures in this section are required to follow the requirements of the Accessory Buildings Ordinance.
- The most concern received from the public regarded the proposed language regulating the size of a beehives which was based on the configuration of the Langstroth hive, arguably the most popular hive for beekeepers. However, there are generally three other types of hives: the Top Bar Hive, the Warre Hive, and the Long hive. By using the Langstroth hive dimensions as maximums, staff confirmed that this would ultimately eliminate the ability for property owners to install other types of hives, for example a Top Bar hive needs to be a minimum of 36" long and the current proposed ordinance language only allows for about 19". In addition, it was found that limiting the maximum number of boxes in a hive could be detrimental. To allow the maximum amount of flexibility and still control hive size staff found other communities that simply regulated the overall cubic foot volume of a hive; 20 cubic feet being the most common. Following this practice, staff



recommends adjusting the code language to allow a single beehive to be 20 cubic feet in volume.

Section 57.80 (E) – Building Setbacks

- Language has been added to allow hives within the front yard, but only when a 100-foot setback can be met. This number was used to discourage the placement of hives in the front yard of smaller parcels, lots, or building sites.

Section 57.80 (G) – Additional Requirements for the keeping of Honey Bees

- GAAMPs notes the need for beekeepers to have a clean water source on their property for their bees to use. The current language of the code states that this water source should be “constant”. Through further research, staff found that this water source just needs to be in place during the bees flight season, which is dependent on the weather - generally spring through fall. Requiring a year-round water source, even in winter, could cause difficulties for bee owners and some members of the public have claimed could even harm the bees. Even though staff have not found evidence that a constant water source would cause harm, staff recommends changing the language of the code to be more specific to what bees need to avoid confusion and any potential negative effects or difficulties. To be user friendly, staff also added some examples that were provided by GAMMPs of what an acceptable water source could be.

Thank you.

Attachments:

- Amended Keeping of Livestock and Honey Bees Ordinance (57.80) - *Please note that the original amendments to this section are shown in red, second round of changes are shown in blue, and the third round of changes are shown in green.*
- Excerpt from the draft April 30<sup>th</sup> Planning Commission meeting Minutes

**57.80 KEEPING OF POULTRY, SWINE, HORSES, OR LIVESTOCK AND HONEY BEES**

The keeping of poultry, swine, livestock, or horses, rabbits, sheep, goats, chickens and other similar animals livestock (collectively referred herein as animals), and honey bees for noncommercial purposes as pets or for educational purposes, is permitted under the following conditions:

- A. Activities shall be ~~conducted on less than a commercial scale~~ for the private enjoyment of the property owners **conducted for noncommercial purposes.**
  
- B. **Acreage requirements.** Acreage requirements are exclusive of each animal size, meaning the property must have the minimum required acreage for each animal.
  - 1. **Large animals.** ~~There shall be a minimum of~~ One acre for each large animal (**more than 200 pounds at maturity**), including horses, cattle, and swine, or similar animals.
  - 2. **Moderate-sized animals.** One-quarter acre for each ~~small~~ moderate-sized animal (**under 35 to 200 pounds at maturity**), including sheep, goats, or similar animals.
  - 3. **Small animals.** ~~exclusive of those set forth above and for chickens, ducks, turkeys, and rabbits (collectively referred [to] herein as specified animals). All parcels, lots, and building sites shall be permitted up to five specified animals; roosters are prohibited. Parcels, lots, and building sites larger than one acre shall be permitted one additional specified animal for each one-quarter acre in excess of one acre.~~ **All parcels, lots, and building sites up to one acre shall be permitted up to five small animals (under 35 pounds at maturity), including chickens, ducks, turkeys, rabbits, or similar animals. One additional small animal shall be permitted for each additional one-quarter acre of property.**
  - 4. **Acreage requirements for Honey bees.** ~~The maximum allowed number of colonies permitted on a lot, parcel, or building site shall be limited as follows: All parcels, lots, and building sites up to one-quarter acre shall be permitted two hives colonies to a maximum of six hives colonies for the first acre. One additional hive colony is allowed for each additional one-quarter acre of property in excess of one acre.~~

Lot, Parcel, or Building Site Acreage	Maximum number of colonies permitted
Up to ¼ acre	2
¼ acre to ½ acre	4
½ to 1 acre	6

**For a Lot, Parcel, or Building Site over an acre, 8 colonies are allowed plus 1 additional colony for each additional one-quarter acre.**

- D. **Structure requirements and location.**
  - 1. ~~At minimum, a fenced-in enclosure, other than the residence, shall be placed for the housing of animals~~ **A structure or shelter is required based on the Generally Accepted Agricultural Management Practices (GAAMPS) for the care of animals.**
  - 2. **All buildings and structures must meet the requirements of Section 57.100: Accessory Buildings.**

3. All buildings, ~~structures,~~ or other enclosures, ~~or hives~~ shall be within either the side or rear yards and may not be within the required front setback ~~yard~~ for the subject property.

3. The size of a single beehive, which shall accommodate one bee colony, shall be a maximum of ~~three 10-frame deep boxes measured at 19 7/8 inches in length, 16 3/4 inches in width, and 9 5/8 inches in depth.~~ 20 cubic feet in volume.

**E. Building setbacks.** A building, ~~other than the residence,~~ ~~structure, shelter, or hive~~ used to shelter for animals ~~or bees~~ and/or any area used to store, dispose of, or compost manure, ~~other than the primary residential dwelling,~~ shall ~~not be located closer than~~ **comply with the following setbacks:**

1. **Large animals.** 50 feet ~~for large or small animals~~ **from any property line** and 150 feet ~~to~~ **from** any pre-existing dwelling on an adjacent ~~premise~~ **property.** ~~under different ownership.~~

2. **Moderate-sized animals.** 50 feet from any property line and 100 feet from any pre-existing dwelling on an adjacent property.

3. **Small animals.** ~~and ten feet or the height of the building, whichever is greater, for specified animals to any property line and not nearer than 150 feet for large or small animals and 20 feet for specified animals to any preexisting dwelling on adjacent premises under different ownership.~~ **25 feet from any property line and 50 feet from any pre-existing dwelling on an adjacent property.**

4. **Honey bees.** Hives may be placed in the front yard of a parcel, lot, or building site if the hives can be setback a minimum of 100 feet from the public right-of-way. In addition, all hives shall be placed a minimum of **15 feet away from any rear or side property line** and shall be at least **50 feet from any pre-existing dwelling on an adjacent property.**

**F. Fenced enclosure requirements.**

~~Large and small animals (excluding specified animals) shall be controlled in a suitable manner to prevent their approaching closer than 100 feet to any preexisting dwelling on adjacent premises under different ownership. Specified animals shall not be allowed free roam, must be contained within a six-foot fence or other fully enclosed structure at all times, and shall be controlled in a suitable manner to prevent their approaching closer than 20 feet to any preexisting dwelling on adjacent premises under different ownership. A sight fence or other screening is required if specified animals are visible from any other residential property or any public rights of way. All fences for specified animals shall be within either the side or rear yards and may not be within the required front setback for the subject property.~~

1. **Animals shall not be allowed free roam, but must be contained within a fully enclosed fenced area at all times. Fencing must meet the requirements of Section 57.60.**

2. **Fencing shall prevent animals from approaching any pre-existing dwelling on an adjacent property per the following requirements:**

a. **Large animals – 100 feet**

b. **Moderate-sized animals – 75 feet**

c. Small animals – 40 feet

3. Fencing shall be designed to prevent animal trespass onto neighboring property.

G. Additional requirements for the keeping of honey bees.

1. Hives shall be placed in such a way that the hive entrance is positioned internal to the property ~~so that bees must fly across the property.~~
2. A flyaway barrier at least six feet in height shall shield any part of the property line that is within 25 feet of a bee hive. Such flyaway barrier must consist of a solid fence per Section 57.60, dense vegetation, or combination thereof to redirect a bee's flight pattern to be above six feet in height at the property line. The Planning Director may approve an additional barrier type if it meets the intent of assisting the bees to gain altitude before leaving the property.
3. A constant supply of water shall be provided to all hives on site throughout the active flight season. Common water sources include birdbaths, pebble filled sections of gutter with end caps, plastic wading pools and entrance feeders.

H. Prohibitions.

1. ~~The keeping of poultry, swine, horses, or livestock~~ ~~Animals is further~~ ~~are~~ prohibited where conditions of maintenance are such to cause:
  - a. Unpleasant odors to be generated sufficiently strong to be discernible upon property of others for continuous periods of longer than six days, ~~or~~
  - b. Noise to be generated sufficiently loud to penetrate indoors upon property of others for continuous periods in excess of four hours, ~~or~~
  - c. Flies, insects or rodents to be attracted to the place where said animals and/or fowl are kept and are thereafter permitted to multiply and escape upon adjoining property.
2. Said animals or fowl, alive or dead, or any refuse therefrom ~~shall not~~ ~~to~~ trespass or be carried upon adjoining property.
3. Roosters ~~that crow~~ ~~are prohibited.~~
4. Any undomesticated animal or dangerous animal classified as wild, which includes, but is not limited to alligators, bears, monkeys, wolves, coyotes, venomous or constrictor reptiles, panthers, cougars, tigers, lions, and other wild felines. It shall also include any hybrid between a wild animal and a domesticated animal, such as a dog and a wolf or a cat and a bobcat.

Permitted Use with Conditions, which would allow for administrative review and approval.

The Planning Commission initially reviewed the proposed amendment at their regular February 27<sup>th</sup> meeting. After discussion, the Commission agreed to move forward with the proposed changes to Sections 18.40 and 35.40 and set a Public Hearing for their meeting on March 26<sup>th</sup>. A notice for the Public Hearing was published on Tuesday, March 10, 2020.

Chairperson VanderWeele asked if there were questions from Commissioners.

Ms. Farmer asked if the Zoning ordinance defines these uses.

Attorney Porter and Ms. Lubbert confirmed that the ordinance does not currently define assembly and convention halls.

Mr. Clark added that the code does however outline parking requirements for these uses.

There was concern and discussion regarding the need to include definitions to differentiate between assembly halls, convention halls, convention centers, and private clubs in order to provide clear requirements so Township properties will be in compliance with zoning.

The Chair moved to public hearing. As there were no comments, he moved to Board Deliberations.

After further discussing Commissioner concern regarding the need to include definitions, Ms. Smith suggested this item be tabled for further development and requested staff to explore definitions for venue types.

Chairperson VanderWeele asked for a motion to table this item.

Ms. Smith made a motion to table the Amendments to Section 18.40 Special Uses and Section 35.40 Special Uses until definitions are provided. Mr. Commissaris seconded the motion. The motion was approved unanimously by roll call vote.

Chairperson VanderWeele moved to the next item on the agenda.

## **OLD BUSINESS**

### **KEEPING OF LIVESTOCK AND HONEY BEES**

Ms. Lubbert provided some background for this item. She reminded the Commissioners that at the request of the Township Board, the Planning Commission reviewed an amended version of the Keeping of Livestock and Honeybees Ordinance at their regular December 12<sup>th</sup> meeting. The specific questions that the Board asked the

Commission to further consider were: “how large can the beehives be?” and “why can’t hives be placed in the front yard?”. The new version of the code included additional changes proposed by staff to address the Township Board’s questions. After discussion, the Commission approved the additional changes and forwarded the new language to the Township Board for consideration and adoption.

However, Ms. Lubbert added that since that time staff has been made aware, through additional public inquiries and additional research, that the proposed language needed to be further clarified to avoid confusion and avoid unintentionally only allowing for one type of beehive configuration within the Township. To address these issues, staff requested the Township Board send the Keeping of Livestock and Honey Bees Ordinance back to the Planning Commission to discuss a number of additional amendments, outlined here:

1. For ease of use, staff recommended the use of a chart to outline the number of colonies permitted based on the size of a lot, parcel, or building site. The number of colonies proposed in the chart is consistent with the previous version of the code and mirrors the Generally Accepted Agricultural and Management Practices (GAAMPs) for farms and farm operations in Michigan.
2. The most concern received from the public regarded the proposed language concerned regulating the size of beehives, which was based on the configuration of the Langstroth hive, arguably the most popular hive for beekeepers. However, there are generally three other types of hives: the Top Bar Hive, the Warre Hive, and the Long hive. By using the Langstroth hive dimensions as maximums, staff confirmed that this would ultimately eliminate the ability for property owners to install other types of hives, for example a Top Bar hive needs to be a minimum of 36” long and the current proposed ordinance language only allows for about 19”. In addition, it was found that limiting the maximum number of boxes in a hive could be detrimental. To allow the maximum amount of flexibility and still control hive size staff found other communities that simply regulated the overall cubic foot volume of a hive; 20 cubic feet being the most common. Following this practice, staff recommends adjusting the code language to allow a single beehive to be 20 cubic feet in volume.
3. GAAMPs notes the need for beekeepers to have a clean water source on their property for their bees to use. The current language of the code states that this water source should be “constant”. Through further research, staff found that this water source just needs to be in place during the bees’ flight season, which is dependent on the weather - generally spring through fall. Requiring a year-round water source, even in winter, could cause difficulties for bee owners and some members of the public have claimed could even harm the bees. Even though staff has not found evidence that a constant water source would cause harm, staff recommends changing the language of the code to be more specific to what bees need to avoid confusion and any potential negative effects or difficulties. To

be user friendly, staff also added some examples that were provided by GAMMPs of what an acceptable water source could be.

Ms. Lubbert recommended discussion of these potential changes and noted the Planning Commission might consider a motion to forward the draft Ordinance with any amendments back to the Township Board.

Chairperson VanderWeele determined there were no questions from Commissioners.

Attorney Porter said there was no need for a public hearing now since a public hearing was held previously by the Commission, then sent to the Township Board and subsequently was returned to the Planning Commission for further consideration. He added that the public will have another chance to contribute to the discussion at this item's first and second readings with the Township Board.

After determining there were no comments from Commissioners, the Chair asked for a motion.

Ms. Versalle made a motion to approve the changes made by staff and forward the amended version of the "Keeping of Livestock and Honeybees" Ordinance to forward the Township Board for consideration of adoption. Ms. Farmer seconded the motion. The motion carried unanimously by roll call vote.

Chairperson VanderWeele moved to the next agenda item.

## **NEW BUSINESS**

### **DISCUSSION - BLADE SIGNS**

Ms. Lubbert said in late February of this year Jennifer Wolfe, with Permit Expeditor, approached the Township to explore getting a variance for a sign deviation on behalf of her client, Old Navy. The request was specifically to allow for two projecting blade signs which would hang over a pedestrian walk. However, as the Zoning Ordinance does not mention this type of signage, there is essentially nothing to vary from. It was determined a variance was not appropriate for this request as the Township cannot grant usage variances. For blade signs to be allowed within the township, an ordinance amendment would be needed. Jennifer Wolfe was advised to seek an audience with the Planning Commission to see if they would be interested in directing staff to draft such a text change and Jennifer Wolfe was present tonight to present her request. Ms. Lubbert asked that after hearing and discussing Jennifer's request the Commission provide staff direction on how to move forward with the Blade Signs request.

Ms. Wolfe gave a brief presentation of the request. She reiterated that the Township's current ordinance does not have regulations in place to support these types

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON SEPTEMBER 12, 2019, SUBSEQUENT PLANNING COMMISSION RECONSIDERATION ON DECEMBER 12, 2019, AND TOWNSHIP BOARD REVISIONS ON APRIL 28, 2020.

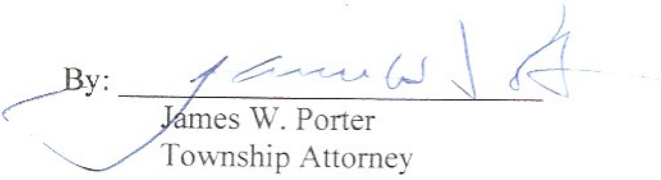
The Oshtemo Charter Township Planning Commission, after referral of this matter back to the Planning Commission by the Township Board on October 22, 2019, and after further deliberation and modification, hereby recommends APPROVAL of the following amendment of the Oshtemo Charter Township Zoning Ordinance, in summary, as follows:

Consideration of the amendment to the Township Zoning Ordinance, Article 57, Miscellaneous Protection Requirements, Section 57.80 Keeping of Livestock and Honey Bees, which would read as follows:

SEE ATTACHMENT

OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION

Date: April 28, 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 AND REQUIREMENTS

**57.80 KEEPING OF POULTRY, SWINE, HORSES, OR LIVESTOCK AND HONEY BEES**

The keeping of poultry, swine, livestock, or horses, rabbits, sheep, goats, chickens and other similar animals livestock (collectively referred herein as animals), and honey bees for noncommercial purposes as pets or for educational purposes, is permitted under the following conditions:

- A. Activities shall be conducted on less than a commercial scale for the private enjoyment of the property owners conducted for noncommercial purposes.
- B. Acreage requirements. Acreage requirements are exclusive of each animal size, meaning the property must have the minimum required acreage for each animal.
  - 1. Large animals. There shall be a minimum of One acre for each large animal (more than 200 pounds at maturity), including horses, cattle, and swine, or similar animals.
  - 2. Moderate-sized animals. One-quarter acre for each small moderate-sized animal (under 35 to 200 pounds at maturity), including sheep, goats, or similar animals.
  - 3. Small animals. exclusive of those set forth above and for chickens, ducks, turkeys, and rabbits (collectively referred [to] herein as specified animals). All parcels, lots, and building sites shall be permitted up to five specified animals; roosters are prohibited. Parcels, lots, and building sites larger than one acre shall be permitted one additional specified animal for each one-quarter acre in excess of one acre. All parcels, lots, and building sites up to one acre shall be permitted up to five small animals (under 35 pounds at maturity), including chickens, ducks, turkeys, rabbits, or similar animals. One additional small animal shall be permitted for each additional one-quarter acre of property.
  - 4. Acreage requirements for Honey bees. The maximum allowed number of colonies permitted on a lot, parcel, or building site shall be limited as follows: All parcels, lots, and building sites up to one-quarter acre shall be permitted two hives colonies to a maximum of six hives colonies for the first acre. One additional hive colony is allowed for each additional one-quarter acre of property in excess of one acre.

Lot, Parcel, or Building Site Acreage	Maximum number of colonies permitted
Up to ¼ acre	2
¼ acre to ½ acre	4
½ to 1 acre	6

For a Lot, Parcel, or Building Site over an acre, 8 colonies are allowed plus 1 additional colony for each additional one-quarter acre.

- C. Structure requirements and location.
  - 1. At minimum, a fenced-in enclosure, other than the residence, shall be placed for the housing of animals. A structure or shelter is required based on the Generally Accepted Agricultural Management Practices (GAAMPS) for the care of animals.
  - 2. All buildings and structures must meet the requirements of Section 57.100: Accessory Buildings.

3. All buildings, structures, or other enclosures, or hives shall be within either the side or rear yards and may not be within the required front setback yard for the subject property.
3. The size of a single beehive, which shall accommodate one bee colony, shall be a maximum of three 10 frame deep boxes measured at 19 7/8 inches in length, 16 3/4 inches in width, and 9 5/8 inches in depth. 20 cubic feet in volume.

D. **Building setbacks.** A building, other than the residence, structure, shelter, or hive used to shelter for animals or bees and/or any area used to store, dispose of, or compost manure, other than the primary residential dwelling, shall not be located closer than comply with the following setbacks:

1. **Large animals.** 50 feet for large or small animals from any property line and 150 feet to from any pre-existing dwelling on an adjacent premise property. under different ownership.
2. **Moderate-sized animals.** 50 feet from any property line and 100 feet from any pre-existing dwelling on an adjacent property.
3. **Small animals.** and ten feet or the height of the building, whichever is greater, for specified animals to any property line and not nearer than 150 feet for large or small animals and 20 feet for specified animals to any preexisting dwelling on adjacent premises under different ownership. 25 feet from any property line and 50 feet from any pre-existing dwelling on an adjacent property.
4. **Honey bees.** Hives may be placed in the front yard of a parcel, lot, or building site if the hives can be setback a minimum of 100 feet from the public right-of-way. In addition, all hives shall be placed a minimum of 15 feet away from any rear or side property line and shall be at least 50 feet from any pre-existing dwelling on an adjacent property.

E. **Fenced enclosure requirements.**

~~Large and small animals (excluding specified animals) shall be controlled in a suitable manner to prevent their approaching closer than 100 feet to any preexisting dwelling on adjacent premises under different ownership. Specified animals shall not be allowed free roam, must be contained within a six-foot fence or other fully enclosed structure at all times, and shall be controlled in a suitable manner to prevent their approaching closer than 20 feet to any preexisting dwelling on adjacent premises under different ownership. A sight fence or other screening is required if specified animals are visible from any other residential property or any public rights of way. All fences for specified animals shall be within either the side or rear yards and may not be within the required front setback for the subject property.~~

1. **Animals shall not be allowed free roam, but must be contained within a fully enclosed fenced area at all times. Fencing must meet the requirements of Section 57.60.**
2. **Fencing shall prevent animals from approaching any pre-existing dwelling on an adjacent property per the following requirements:**
  - a. **Large animals – 100 feet**
  - b. **Moderate-sized animals – 75 feet**
  - c. **Small animals – 40 feet**

3. Fencing shall be designed to prevent animal trespass onto neighboring property.

F. Additional requirements for the keeping of honey bees.

1. Hives shall be placed in such a way that the hive entrance is positioned internal to the property ~~so that bees must fly across the property.~~
2. A flyaway barrier at least six feet in height shall shield any part of the property line that is within 25 feet of a bee hive. Such flyaway barrier must consist of a solid fence per Section 57.60, dense vegetation, or combination thereof to redirect a bee's flight pattern to be above six feet in height at the property line. The Planning Director may approve an additional barrier type if it meets the intent of assisting the bees to gain altitude before leaving the property.
3. A constant supply of water shall be provided to all hives on site throughout the active flight season. Common water sources include birdbaths, pebble filled sections of gutter with end caps, plastic wading pools and entrance feeders.

G. Prohibitions.

1. ~~The keeping of poultry, swine, horses, or livestock~~ Animals ~~is further~~ are prohibited where conditions of maintenance are such to cause:
  - a. Unpleasant odors to be generated sufficiently strong to be discernible upon property of others for continuous periods of longer than six days, ~~or~~
  - b. Noise to be generated sufficiently loud to penetrate indoors upon property of others for continuous periods in excess of four hours, ~~or~~
  - c. Flies, insects or rodents to be attracted to the place where said animals and/or fowl are kept and are thereafter permitted to multiply and escape upon adjoining property.
2. Said animals or fowl, alive or dead, or any refuse therefrom shall not ~~to~~ trespass or be carried upon adjoining property.
3. Roosters ~~that crow~~ are prohibited.
4. Any undomesticated animal or dangerous animal classified as wild, which includes, but is not limited to alligators, bears, monkeys, wolves, coyotes, venomous or constrictor reptiles, panthers, cougars, tigers, lions, and other wild felines. It shall also include any hybrid between a wild animal and a domesticated animal, such as a dog and a wolf or a cat and a bobcat.

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 to Article 57 Miscellaneous Protection and Requirements, Section 57.80, and by the rezoning of 2963, 2999 and 3065 S. 11<sup>th</sup> Street from the "R-2" Residence District to the "R-3" Residence District. 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 AND REQUIREMENTS, SECTION 57.80. Article 57 Miscellaneous Protection and Requirements, Section 57.80 is hereby retitled as "Keeping of Livestock and Honey Bees" and is further amended to read as follows:

ARTICLE 57: MISCELLANEOUS PROTECTION AND REQUIREMENTS

**57.80 KEEPING OF LIVESTOCK AND HONEY BEES**

The keeping of poultry, swine, horses, rabbits, sheep, goats, other similar livestock (collectively referred herein as animals), and honey bees for noncommercial purposes is permitted under the following conditions:

- A. Activities shall be for the private enjoyment of the property owners conducted for noncommercial purposes.
- B. Acreage requirements. Acreage requirements are exclusive of each animal size, meaning the property must have the minimum required acreage for each animal.
  - 1. Large animals. One acre for each large animal (more than 200 pounds at maturity), including horses, cattle, and swine, or similar animals.

2. Moderate-sized animals. One-quarter acre for each moderate-sized animal (35 to 200 pounds at maturity), including sheep, goats, or similar animals.
3. Small animals. All parcels, lots, and building sites up to one acre shall be permitted up to five small animals (under 35 pounds at maturity), including chickens, ducks, turkeys, rabbits, or similar animals. One additional small animal shall be permitted for each additional one-quarter acre of property.
4. Honey bees. The maximum allowed number of colonies permitted on a lot, parcel, or building site shall be limited as follows:

Lot, Parcel, or Building Site Acreage	Maximum number of colonies permitted
Up to ¼ acre	2
¼ acre to ½ acre	4
½ to 1 acre	6

For a Lot, Parcel, or Building Site over an acre, 8 colonies are allowed plus 1 additional colony for each additional one-quarter acre.

C. Structure requirements and location.

1. A structure or shelter is required based on the Generally Accepted Agricultural Management Practices (GAAMPS) for the care of animals.
2. All buildings and structures must meet the requirements of Section 57.100: Accessory Buildings.
3. The size of a single bee hive, which shall accommodate one bee colony, shall be a maximum of 20 cubic feet in volume.

D. Building setbacks. A building, structure, shelter, or hive for animals or bees and/or any area used to store, dispose of, or compost manure, other than the primary residential dwelling, shall comply with the following setbacks:

1. Large animals. 50 feet from any property line and 150 feet from any pre-existing dwelling on an adjacent property.
2. Moderate-sized animals. 50 feet from any property line and 100 feet from any pre-existing dwelling on an adjacent property.
3. Small animals. 25 feet from any property line and 50 feet from any pre-existing dwelling on an adjacent property.
4. Honey bees. Hives may be placed in the front yard of a parcel, lot, or building site if the hives can be setback a minimum of 100 feet from the public right-of-way. In addition, all hives shall be placed a minimum of 15 feet away from any rear or side property line and shall be at least 50 feet from any pre-existing dwelling on an adjacent property.

E. Fenced enclosure requirements.

1. Animals shall not be allowed free roam, but must be contained within a fully enclosed fenced area at all times. Fencing must meet the requirements of Section 57.60.
2. Fencing shall prevent animals from approaching any pre-existing dwelling on an adjacent property per the following requirements:
  - a. Large animals – 100 feet
  - b. Moderate-sized animals – 75 feet
  - c. Small animals – 40 feet
3. Fencing shall be designed to prevent animal trespass onto neighboring property.

F. Additional requirements for the keeping of honey bees.

1. Hives shall be placed in such a way that the hive entrance is positioned internal to the property.
2. A flyaway barrier at least six feet in height shall shield any part of the property line that is within 25 feet of a bee hive. Such flyaway barrier must consist of a solid fence per Section 57.60, dense vegetation, or combination thereof to redirect a bee's flight pattern to be above six feet in height at the property line. The Planning Director may approve an additional barrier type if it meets the intent of assisting the bees to gain altitude before leaving the property.
3. A constant supply of water shall be provided to all hives on site throughout the active flight season. Common water sources include birdbaths, pebble filled sections of gutter with end caps, plastic wading pools and entrance feeders.

G. Prohibitions.

1. Animals are prohibited where conditions of maintenance are such to cause:
  - a. Unpleasant odors to be generated sufficiently strong to be discernible upon property of others for continuous periods of longer than six days,
  - b. Noise to be generated sufficiently loud to penetrate indoors upon property of others for continuous periods in excess of four hours,
  - c. Flies, insects or rodents to be attracted to the place where said animals and/or fowl are kept and are thereafter permitted to multiply and escape upon adjoining property.
2. Said animals or fowl, alive or dead, or any refuse therefrom shall not trespass or be carried upon adjoining property.
3. Roosters that crow.

4. Any undomesticated animal or dangerous animal classified as wild, which includes, but is not limited to alligators, bears, monkeys, wolves, coyotes, venomous or constrictor reptiles, panthers, cougars, tigers, lions, and other wild felines. It shall also include any hybrid between a wild animal and a domesticated animal, such as a dog and a wolf or a cat and a bobcat.

SECTION II.

AMENDMENT OF LAND SECTION 25. The Oshtemo Charter Township Zoning Ordinance is hereby amended to rezone three parcels of land located on the east side of S. 11<sup>th</sup> Street, near Parkview Avenue, being 2963, 2999 and 3065 S. 11<sup>th</sup> Street, Parcel Nos. 3905-25-455-021, 3905-25-455-024 and 3905-25-455-030, from the "R-2" Residence District to the "R-3" Residence District, more particularly described as:

***Parcel 3905-25-455-012:***

SEC 25-2-12 BEG ON N & S 1/4 LI 912.89 FT N 00DEG-11'-56" E OF S 1/4 POST TH N 00DEG-11'-56" E ALG SD 1/4 LI 390.55 FT TH N 89DEG-31'-16" E 501.49 FT TH N 00DEG-09'-01" E 26.63 FT TH N 89DEG-20'-47" E 814.5 FT TO TO WLY ROW HWY US 131 TH SLY THEREON TO A PT 90 FT N OF S SEC LI AS MEAS PERP THERETO TH W PAR S LI 261.24 FT TH S 15 FT TH W TO A PT 1321.2 FT E OF N & S 1/4 LI TH N 837.89 FT TH S 89DEG-23'-59" W 1321.2 FT TO BEG.

***Parcel 3905-25-455-024:***

SEC 25-2-12 BEG ON N & S 1/4 LI 593.5 FT N OF S 1/4 POST TH CON'T N ALG SD 1/4 LI 119 FT TH E PAR WI S SEC LI 455 FT TH S PAR WI SD 1/4 LI 119 FT TH W 455 FT TO BEG.

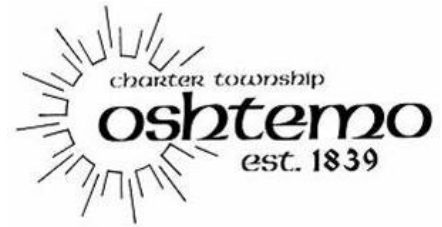
***Parcel 3905-25-455-030:***

SEC 25-2-12 THE N 210 FT OF FOL DESC COM AT S1/4 POST SEC 25 TH N ALG N&S1/4 LI SD SEC 593.5 FT TH E PAR TO S LI SD SEC 330.3 FT TH S PAR WITH N&S1/4 LI 593.5 FT TO S LI SD SEC TH W ALG SD SEC LI 330.3 FT TO PL OF BEG.

SECTION III.

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



# Memorandum

**Date:** 23 May 2020  
**To:** Township Board  
**From:** Libby Heiny-Cogswell, Supervisor  
**Subject:** Oshtemo Township Public Sanitary Sewer Hardship Financing or Deferment Program

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## **Objective**

Township Board discussion and consideration of the ‘Sanitary Sewer Hardship Financing or Deferment Ordinance’ for the following items:

Membership of the Hardship Advisory Review Committee (HARC), and  
2020 budget amendment in the amount of \$300,000 to fund the program.

## **Background**

The Board worked with Attorney Porter, the Capital Improvements Committee (CIC), and concerned residents to adopt a program that provides financial assistance for property owners experiencing hardship with the mandatory sewer connection, such as some elderly residents or disabled residents, those with high college debt, and some young persons starting out. The next steps are for the Board to appoint Hardship Advisory Review Committee members and amend the 2020 budget to fund the program.

*Membership.* The HARC membership recommendation is to appoint **a committee of five (5) members**, with representation outlined below. The non-Township Board members would be compensated according to the same terms as the assessing Board of Review members—

One or two members who are currently or past serving on the Board of Review (familiar with property tax poverty exemption applications),

One or two members who are Oshtemo residents,

Two Township Board members including Supervisor (ex officio all committees).

The Township Board can discuss the above. Following consensus on the committee makeup, work will continue to seek applications from the public through June 23<sup>rd</sup>. The Board Appointments Committee will review applications. The Supervisor will make a subsequent recommendation to the Township Board for action to appoint.

*Budget Amendment.* Please recall the program includes the potential for assistance for both the public and private connection expense. The goal of the Township assistance program is to extend the assistance reach beyond the programs already in place through the USDA 502 and 504 assistance programs, and the State of Michigan 225 program. The Township will work closely with other agencies and residents to help with making application.

The recommendation from the CIC is to provide the Township assistance program after lack of success in obtaining other programs. The CIC recognizes need for the ongoing financial program, and to fund the program as follows—

7275 W. Main Street  
Kalamazoo, MI 49009  
(269) 216-5220  
Fax (269) 375-7180  
[www.oshtemo.org](http://www.oshtemo.org)



**2020 \$300,000**  
**2021 \$300,000**  
**2022 \$300,000**

Township internal work includes planning for the first HARC meeting in March 2021. Given 2020 is the launch year for the program, there could be a need to convene a mid-year September 2020 meeting. Public Works staff will receive the applications for assistance or deferment, and will discuss options and details with the property owners. Staff will assemble the applications for HARC review.

**Information Provided:**

Proposed Budget Amendment.

Oshtemo Charter Township Public Sanitary Sewer Hardship Financing or Deferment Ordinance—

<http://online.encodeplus.com/regs/oshtemo-mi/doc-viewer.aspx?secid=2557&keywords=hardship#secid-2557>

# BUDGET AMENDMENT REQUEST

(Requesting funds for a line item in addition to the approved budget)

Date: \_\_\_\_\_

Department Head Name: \_\_\_\_\_

Fund Name: \_\_\_\_\_

Amount

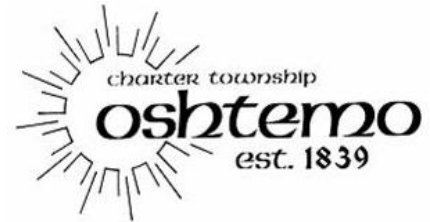
Additional Funds Request for: (description and GL number)	_____	_____
	_____	_____
	_____	_____

Funds requested from: (description and GL number)	_____	_____
	_____	_____
	_____	_____
	_____	_____

Explanation of request:

Supervisor Review: Libby HB  
(pending or date reviewed)

Board Authorization: \_\_\_\_\_  
(pending or date authorized)



# Memorandum

**Date:** 22<sup>nd</sup> May 2020  
**From:** Josh Owens, Assistant to the Supervisor  
**To:** Oshtemo Township Board  
**Subject:** Return to Work Plan

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**Objective:**

Township Board consideration of the Oshtemo Township Return to Work Plan

**Background:**

Since March 16, the Township office has been closed to the public and a large majority of staff due to COVID-19. Now that the impacts of the virus are believed to be lessening business and organizations are thinking about how best to reopen safely. The Township is planning to start to bring some staff back on a limited basis. In order to ensure that this is done as safely as possible the Township has created a Return to Work Plan.

The Return to Work Plan lays out safety precautions which provides a road map for how staff will return, for how long, and what guidelines they should follow while in the Township office. The plan also meets the State's requirement to develop a COVID-19 Preparedness and Response Plan consistent with the Occupational Safety and Health Administration's Guidance on Preparing Workplaces for COVID-19 and make it available to employees, customers and the public by June 1, 2020, or within two weeks of resuming in-person activities, whichever is later.